

Christine F. Watkins proposes the following substitute bill:

Child Welfare Modifications

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor:

LONG TITLE

General Description:

This bill addresses search warrants and investigative warrants relating to child welfare.

Highlighted Provisions:

This bill:

- amends provisions regarding the issuance of warrants by a juvenile court;
- authorizes a juvenile court to issue an investigative warrant related to the health, safety, or welfare of a child, in specific circumstances;
- states that a peace officer or child welfare caseworker who is executing a search warrant or an investigative warrant may request assistance in executing the warrant; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-6-102, as last amended by Laws of Utah 2022, Chapter 335

80-2a-202, as last amended by Laws of Utah 2024, Chapter 281

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

Section 1. Section **78A-6-102** is amended to read:

78A-6-102 . Establishment of juvenile court -- Organization and status of court --

Purpose.

- (1) There is established a juvenile court for the state.
- (2)(a) The juvenile court is a court of record.

- (b) The juvenile court shall have a seal.
- (c) The juvenile court's judges, clerks, and referees have the power to administer oaths and affirmations.
- (d) The juvenile court has the authority to issue ~~[search]~~warrants, subpoenas, or investigative subpoenas under:
- (i) ~~[under Section 80-2a-202,]~~Part 4a, Adult Criminal Proceedings, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination and Restoration of Parental Rights, and Title 80, Chapter 6, Juvenile Justice, for the same purposes and in the same manner as described in Title 77, Utah Code of Criminal Procedure, and the Utah Rules of Criminal Procedure, for the issuance of search warrants, subpoenas, or investigative subpoenas in other trial courts in the state~~[-]~~ ; and
- (ii) Section 80-2a-202.
- (3) The juvenile court is of equal status with the district courts of the state.
- (4) The juvenile court is established as a forum for the resolution of all matters properly brought before the juvenile court, consistent with applicable constitutional and statutory requirements of due process.
- (5) The purpose of the court under this chapter is to:
- (a) promote public safety and individual accountability by the imposition of appropriate sanctions on persons who have committed acts in violation of law;
- (b) order appropriate measures to promote guidance and control, preferably in the minor's own home, as an aid in the prevention of future unlawful conduct and the development of responsible citizenship;
- (c) where appropriate, order rehabilitation, reeducation, and treatment for persons who have committed acts bringing them within the court's jurisdiction;
- (d) adjudicate matters that relate to minors who are beyond parental or adult control and to establish appropriate authority over these minors by means of placement and control orders;
- (e) adjudicate matters that relate to abused, neglected, and dependent children and to provide care and protection for minors by placement, protection, and custody orders;
- (f) remove a minor from parental custody only where the minor's safety or welfare, or the public safety, may not otherwise be adequately safeguarded; and
- (g) consistent with the ends of justice, act in the best interests of the minor in all cases and preserve and strengthen family ties.

Section 2. Section **80-2a-202** is amended to read:

**80-2a-202 . Removal of a child by a peace officer or child welfare caseworker --
Search warrants and investigative warrants -- Protective custody and temporary care of
a child.**

(1) A peace officer or child welfare caseworker may remove a child or take a child into protective custody, temporary custody, or custody in accordance with this section.

(2)(a) Except as provided in Subsection (2)(b), a peace officer or a child welfare caseworker may not enter the home of a child whose case is not under the jurisdiction of the juvenile court, remove a child from the child's home or school, or take a child into protective custody unless:

(i) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare caseworker of the requirement to obtain a [search-]warrant under Subsection (3);

(ii) the peace officer or child welfare caseworker obtains a [search-]warrant under Subsection (3);

(iii) the peace officer or child welfare caseworker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or

(iv) the peace officer or child welfare caseworker obtains the consent of the child's parent or guardian.

(b) A peace officer or a child welfare caseworker may not take action under Subsection (2)(a) solely on the basis of:

(i) educational neglect, truancy, or failure to comply with a court order to attend school;

(ii) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201; or

(iii) a parent's agreement or disagreement with a minor child of the couple's:

(A) assertion that the child's gender identity is different from the child's biological sex; or

(B) practice of having or expressing a different gender identity than the child's biological sex.

