

Effective 5/12/2020

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62A-4a-209 Emergency placement.

- (1) As used in this section:
 - (a) "Friend" means the same as that term is defined in Subsection 78A-6-307(1).
 - (b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.
 - (c) "Relative" means the same as that term is defined in Subsection 78A-6-307(1).
- (2) The division may use an emergency placement under Subsection 62A-4a-202.1(4)(b)(ii) when:
 - (a) the case worker has made the determination that:
 - (i) the child's home is unsafe;
 - (ii) removal is necessary under the provisions of Section 62A-4a-202.1; and
 - (iii) the child's custodial parent or guardian will agree to not remove the child from the home of the individual that serves as the placement and not have any contact with the child until after the shelter hearing required by Section 78A-6-306;
 - (b) an individual, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:
 - (i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and
 - (ii) making the child available to division services and the guardian ad litem; and
 - (c) the individual described in Subsection (2)(b) agrees to care for the child on an emergency basis under the following conditions:
 - (i) the individual meets the criteria for an emergency placement under Subsection (3);
 - (ii) the individual agrees to not allow the custodial parent or guardian to have any contact with the child until after the shelter hearing unless authorized by the division in writing;
 - (iii) the individual agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;
 - (iv) the individual agrees to allow the division and the child's guardian ad litem to have access to the child;
 - (v) the individual has been informed and understands that the division may continue to search for other possible placements for long-term care, if needed;
 - (vi) the individual is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and
 - (vii) the child is comfortable with the individual.
- (3) Except as otherwise provided in Subsection (5), before the division places a child in an emergency placement, the division:
 - (a) may request the name of a reference and may contact the reference to determine the answer to the following questions:
 - (i) would the individual identified as a reference place a child in the home of the emergency placement; and
 - (ii) are there any other relatives or friends to consider as a possible emergency or long-term placement for the child;
 - (b) shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation;
 - (c)
 - (i) if the emergency placement will be with a relative, shall comply with the background check provisions described in Subsection (7); or

- (ii) if the emergency placement will be with an individual other than a noncustodial parent or a relative, shall comply with the background check provisions described in Subsection (8) for adults living in the household where the child will be placed;
 - (d) shall complete a limited home inspection of the home where the emergency placement is made; and
 - (e) shall have the emergency placement approved by a family service specialist.
- (4)
- (a) The following order of preference shall be applied when determining the individual with whom a child will be placed in an emergency placement described in this section, provided that the individual is willing, and has the ability, to care for the child:
 - (i) a noncustodial parent of the child in accordance with Section 78A-6-307;
 - (ii) a relative;
 - (iii) subject to Subsection (4)(b), a friend designated by the custodial parent, guardian, or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;
 - (iv) a former foster placement designated by the division;
 - (v) a foster placement, that is not a former foster placement, designated by the division; and
 - (vi) a shelter facility designated by the division.
 - (b) In determining whether a friend is a willing and appropriate temporary emergency placement for a child, the division:
 - (i) subject to Subsections (4)(b)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;
 - (ii) is required to consider no more than one friend designated by each parent or legal guardian of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;
 - (iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and
 - (iv) shall give preference to a friend designated by the child, if:
 - (A) the child is of sufficient maturity to articulate the child's wishes; and
 - (B) the division's basis for removing the child under Section 62A-4a-202.1 is sexual abuse of the child.
- (5)
- (a) The division may, pending the outcome of the investigation described in Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation, prior to making the emergency placement, the division:
 - (i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;
 - (ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and
 - (iii) has the custodial parent or guardian sign an emergency placement agreement.
 - (b) Either before or after making an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (3)(a) in relation to the noncustodial parent.
 - (c) Before, or within one day, excluding weekends and holidays, after a child is placed in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:
 - (i) background check of the noncustodial parent, pursuant to Subsection (7); and

- (ii) inspection of the home where the emergency placement is made.
- (6) After an emergency placement, the division caseworker must:
 - (a) respond to the emergency placement's calls within one hour if the custodial parents or guardians attempt to make unauthorized contact with the child or attempt to remove the child;
 - (b) complete all removal paperwork, including the notice provided to the custodial parents and guardians under Section 78A-6-306;
 - (c) contact the attorney general to schedule a shelter hearing;
 - (d) complete the placement procedures required in Section 78A-6-307; and
 - (e) continue to search for other relatives as a possible long-term placement, if needed.
- (7)
 - (a) The background check described in Subsection (3)(c)(i) shall include completion of:
 - (i) a name-based, Utah Bureau of Criminal Identification background check; and
 - (ii) a search of the Management Information System described in Section 62A-4a-1003.
 - (b) The division shall determine whether an individual passes the background check described in this Subsection (7) pursuant to the provisions of Subsection 62A-2-120(14).
 - (c) Notwithstanding Subsection (7)(b), the division may not place a child with an individual who is prohibited by court order from having access to that child.
- (8)
 - (a) The background check described in Subsection (3)(c)(ii) shall include completion of:
 - (i) a name-based, Utah Bureau of Criminal Identification background check;
 - (ii) a federal name-based criminal background check; and
 - (iii) a search of the Management Information System described in Section 62A-4a-1003.
 - (b) The division shall determine whether an individual passes the background checks described in this Subsection (8) pursuant to the provisions of Section 62A-2-120.
 - (c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection (8)(a), and the individual contests that denial, the individual shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.
 - (d)
 - (i) Within 15 calendar days of the name-based background checks, the division shall require an individual to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.
 - (ii) If an individual fails to provide the fingerprints and written permission described in Subsection (8)(d)(i), the child shall immediately be removed from the home.