

UTAH CHILD ABUSE PREVENTION BOARD

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Paul Ray

Senate Sponsor: Dan R. Eastman

Cosponsors: David Litvack Rosalind J. McGee
Tim M. Cosgrove Steven R. Mascaró

LONG TITLE

General Description:

This bill creates the Utah Child Abuse Prevention Board and transfers oversight of the Children's Trust Account from the Child Abuse Advisory Council and the Board of Child and Family Services to the Utah Child Abuse Prevention Board created by this bill.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ changes the name of the Children's Trust Account to the Children's Trust Fund;
- ▶ describes how funds in the Children's Trust Fund may be used;
- ▶ creates, within the Department of Health, the Utah Child Abuse Prevention Board and lists the duties and powers of the board;
- ▶ grants the board the authority to administer the Children's Trust Fund;
- ▶ establishes membership of the board;
- ▶ provides for the organization of the board, including:
 - the appointment of a chair; and
 - the creation of committees;
- ▶ provides that members of the board serve without pay, but are entitled to a per diem



28 and reimbursement for expenses;

29 ▶ creates the position of executive director of the Children's Trust Fund and
30 establishes the executive director's duties;

31 ▶ provides for staff support of the board;

32 ▶ requires the executive director of the Children's Trust Fund to report, for
33 consideration and decision, to the Health and Human Services Interim Committee
34 during the 2010 interim regarding the need to reauthorize or modify Title 26,
35 Chapter 7a, Children's Trust Fund, created by this bill;

36 ▶ eliminates the responsibility of the Child Abuse Advisory Council and the Board of
37 Child and Family Services to oversee the Children's Trust Account or Children's
38 Trust Fund;

39 ▶ provides, under the Legislative Oversight and Sunset Act, that Title 26, Chapter 7a,
40 Children's Trust Fund, created by this bill, will be repealed on July 1, 2011; and

41 ▶ makes technical changes.

42 **Monies Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 None

46 **Utah Code Sections Affected:**

47 AMENDS:

48 **26-2-12.5**, as last amended by Chapter 202, Laws of Utah 1995

49 **62A-4a-311**, as last amended by Chapter 246, Laws of Utah 2003

50 **63-55-226**, as last amended by Chapter 86, Laws of Utah 2005

51 ENACTS:

52 **26-7a-101**, Utah Code Annotated 1953

53 **26-7a-102**, Utah Code Annotated 1953

54 **26-7a-105**, Utah Code Annotated 1953

55 **26-7a-106**, Utah Code Annotated 1953

56 **26-7a-107**, Utah Code Annotated 1953

57 **26-7a-108**, Utah Code Annotated 1953

58 **26-7a-109**, Utah Code Annotated 1953

90 (4) "Trust fund" means the Children's Trust Fund created under Section 26-7a-103.

91 Section 4. Section **26-7a-103**, which is renumbered from Section 62A-4a-309 is
92 renumbered and amended to read:

93 ~~[62A-4a-309].~~ **26-7a-103. Children's Trust Fund.**

94 (1) There shall be a restricted account within the General Fund [to] that shall be known
95 as the Children's Trust [Account] Fund. [~~This account is for crediting of~~]

96 (2) The trust fund shall receive:

97 (a) allocations and contributions from government, public, and private sources; [and
98 from appropriate]

99 (b) revenues received under Section 26-2-12.5 for child abuse and neglect prevention
100 programs described in Section [62A-4a-305] 26-7a-105; and

101 (c) interest earned on the trust fund.

102 [~~(2)~~] (3) Money shall be:

103 (a) appropriated from the [account] trust fund to the [division] board by the Legislature
104 under [the Utah] Title 63, Chapter 38, Budgetary Procedures Act[;]; and [shall be]

105 (b) drawn upon by the executive director of the trust fund under the direction of the
106 board.