(3)(a) The juvenile court may issue a warrant authorizing a peace officer or a child welfare caseworker to search for a child and take the child into protective custody if

it appears to the juvenile court upon a verified petition, recorded sworn testimony, or an affidavit sworn to by a peace officer or another individual, and upon the examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:

- (i) there is a threat of substantial harm to the child's health or safety;
- (ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection (3)(a)(i); and
- (iii) it is likely that the child will suffer substantial harm if the child's parent or guardian is given notice and an opportunity to be heard before the child is taken into protective custody.

(b) The juvenile court may issue an investigative warrant authorizing a peace officer or a child welfare caseworker to view a child, view a child's home environment, examine a child for signs of abuse or neglect, or interview a child regarding the child's health, safety, or welfare, if it appears to the juvenile court upon a verified petition, recorded sworn testimony, or an affidavit sworn to by a peace officer or child welfare case worker, and upon the examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:

- (i) there is a credible threat to the child's health, safety, or welfare;
- (ii) it is necessary to view, examine, or interview the child to ensure the child's health, safety, or welfare, in specific circumstances where the child has been isolated from or had decreased visibility in the community; and
- (iii) the peace officer or child welfare caseworker has made diligent efforts to ensure the child's health, safety, or welfare by other legal means but has been unable or not permitted to view, examine, or interview the child to ensure the child's health, safety, or welfare.

~~[(b)]~~ (c) In accordance with Section 77-23-210, a peace officer [making the search under Subsection (3)(a)] executing a warrant under Subsection (3)(a) or (3)(b) may enter a house or premises by force, if necessary, in order to [remove the child] execute the warrant.

(d) A peace officer or a child welfare caseworker who is executing a warrant under Subsection (3)(a) or (3)(b) shall request other peace officers or child welfare caseworkers to assist in executing the warrant.

(4)(a) A child welfare caseworker may take action under Subsection (2) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.

(b)(i) Before taking a child into protective custody, and if possible and consistent with the child's safety and welfare, a child welfare caseworker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(ii) In determining whether the services described in Subsection (4)(b)(i) are reasonably available, the child welfare caseworker shall consider the child's health, safety, and welfare as the paramount concern.

(iii) If the child welfare caseworker determines the services described in Subsection (4)(b)(i) are reasonably available, the services shall be utilized.

(5)(a) If a peace officer or a child welfare caseworker takes a child into protective custody under Subsection (2), the peace officer or child welfare caseworker shall:

(i) notify the child's parent or guardian in accordance with Section 80-2a-203; and

(ii) release the child to the care of the child's parent or guardian or another responsible adult, unless:

(A) the child's immediate welfare requires the child remain in protective custody; or

(B) the protection of the community requires the child's detention in accordance with Chapter 6, Part 2, Custody and Detention.

(b)(i) If a peace officer or child welfare caseworker is executing a warrant under Subsection (3), the peace officer or child welfare caseworker shall take the child to:

(A) a shelter facility; or

(B) if the division makes an emergency placement under Section 80-2a-301, the emergency placement.

(ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall promptly file a written report that includes the child's information, on a form provided by the division, with the shelter facility.

(c) A child removed or taken into protective custody under this section may not be placed or kept in detention pending court proceedings, unless the child may be held in detention under Chapter 6, Part 2, Custody and Detention.

(6)(a) The juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to search for a child who is missing, has been abducted, or has run

away, and take the child into physical custody if the juvenile court determines that the child is missing, has been abducted, or has run away from the protective custody, temporary custody, or custody of the division.

(b) If the juvenile court issues a warrant under Subsection (6)(a):

(i) the division shall notify the child's parent or guardian who has a right to parent-time with the child in accordance with Subsection 80-2a-203(5)(a);

(ii) the court shall order:

(A) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time in which the law enforcement agency receives a copy of the warrant; and

(B) the division to notify the law enforcement agency described in Subsection (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and

(c) the court shall specify the location to which the peace officer or the child welfare caseworker shall transport the child.

Section 1. Effective Date.

This bill takes effect on May 7, 2025.