

1 **DOMESTIC VIOLENCE SERVICES**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: David Clark**

5 Senate Sponsor: Allen M. Christensen

6
7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Utah Human Services Code relating to the provision
10 of domestic violence services.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ amends the definition of "domestic violence services" to exclude treatment services
14 for a person who is alleged to have committed, has been convicted of, has pled
15 guilty to, or is a victim of domestic violence in the presence of a child, except to the
16 extent that these services are included in the definition by rule;

17 ▶ provides that protective services provided by the Division of Child and Family
18 Services to a victim of domestic violence does not include a victim of domestic
19 violence in the presence of a child, except to the extent permitted by the division by
20 rule; and

21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



28 **62A-4a-101**, as last amended by Laws of Utah 2009, Chapter 75

29 **62A-4a-105**, as last amended by Laws of Utah 2008, Chapter 3



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

32 Section 1. Section **62A-4a-101** is amended to read:

33 **62A-4a-101. Definitions.**

34 As used in this chapter:

35 (1) "Abuse" is as defined in Section 78A-6-105.

36 (2) "Adoption services" means:

37 (a) placing children for adoption;

38 (b) subsidizing adoptions under Section 62A-4a-105;

39 (c) supervising adoption placements until the adoption is finalized by the court;

40 (d) conducting adoption studies;

41 (e) preparing adoption reports upon request of the court; and

42 (f) providing postadoptive placement services, upon request of a family, for the
43 purpose of stabilizing a possible disruptive placement.

44 (3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of
45 Children, a person under 18 years of age.

46 (4) "Consumer" means a person who receives services offered by the division in
47 accordance with this chapter.

48 (5) "Chronic abuse" means repeated or patterned abuse.

49 (6) "Chronic neglect" means repeated or patterned neglect.

50 (7) "Custody," with regard to the division, means the custody of a minor in the division
51 as of the date of disposition.

52 (8) "Day-care services" means care of a child for a portion of the day which is less than
53 24 hours:

54 (a) in the child's own home by a responsible person; or

55 (b) outside of the child's home in a:

56 (i) day-care center;

57 (ii) family group home; or

58 (iii) family child care home.

59 (9) "Dependent child" or "dependency" means a child, or the condition of a child, who
60 is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

61 (10) "Director" means the director of the Division of Child and Family Services.

62 (11) "Division" means the Division of Child and Family Services.

63 (12) (a) "Domestic violence services" means, except as provided in Subsection (12)(b):

64 [~~(a)~~] (i) temporary shelter, treatment, and related services to:

65 [~~(i)~~] (A) a person who is a victim of abuse, as defined in Section 78B-7-102; and

66 [~~(i)~~] (B) the dependent children of a person described in Subsection (12)(a)(i)(A); and

67 [~~(b)~~] (ii) treatment services for a person who is alleged to have committed, has been
68 convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.

69 (b) "Domestic violence services" does not include services for a person who is alleged
70 to have committed, has been convicted of, has pled guilty to, or is a victim of domestic
71 violence in the presence of a child, as defined in Section 76-5-109.1, except to the extent that
72 the division includes these services in the definition of domestic violence services by rule
73 passed on or after May 10, 2011.

74 (13) "Harm" is as defined in Section 78A-6-105.

75 (14) "Homemaking service" means the care of individuals in their domiciles, and help
76 given to individual caretaker relatives to achieve improved household and family management
77 through the services of a trained homemaker.

78 (15) "Incest" is as defined in Section 78A-6-105.

79 (16) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of
80 Children:

81 (a) a child; or

82 (b) a person:

83 (i) who is at least 18 years of age and younger than 21 years of age; and

84 (ii) for whom the division has been specifically ordered by the juvenile court to provide
85 services.

86 (17) "Molestation" is as defined in Section 78A-6-105.

87 (18) "Natural parent" means a minor's biological or adoptive parent, and includes a
88 minor's noncustodial parent.

89 (19) "Neglect" is as defined in Section 78A-6-105.

90 (20) "Protective custody," with regard to the division, means the shelter of a child by
91 the division from the time the child is removed from the child's home until the earlier of:

- 92 (a) the shelter hearing; or
- 93 (b) the child's return home.

94 (21) "Protective services" means expedited services that are provided:

- 95 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 96 (b) to a cohabitant who is neglecting or abusing a child, in order to:
 - 97 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
 - 98 causes of neglect or abuse; and
 - 99 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 100 (c) in cases where the child's welfare is endangered:
 - 101 (i) to bring the situation to the attention of the appropriate juvenile court and law
 - 102 enforcement agency;
 - 103 (ii) to cause a protective order to be issued for the protection of the child, when
 - 104 appropriate; and
 - 105 (iii) to protect the child from the circumstances that endanger the child's welfare
 - 106 including, when appropriate:
 - 107 (A) removal from the child's home;
 - 108 (B) placement in substitute care; and
 - 109 (C) petitioning the court for termination of parental rights.