107 [~~(3)~~] (4) (a) [The Children's Trust Account] Except as provided in Subsection (4)(b),
108 the trust fund may only be used [only] to implement prevention programs described in Section
109 [62A-4a-305, and may only be allocated to entities that provide a one-to-one match,
110 comprising a match from the community of at least 50% in cash and up to 50% in in-kind
111 donations, which is 25% of the total funding received from the Children's Trust Account. The
112 entity that receives the statewide evaluation contract is excepted from the cash-match
113 provisions of this Subsection (3)] 26-7a-105.

114 (b) (i) At least 10% of the funds received by the trust fund during the fiscal year shall
115 be maintained as a trust investment.

116 (ii) Consistent with Subsection (4)(c), not more than 10% of the funds received by the
117 trust fund during the fiscal year may be used for the board's administrative expenses.

118 (iii) Funds received by the trust fund may be used as matching funds to qualify for
119 federal funds, if the matching funds and the federal funds are used for prevention programs
120 described in Section 26-7a-105.

121 (c) Funds received by the trust fund may not be used for the board's administrative
 122 expenses if other funds, appropriated by the Legislature, are available to pay for those
 123 expenses.

124 (5) All funds received under Subsection (2) shall be:

125 (a) accounted for and expended in compliance with the requirements of federal and
 126 state law; and

127 (b) available to the board to fulfill the duties of the board.

128 Section 5. Section **26-7a-104**, which is renumbered from Section 62A-4a-310 is
 129 renumbered and amended to read:

130 ~~[62A-4a-310].~~ **26-7a-104. Transfers and gifts.**

131 On behalf of the [~~Children's Trust Account, the department, through the division,~~] trust
 132 fund, the board may accept transfers, grants, gifts, bequests, or any money made available from
 133 any source to implement this [~~part~~] chapter.

134 Section 6. Section **26-7a-105** is enacted to read:

135 **26-7a-105. Prevention programs.**

136 Programs contracted under this chapter:

137 (1) shall be designed to provide child abuse and neglect prevention; and

138 (2) may include only community-based programs that:

139 (a) relate to:

140 (i) prenatal care;

141 (ii) perinatal bonding;

142 (iii) child growth and development;

143 (iv) basic child care;

144 (v) care of children with special needs;

145 (vi) coping with family stress;

146 (vii) crisis care;

147 (viii) aid to parents;

148 (ix) child abuse education;

149 (x) support groups for:

150 (A) abusive ~~Ĥ~~→ [or potentially abusive] ←~~Ĥ~~ parents; and

151 (B) children of a parent described in Subsection (2)(a)(x)(A);

- 152 ~~Ĥ→ [(xi) early identification of families where the potential for child abuse and neglect~~
 153 ~~exists;~~
 154 ~~—— (xii) (xi) ←Ĥ positive youth development;~~
 155 ~~Ĥ→ [(xiii) (xii) ←Ĥ mentoring;~~
 156 ~~Ĥ→ [(xiv) (xiii) ←Ĥ academic enhancement;~~
 157 ~~Ĥ→ [(xv) (xiv) ←Ĥ tutoring;~~
 158 ~~Ĥ→ [(xvi) (xv) ←Ĥ literacy; or~~
 159 ~~Ĥ→ [(xvii) (xvi) ←Ĥ parent education;~~
 160 ~~(b) include a component designed to prevent the occurrence or recurrence of, or reduce~~
 161 ~~the risk of:~~
 162 ~~(i) child abuse;~~
 163 ~~(ii) child neglect;~~
 164 ~~(iii) sexual molestation;~~
 165 ~~(iv) sexual exploitation;~~
 166 ~~(v) medical neglect; or~~
 167 ~~(vi) educational neglect;~~
 168 ~~(c) the board may consider potentially effective in reducing the incidence of family~~
 169 ~~problems leading to child abuse or neglect; or~~
 170 ~~(d) are designed to establish and assist community resources that prevent child abuse~~
 171 ~~and neglect.~~

172 Section 7. Section **26-7a-106** is enacted to read:

173 **26-7a-106. Utah Child Abuse Prevention Board -- Creation and membership --**
 174 **Appointments -- Terms -- Removal -- Nominating committee -- Executive committee --**
 175 **Subcommittees.**

