

**62A-4a-1005 Supported finding of a severe type of child abuse or neglect -- Notation in Licensing Information System -- Juvenile court petition or notice to alleged perpetrator -- Rights of alleged perpetrator -- Juvenile court finding.**

- (1) If the division makes a supported finding that a person committed a severe type of child abuse or neglect, the division shall:
  - (a) serve notice of the finding on the alleged perpetrator;
  - (b) enter the following information into the Licensing Information System created in Section 62A-4a-1006:
    - (i) the name and other identifying information of the perpetrator with the supported finding, without identifying the person as a perpetrator or alleged perpetrator; and
    - (ii) a notation to the effect that an investigation regarding the person is pending; and
  - (c) if the division considers it advisable, file a petition for substantiation within one year of the supported finding.
- (2) The notice referred to in Subsection (1)(a):
  - (a) shall state that:
    - (i) the division has conducted an investigation regarding alleged abuse or neglect;
    - (ii) the division has made a supported finding that the alleged perpetrator described in Subsection (1) committed a severe type of child abuse or neglect;
    - (iii) facts gathered by the division support the supported finding;
    - (iv) as a result of the supported finding, the alleged perpetrator's name and other identifying information have been listed in the Licensing Information System in accordance with Subsection (1)(b);
    - (v) the alleged perpetrator may be disqualified from adopting a child, receiving state funds as a child care provider, or being licensed by:
      - (A) the department;
      - (B) a human services licensee;
      - (C) a child care provider or program; or
      - (D) a covered health care facility;
    - (vi) the alleged perpetrator has the rights described in Subsection (3); and
    - (vii) failure to take either action described in Subsection (3)(a) within one year after service of the notice will result in the action described in Subsection (3)(b);
  - (b) shall include a general statement of the nature of the findings; and
  - (c) may not include:
    - (i) the name of a victim or witness; or
    - (ii) any privacy information related to the victim or a witness.
- (3)
  - (a) Upon receipt of the notice described in Subsection (2), the alleged perpetrator has the right to:
    - (i) file a written request asking the division to review the findings made under Subsection (1);
    - (ii) except as provided in Subsection (3)(c), immediately petition the juvenile court under Section 78A-6-323; or
    - (iii) sign a written consent to:
      - (A) the supported finding made under Subsection (1); and
      - (B) entry into the Licensing Information System of:
        - (I) the alleged perpetrator's name; and
        - (II) other information regarding the supported finding made under Subsection (1).
  - (b) Except as provided in Subsection (3)(e), the alleged perpetrator's name and the information described in Subsection (1)(b) shall remain in the Licensing Information System:

- (i) if the alleged perpetrator fails to take the action described in Subsection (3)(a) within one year after service of the notice described in Subsections (1)(a) and (2);
  - (ii) during the time that the division awaits a response from the alleged perpetrator pursuant to Subsection (3)(a); and
  - (iii) until a court determines that the severe type of child abuse or neglect upon which the Licensing Information System entry was based is unsubstantiated or without merit.
- (c) The alleged perpetrator has no right to petition the juvenile court under Subsection (3)(a)(ii) if the court previously held a hearing on the same alleged incident of abuse or neglect pursuant to the filing of a petition under Section 78A-6-304 by some other party.
- (d) Consent under Subsection (3)(a)(iii) by a child shall be given by the child's parent or guardian.
- (e) Regardless of whether an appeal on the matter is pending:
- (i) the division shall remove an alleged perpetrator's name and the information described in Subsection (1)(b) from the Licensing Information System if the severe type of child abuse or neglect upon which the Licensing Information System entry was based:
    - (A) is found to be unsubstantiated or without merit by the juvenile court under Section 78A-6-323; or
    - (B) is found to be substantiated, but is subsequently reversed on appeal; and
  - (ii) the division shall place back on the Licensing Information System an alleged perpetrator's name and information that is removed from the Licensing Information System under Subsection (3)(e)(i) if the court action that was the basis for removing the alleged perpetrator's name and information is subsequently reversed on appeal.
- (4) Upon the filing of a petition under Subsection (1)(c), the juvenile court shall make a finding of substantiated, unsubstantiated, or without merit as provided in Subsections 78A-6-323(1) and (2).
- (5) Service of the notice described in Subsections (1)(a) and (2):
- (a) shall be personal service in accordance with Utah Rules of Civil Procedure, Rule 4; and
  - (b) does not preclude civil or criminal action against the alleged perpetrator.

Amended by Chapter 3, 2008 General Session  
Amended by Chapter 59, 2008 General Session  
Amended by Chapter 299, 2008 General Session