110 (22) "Severe abuse" is as defined in Section 78A-6-105.

111 (23) "Severe neglect" is as defined in Section 78A-6-105.

112 (24) "Sexual abuse" is as defined in Section 78A-6-105.

113 (25) "Sexual exploitation" is as defined in Section 78A-6-105.

114 (26) "Shelter care" means the temporary care of a minor in a nonsecure facility.

115 (27) "State" means:

- 116 (a) a state of the United States;
- 117 (b) the District of Columbia;
- 118 (c) the Commonwealth of Puerto Rico;
- 119 (d) the Virgin Islands;
- 120 (e) Guam;

121 (f) the Commonwealth of the Northern Mariana Islands; or

122 (g) a territory or possession administered by the United States.

123 (28) "State plan" means the written description of the programs for children, youth, and
124 family services administered by the division in accordance with federal law.

125 (29) "Status offense" means a violation of the law that would not be a violation but for
126 the age of the offender.

127 (30) "Substance abuse" is as defined in Section 78A-6-105.

128 (31) "Substantiated" or "substantiation" means a judicial finding based on a
129 preponderance of the evidence that abuse or neglect occurred. Each allegation made or
130 identified in a given case shall be considered separately in determining whether there should be
131 a finding of substantiated.

132 (32) "Substitute care" means:

133 (a) the placement of a minor in a family home, group care facility, or other placement
134 outside the minor's own home, either at the request of a parent or other responsible relative, or
135 upon court order, when it is determined that continuation of care in the minor's own home
136 would be contrary to the minor's welfare;

137 (b) services provided for a minor awaiting placement; and

138 (c) the licensing and supervision of a substitute care facility.

139 (33) "Supported" means a finding by the division based on the evidence available at the
140 completion of an investigation that there is a reasonable basis to conclude that abuse, neglect,
141 or dependency occurred. Each allegation made or identified during the course of the
142 investigation shall be considered separately in determining whether there should be a finding of
143 supported.

144 (34) "Temporary custody," with regard to the division, means the custody of a child in
145 the division from the date of the shelter hearing until disposition.

146 (35) "Transportation services" means travel assistance given to an individual with
147 escort service, if necessary, to and from community facilities and resources as part of a service
148 plan.

149 (36) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
150 conclude that abuse or neglect occurred.

151 (37) "Unsupported" means a finding at the completion of an investigation that there is

152 insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a
153 finding of unsupported means also that the division worker did not conclude that the allegation
154 was without merit.

155 (38) "Without merit" means a finding at the completion of an investigation by the
156 division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or
157 that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

158 Section 2. Section **62A-4a-105** is amended to read:

159 **62A-4a-105. Division responsibilities.**

160 (1) The division shall:

161 [~~1~~] (a) administer services to minors and families, including child welfare services,
162 domestic violence services, and all other responsibilities that the Legislature or the executive
163 director may assign to the division;

164 [~~2~~] (b) establish standards for all contract providers of out-of-home care for minors
165 and families;

166 [~~3~~] (c) cooperate with the federal government in the administration of child welfare
167 and domestic violence programs and other human service activities assigned by the department;

168 [~~4~~] (d) provide for the compilation of relevant information, statistics, and reports on
169 child and family service matters in the state;

170 [~~5~~] (e) prepare and submit to the department, the governor, and the Legislature
171 reports of the operation and administration of the division in accordance with the requirements
172 of Sections 62A-4a-117 and 62A-4a-118;

173 [~~6~~] (f) promote and enforce state and federal laws enacted for the protection of
174 abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status
175 offenders, in accordance with the requirements of this chapter, unless administration is
176 expressly vested in another division or department of the state. In carrying out the provisions
177 of this Subsection [~~6~~] (1)(f), the division shall cooperate with the juvenile courts, the Division
178 of Juvenile Justice Services, and with all public and private licensed child welfare agencies and
179 institutions to develop and administer a broad range of services and supports. The division
180 shall take the initiative in all matters involving the protection of abused or neglected children if
181 adequate provisions have not been made or are not likely to be made, and shall make
182 expenditures necessary for the care and protection of those children, within the division's

183 budget;