- 176 (1) There is created within the Department of Health the Utah Child Abuse Prevention
 177 Board.
 178 (2) Subject to Subsection (3), the board is comprised of nine voting members as
 179 follows:
 180 (a) subject to Subsection (4):
 181 (i) the executive director of the Department of Workforce Services;
 182 (ii) the director of the Department of Health; and

- 183 (iii) the director of the Department of Human Services; and
184 (b) as provided in Subsection (5), six members, nominated by the nominating
185 committee, and appointed by the governor, representing each of the following:
186 (i) three members of the business community;
187 (ii) two members representing nonprofit organizations that have a primary purpose of
188 preventing child abuse and neglect; and
189 (iii) one member who:
190 (A) is a parent; and
191 (B) does not represent a public entity.
192 (3) (a) Subject to Subsection (3)(b), a member appointed by the governor shall serve a
193 three-year term.
194 (b) Notwithstanding Subsection (3)(a), the executive committee of the board, described
195 in Subsection (6), may adjust the length of the terms of the initial members to ensure that
196 approximately 1/3 of the members appointed by the governor are appointed each year.
197 (c) Members appointed by the governor may be removed:
198 (i) by the governor for cause; or
199 (ii) for an ethical violation, under the bylaws established in Subsection
200 26-7a-108(1)(a)(i)(C).
201 (d) Members appointed by the governor may not serve more than two consecutive
202 terms.
203 (e) If a vacancy occurs in a position appointed by the governor, the governor shall
204 appoint a person to fill the vacancy for the unexpired term of the member being replaced.
205 (4) A person described under Subsection (2)(a) may designate another person, within
206 that person's department, to serve as a member of the board in that person's place.
207 (5) (a) The nominating committee of the board shall consist of the persons described in
208 Subsection (2)(a).
209 (b) The nominating committee described in Subsection (5)(a) shall nominate for
210 appointment by the governor to the board, the members described in Subsection (2)(b).
211 (c) In nominating members of the board, the nominating committee shall take into
212 account the community's geographic, professional, cultural, and socio-economic diversity.
213 (d) (i) The governor must appoint or reject the nomination of a person nominated by

214 the nominating committee described in this Subsection (5) within 60 days of the day on which
215 the governor is notified, in writing, of the nomination.

216 (ii) If the governor does not appoint or reject a nominee within the time described in
217 Subsection (5)(d)(i), the nominee shall be considered appointed by the governor.

218 (6) The board shall establish an executive committee consisting of as many of the
219 board's members as the board considers appropriate.

220 (7) The board may establish subcommittees and ad hoc committees to assist the board
221 in accomplishing the duties described in Section 26-7a-108.

222 Section 8. Section **26-7a-107** is enacted to read:

223 **26-7a-107. Action of the Utah Child Abuse Prevention Board -- Appointment of**
224 **chair -- Meetings -- Members serve without compensation -- Reimbursement for**
225 **expenses.**

226 (1) (a) A majority of the members of the board constitute a quorum.

227 (b) The action of a majority of a quorum constitutes the action of the board.

228 (2) The board shall appoint one of the members described in Subsection
229 26-7a-106(2)(b) as chair.

230 (3) (a) The chair shall call and hold meetings of the board at least bimonthly.

231 (b) One or more additional meetings may be called upon request of a majority of the
232 board's members.

233 (4) (a) A member of the board who is not a government employee shall receive no
234 compensation or benefits for the member's services, but may:

235 (i) receive per diem and expenses incurred in the performance of the member's official
236 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
237 63A-3-107; or

238 (ii) decline to receive per diem and expenses for the member's service.

239 (b) A member of the board who is a state government officer or employee and who
240 does not receive salary, per diem, and expenses from the member's agency for the member's
241 service may:

242 (i) receive per diem and expenses incurred in the performance of the member's official
243 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
244 63A-3-107; or

245 (ii) decline to receive per diem and expenses for the member's service.

