

Effective 9/1/2022

**Part 6
Child Abuse and Neglect Reports**

80-2-601 Legislative purpose.

It is the purpose of this part to protect the best interests of children, offer protective services to prevent harm to children, stabilize the home environment, preserve family life whenever possible, and encourage cooperation among the states in dealing with the problem of abuse or neglect.

Renumbered and Amended by Chapter 334, 2022 General Session

80-2-602 Child abuse and neglect reporting requirements -- Exceptions.

- (1) Except as provided in Subsection (3), if a person, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe that a child is, or has been, the subject of abuse or neglect, or observes a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, the person shall immediately report the suspected abuse or neglect to the division or to the nearest peace officer or law enforcement agency.
- (2)
 - (a)
 - (i) If a peace officer or law enforcement agency receives a report under Subsection (1), the peace officer or law enforcement agency shall immediately notify the nearest office of the division.
 - (ii) If the division receives a report under Subsection (1), the division shall immediately notify the appropriate local law enforcement agency.
 - (b)
 - (i) The division shall, in addition to the division's own investigation in accordance with Section 80-2-701, coordinate with the law enforcement agency on an investigation undertaken by the law enforcement agency to investigate the report of abuse or neglect under Subsection (1).
 - (ii) If a law enforcement agency undertakes an investigation of a report under Subsection (1), the law enforcement agency shall provide a final investigatory report to the division upon request.
- (3) Subject to Subsection (4), the reporting requirement described in Subsection (1) does not apply to:
 - (a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:
 - (i) the perpetrator made the confession directly to the member of the clergy; and
 - (ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of the confession; or
 - (b) an attorney, or an individual employed by the attorney, if the knowledge or belief of the suspected abuse or neglect of a child arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse or neglect of the child to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.
- (4)

- (a) When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to report the information even if the member of the clergy also received information about the abuse or neglect from the confession of the perpetrator.
 - (b) Exemption of the reporting requirement for an individual described in Subsection (3) does not exempt the individual from any other efforts required by law to prevent further abuse or neglect by the perpetrator.
- (5) The physician-patient privilege does not:
- (a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or
 - (b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under this section.

Renumbered and Amended by Chapter 334, 2022 General Session

80-2-603 Fetal alcohol syndrome or spectrum disorder and drug dependency reporting requirements.

- (1) As used in this section:
- (a) "Health care provider" means:
 - (i) an individual licensed under:
 - (A) Title 58, Chapter 31b, Nurse Practice Act;
 - (B) Title 58, Chapter 44a, Nurse Midwife Practice Act;
 - (C) Title 58, Chapter 67, Utah Medical Practice Act;
 - (D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
 - (E) Title 58, Chapter 70a, Utah Physician Assistant Act; or
 - (F) Title 58, Chapter 77, Direct-Entry Midwife Act; or
 - (ii) an unlicensed individual who practices midwifery.
 - (b) "Newborn child" means a child who is 30 days old or younger.
 - (c) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.
 - (d)
 - (i) "Substance abuse" means, except as provided in Subsection (1)(d)(ii), the same as that term is defined in Section 80-1-102.
 - (ii) "Substance abuse" does not include use of drugs or other substances that are:
 - (A) obtained by lawful prescription and used as prescribed; or
 - (B) obtained in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and used as recommended by a recommending medical provider.
- (2) A health care provider who attends the birth of a newborn child or cares for a newborn child and determines the following, shall report the determination to the division as soon as possible:
- (a) the newborn child:
 - (i) is adversely affected by the child's mother's substance abuse during pregnancy;
 - (ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or
 - (iii) demonstrates drug or alcohol withdrawal symptoms; or
 - (b) the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse.

(3) The physician-patient privilege does not:

- (a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or
- (b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under this section.

Amended by Chapter 330, 2023 General Session

80-2-604 Death of a child reporting requirements.