184 ~~[(7)]~~ (g) provide substitute care for dependent, abused, neglected, and delinquent
185 children, establish standards for substitute care facilities, and approve those facilities;

186 ~~[(8)]~~ (h) provide adoption assistance to persons adopting children with special needs
187 under Part 9, Adoption Assistance, of this chapter. The financial support provided under this
188 Subsection ~~[(8)]~~ (1)(h) may not exceed the amounts the division would provide for the child as
189 a legal ward of the state;

190 ~~[(9)]~~ (i) cooperate with the Employment Development Division in the Department of
191 Workforce Services in meeting social and economic needs of individuals eligible for public
192 assistance;

193 ~~[(10)]~~ (j) conduct court-ordered home evaluations for the district and juvenile courts
194 with regard to child custody issues. The court shall order either or both parties to reimburse the
195 division for the cost of that evaluation, in accordance with the community rate for that service
196 or with the department's fee schedule rate;

197 ~~[(11)]~~ (k) provide noncustodial and in-home preventive services, designed to prevent
198 family breakup, family preservation services, and reunification services to families whose
199 children are in substitute care in accordance with the requirements of this chapter and Title
200 78A, Chapter 6, Juvenile Court Act of 1996;

201 ~~[(12)]~~ (l) provide protective supervision of a family, upon court order, in an effort to
202 eliminate abuse or neglect of a child in that family;

203 ~~[(13)]~~ (m) establish programs and provide services to minors who have been placed in
204 the custody of the division for reasons other than abuse or neglect, pursuant to Section
205 62A-4a-250;

206 ~~[(14)]~~ (n) provide shelter care in accordance with the requirements of this chapter and
207 Title 78A, Chapter 6, Juvenile Court Act of 1996;

208 ~~[(15)]~~ (o) provide social studies and reports for the juvenile court in accordance with
209 Section 78A-6-605;

210 ~~[(16)]~~ (p) arrange for and provide training for staff and providers involved in the
211 administration and delivery of services offered by the division in accordance with this chapter;

212 ~~[(17)]~~ (q) provide domestic violence services in accordance with the requirements of
213 federal law, and establish standards for all direct or contract providers of domestic violence

214 services. Within appropriations from the Legislature, the division shall provide or contract for
215 a variety of domestic violence services and treatment methods;

216 ~~[(18)]~~ (r) ensure regular, periodic publication, including electronic publication,
217 regarding the number of children in the custody of the division who have a permanency goal of
218 adoption, or for whom a final plan of termination of parental rights has been approved,
219 pursuant to Section 78A-6-314, and promote adoption of those children;

220 ~~[(19)]~~ (s) except as provided in Subsection (2), provide protective services to victims
221 of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the
222 provisions of this chapter and of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency
223 Proceedings;

224 ~~[(20)]~~ (t) refer an individual receiving services from the division to the local substance
225 abuse authority or other private or public resource for court-ordered drug screening test. The
226 court shall order the individual to pay all costs of the tests unless:

227 ~~[(a)]~~ (i) the cost of the drug screening is specifically funded or provided for by other
228 federal or state programs;

229 ~~[(b)]~~ (ii) the individual is a participant in a drug court; or

230 ~~[(c)]~~ (iii) the court finds that the individual is impecunious;

231 ~~[(21)]~~ (u) have authority to contract with a private, nonprofit organization to recruit and
232 train foster care families and child welfare volunteers in accordance with Section
233 62A-4a-107.5; and

234 ~~[(22)]~~ (v) perform such other duties and functions as required by law.

235 (2) The protective services described in Subsection (1)(s) do not include protective
236 services related to a person who is solely a victim of the type of domestic violence described in
237 Section 76-5-109.1, domestic violence in the presence of a child, except to the extent permitted
238 by the division by rule passed on or after May 10, 2011.

Legislative Review Note
as of 3-9-11 2:18 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 453

SHORT TITLE: **Domestic Violence Services**

SPONSOR: **Clark, D.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill will save the Division of Child and Family Services (DCFS) in the Department of Human Services \$1,043,300 ongoing from the General Fund resulting from less child protective services investigations being done beginning in FY 2012. Enactment of this bill will also save DCFS \$347,800 in federal matching funds.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund	\$0	(\$1,043,300)	(\$1,043,300)
Federal Funds	\$0	(\$347,800)	(\$347,800)
Total Expenditure	\$0	(\$1,391,100)	(\$1,391,100)
Net Impact, All Funds (Rev.-Exp.)	\$0	\$1,391,100	\$1,391,100
Net Impact, General/Education Funds	\$0	\$1,043,300	\$1,043,300

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.