246 Section 9. Section **26-7a-108** is enacted to read:

247 **26-7a-108. Powers and duties of the Utah Child Abuse Prevention Board --**

248 **Services provided by the Department of Health.**

249 (1) The board shall:

250 (a) adopt bylaws that include:

251 (i) an ethics policy that provides for:

252 (A) disclosure by board members of conflicts of interest;

253 (B) recusal of a board member from participating in an action of the board when the
254 member has a conflict of interest;

255 (C) removal of a board member for an ethical violation; and

256 (D) ethical standards approved by the board; and

257 (ii) a requirement for each member to sign a "commitment to serve" that contains the
258 duties and expectations of board members;

259 (b) make rules, pursuant to Title 63, Chapter 46a, Utah Administrative Rulemaking
260 Act, relating to the expenditure of funds contained in the trust fund;

261 (c) annually prepare and publish a report to the Health and Human Services Interim
262 Committee of the Legislature:

263 (i) on or before November 1;

264 (ii) describing how the board fulfilled its duties during the year; and

265 (iii) making recommendations on how the state should act to address issues relating to
266 the prevention of child abuse and neglect;

267 (d) facilitate the exchange of information between persons concerned with issues
268 relating to the prevention of child abuse or neglect;

269 (e) advise, but not lobby, the Legislature, the governor, state agencies, and the public
270 regarding issues relating to:

271 (i) the trust fund; or

272 (ii) the prevention of child abuse and neglect; and

273 (f) administer the trust fund.

274 (2) The board may:

275 (a) advocate for the prevention of child abuse and neglect;

276 (b) coordinate with private nonprofit entities to raise funds for deposit in the trust fund;

277 (c) consistent with Subsection (3), contract with, or issue grants to, any person to
 278 establish a community-based education or service program designed to reduce the occurrence
 279 of child abuse and neglect; ~~H~~→ and

280 ~~[(d) engage in fundraising efforts; and~~

281 ——(e)] (d) ←H apply for grants.

282 (3) A contract or grant described in Subsection (2)(c):

283 (a) shall contain a provision permitting the board, or the board's designee to:

284 (i) evaluate the program that the contract or grant relates to; and

285 (ii) terminate the contract or grant if the board determines that the purpose of the
 286 contract or grant is not being accomplished;

287 (b) pursuant to the requirements of law, shall be financed from:

288 (i) the trust fund; or

289 (ii) other funds received pursuant to this section;

290 (c) may be awarded to:

291 (i) existing programs; or

292 (ii) demonstration projects; and

293 (d) may be considered for continuation or renewal if the program is successful in
 294 accomplishing the goals of the program.

295 (4) The Department of Health shall provide fiscal management services to the board,
 296 including payroll and accounting services.

297 Section 10. Section **26-7a-109** is enacted to read:

298 **26-7a-109. Utah Child Abuse Prevention Board -- Executive director and staff.**

299 (1) (a) Subject to Subsection (1)(b), and within appropriations from the Legislature, the
 300 board may hire an executive director and other staff that the board considers necessary and
 301 appropriate.

302 (b) The board may not hire an executive director until the person selected by the board
 303 is approved by the director of the Department of Health.

304 (2) The executive director shall:

305 (a) be responsible to the board;

306 (b) under the direction of the board, assist the board in administering the board's duties;

307 and

308 (c) manage the staff support for the board.

309 (3) The executive director may hire staff to provide administrative support to the
310 executive director and the board within the funds:

311 (a) appropriated to the board by the Legislature for that purpose; or

312 (b) made available for that purpose under Subsection 26-7a-103(4)(b)(ii).

313 (4) The executive director may only be removed upon agreement of ~~H~~→ [:

314 ~~—— (a) the director of the Department of Health; and~~

315 ~~—— (b) the board] a majority of the nominating committee described in Subsection~~

315a ~~26-7a-106, after consultation with the board ←~~H~~ .~~

316 Section 11. Section ~~26-7a-110~~ is enacted to read:

317 **26-7a-110. Report to Health and Human Services Interim Committee.**

318 (1) The executive director shall report to the Health and Human Services Interim
319 Committee during the 2010 interim, regarding:

320 (a) the status of the trust fund;

321 (b) the progress and accomplishments of the board from the time of the board's
322 creation;

323 (c) whether the Legislature should reauthorize Title 26, Chapter 7a, Children's Trust
324 Fund; and

325 (d) recommendations for changes, if any, relating to the trust fund or the board.