- (1) A person who has reason to believe that a child has died as a result of abuse or neglect shall report that fact to:
 - (a) the local law enforcement agency; and
 - (b) the appropriate medical examiner in accordance with Title 26B, Chapter 8, Part 2, Utah Medical Examiner.
- (2) After receiving a report described in Subsection (1):
 - (a) the local law enforcement agency shall report to the county attorney or district attorney as provided under Section 17-18a-202 or 17-18a-203; and
 - (b) the medical examiner shall investigate and report the medical examiner's findings to:
 - (i) the police;
 - (ii) the appropriate county attorney or district attorney;
 - (iii) the attorney general's office;
 - (iv) the division; and
 - (v) if the institution making the report is a hospital, to the hospital.

Amended by Chapter 330, 2023 General Session

80-2-605 Physician removal of a child -- Reporting requirements.

- (1) Subject to Subsection (3), a physician examining or treating a child may take the child into custody, without the consent of the child's parent, guardian, or any other person responsible for the child's care or exercising temporary or permanent control over the child, if the physician has reason to believe that the child's life or safety will be in danger unless the child is taken into custody.
- (2)
 - (a) Subject to Subsection (3), the person in charge of a hospital or similar medical facility may retain custody of a child taken into custody under Subsection (1) if the person reasonably believes the circumstances warrant retention of custody.
 - (b) The person may take the action described in Subsection (2)(a) regardless of whether additional medical treatment is required for the child or the person responsible for the child's care requests the child's return.
- (3) Custody of a child under this section may not exceed 72 hours without an order of the juvenile court.
- (4) A person who takes a child into, or retains a child in, custody under this section shall:
 - (a) immediately notify the division that the child is in the person's custody; and
 - (b) document:
 - (i) the grounds upon which the child was taken into, or retained in, custody; and
 - (ii) the nature of, and necessity for, any medical care or treatment provided to the child.

Renumbered and Amended by Chapter 334, 2022 General Session

80-2-606 Written reports.

- (1)
 - (a) A person who orally reports under Section 80-2-602, 80-2-603, or 80-2-604 shall, upon request of the division, provide the division with a written version of the oral report.
 - (b) The person shall provide the written report within 48 hours after the division's request.
- (2) If, in connection with an intended or completed abortion, a physician is required to make a report of incest or abuse of a minor, the report may not include information that would in any way disclose that the report was made in connection with:
 - (a) an abortion; or
 - (b) a consultation regarding an abortion.
- (3) The division shall, immediately after receipt, forward a copy of a written report to the state child abuse and neglect registry on a form supplied by the registry.

Renumbered and Amended by Chapter 334, 2022 General Session

80-2-607 Health care provider photographs of child abuse or neglect.

- (1) A licensed physician, licensed physician assistant, medical examiner, peace officer, or public health officer or official may take a photograph of the areas of trauma visible on a child and, if medically indicated, perform radiological examinations.
- (2) A photograph may be taken of the premises or of an object relevant to a reported circumstance of child abuse or neglect.
- (3) A photograph, X-ray, or other medical record pertinent to an investigation for child abuse or neglect shall be made available to the division, law enforcement agencies, and the court.

Renumbered and Amended by Chapter 334, 2022 General Session

80-2-608 Confidential identity of person who reports.

Except as provided in Sections 80-2-611 and 80-2-1005, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial report under this part and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.

Enacted by Chapter 334, 2022 General Session

80-2-609 Failure to report -- Threats and intimidation -- Penalty.

- (1) If the division has substantial grounds to believe that a person knowingly failed to report under Section 80-2-602 or 80-2-603, the division shall file a complaint with:
 - (a) the Division of Professional Licensing if the person is a health care provider, as defined in Subsection 80-2-603(1)(a)(i), or a mental health therapist, as defined in Section 58-60-102;
 - (b) the appropriate law enforcement agency if the person is a law enforcement officer, as defined in Section 53-13-103; or
 - (c) the State Board of Education if the person is an educator, as defined in Section 53E-6-102.
- (2)
 - (a) A person is guilty of a class B misdemeanor if the person willfully fails to report under Section 80-2-602 or 80-2-603.