326 (2) During the 2010 interim, the Health and Human Services Interim Committee shall:

327 (a) hear or review the report described in Subsection (1); and

328 (b) determine whether Title 26, Chapter 7a, Children's Trust Fund, should be
329 reauthorized or modified.

330 Section 12. Section ~~62A-4a-311~~ is amended to read:

331 **62A-4a-311. Child Abuse Advisory Council -- Creation -- Membership --**

332 **Expenses.**

333 (1) (a) There is established the Child Abuse Advisory Council composed of no more
334 than 25 members who are appointed by the board.

335 (b) Except as required by Subsection (1)(c), as terms of current council members
336 expire, the board shall appoint each new member or reappointed member to a four-year term.

337 (c) Notwithstanding the requirements of Subsection (1)(b), the board shall, at the time

338 of appointment or reappointment, adjust the length of terms to ensure that the terms of council
 339 members are staggered so that approximately half of the council is appointed every two years.

340 (d) The council shall have geographic, economic, gender, cultural, and philosophical
 341 diversity.

342 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
 343 appointed for the unexpired term.

344 (2) The council shall elect a chairperson from its membership at least biannually.

345 (3) (a) Members shall receive no compensation or benefits for their services, but may
 346 receive per diem and expenses incurred in the performance of the member's official duties at
 347 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

348 (b) Members may decline to receive per diem and expenses for their service.

349 (4) (a) The council shall hold a public meeting quarterly.

350 (b) Within budgetary constraints, meetings of the council may also be held on the call
 351 of:

352 (i) the chair~~[-];~~ or ~~[of]~~

353 (ii) a majority of the members.

354 (c) Thirteen members of the council shall constitute a quorum at any meeting ~~[and the]~~.

355 (d) ~~The~~ action of the majority of the members present at a meeting shall be the action
 356 of the council.

357 (5) The council shall advise the board on matters relating to child abuse and neglect.

358 ~~[The council shall also recommend to the board how funds contained in the Children's Trust~~
 359 ~~Account shall be allocated.]~~

360 Section 13. Section **63-55-226** is amended to read:

361 **63-55-226. Repeal dates, Title 26.**

362 (1) Title 26, Chapter 1, Department of Health Organization, is repealed July 1, 2006.

363 (2) Title 26, Chapter 4, Utah Medical Examiner Act, is repealed July 1, 2010.

364 (3) Title 26, Chapter 7a, Children's Trust Fund, is repealed July 1, 2011.

365 ~~[(3)]~~ (4) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed
 366 July 1, 2015.

367 ~~[(4)]~~ (5) Title 26, Chapter 10, Family Health Services, is repealed July 1, 2010.

368 ~~[(5)]~~ (6) Title 26, Chapter 23b, Detection of Public Health Emergencies Act, is

369 repealed July 1, 2009.
370 [~~(6)~~] (7) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,
371 2014.

Legislative Review Note
as of 11-8-05 6:55 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-16-05 8:17 AM

The Health and Human Services Interim Committee recommended this bill.

Legislative Committee Note
as of 12-16-05 8:17 AM

The Child Welfare Legislative Oversight Panel recommended this bill.

State Impact

This bill requires an ongoing appropriation of \$574,000 to the Department of Health starting in FY 2007. Of this amount, \$189,000 is from the State General Fund. The remaining \$385,000 is transferred from the General Fund Restricted - Children's Trust Fund, currently located in the Department of Human Services.

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2007</u>	<u>FY 2008</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>
General Fund	\$189,000	\$189,000	\$0	\$0
General Fund Restricted	\$385,000	\$385,000	\$0	\$0
General Fund Restricted	(\$385,000)	(\$385,000)	\$0	\$0
TOTAL	<u><u>\$189,000</u></u>	<u><u>\$189,000</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>

Individual and Business Impact

The fiscal impact to individuals or related organizations will depend on the action of the Board and Office established by this bill.

Office of the Legislative Fiscal Analyst