- (b) If a person is convicted under Subsection (2)(a), the court may order the person, in addition to any other sentence the court imposes, to:
 - (i) complete community service hours; or
 - (ii) complete a program on preventing abuse and neglect of children.
 - (c) In determining whether it would be appropriate to charge a person with a violation of Subsection (2)(a), the prosecuting attorney shall take into account whether a reasonable person would not have reported suspected abuse or neglect of a child because reporting would have placed the person in immediate danger of death or serious bodily injury.
 - (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use a person's violation of Subsection (2)(a) as the basis for charging the person with another offense.
 - (e) A prosecution for failure to report under Subsection (2)(a) shall be commenced within two years after the day on which the person had knowledge of the suspected abuse or neglect or the circumstances described in Subsection 80-2-603(2) and willfully failed to report.
- (3) Under circumstances not amounting to a violation of Section 76-8-508, a person is guilty of a class B misdemeanor if the person threatens, intimidates, or attempts to intimidate a child who is the subject of the report under Section 80-2-602 or 80-2-603, the person who made the report, a witness, or any other person cooperating with an investigation conducted in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child.

Renumbered and Amended by Chapter 334, 2022 General Session

Amended by Chapter 415, 2022 General Session

80-2-610 Immunity from liability for a report -- Exception.

- (1)
 - (a) A person who in good faith makes a report under Section 80-2-602, 80-2-603, or 80-2-604, or who otherwise notifies the division or a peace officer or law enforcement agency of suspected abuse or neglect of a child, is immune from civil and criminal liability in connection with the report or notification.
 - (b) Except as provided in Subsection (3), a person taking a photograph or X-ray, assisting an investigator from the division, serving as a member of a child protection team, or taking a child into protective custody in accordance with Chapter 2a, Removal and Protective Custody of a Child, is immune from civil or criminal liability in connection with those actions.
- (2) This section does not provide immunity with respect to an act or omission of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (3) The immunity described in Subsection (1)(b) does not apply if the person:
 - (a) acted or failed to act through fraud or willful misconduct;
 - (b) in a judicial or administrative proceeding, intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry in the proceeding;
 - (c) intentionally or knowingly fabricated evidence; or
 - (d) except as provided in Subsection (4), intentionally or knowingly with a conscious disregard for the rights of others, failed to disclose evidence that was known by the person to be relevant to a material issue or matter of inquiry in:
 - (i) a pending judicial or administrative proceeding if the person knew of the pending judicial or administrative proceeding; or
 - (ii) a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party to the proceeding or counsel for a party to the proceeding.
- (4) Immunity is not lost under Subsection (3)(d), if the person:

- (a) failed to disclose evidence described in Subsection (3)(d), because the person is prohibited by law from disclosing the evidence; or
- (b)
 - (i) in accordance with the provisions of 45 C.F.R. 164.502(g)(5), refused to disclose evidence described in Subsection (3)(d) to another person who requested the evidence; and
 - (ii) after refusing to disclose the evidence under Subsection (4)(b)(i), complied with or responded to a valid court order or valid subpoena received by the person to disclose the evidence described in Subsection (3)(d).

Renumbered and Amended by Chapter 334, 2022 General Session

80-2-611 False reports -- Investigation -- Notice of penalty.

- (1) The division may conduct an investigation to determine whether a report under Section 80-2-602 or 80-2-603 is false.
- (2) The division shall send a certified letter to a person who makes a report of abuse or neglect that is placed into or included in any part of the Management Information System, if the division determines, at the conclusion of the division's investigation, that:
 - (a) the report is false;
 - (b) it is more likely than not that the person knew the report was false at the time that person made the report; and
 - (c) the reporting person's address is known or reasonably available.
- (3) The certified letter described in Subsection (2) shall inform the reporting person of:
 - (a) the division's determination made under Subsection (2);
 - (b) the penalty for submitting false information under Section 76-8-506 and other applicable laws; and
 - (c) the obligation or ability of the division under Subsection (4) to inform law enforcement and the person alleged to have committed abuse or neglect:
 - (i) in the present instance if the division considers an immediate referral of the reporting person to law enforcement to be justified by the facts; or
 - (ii) if the reporting person submits a subsequent false report involving the same alleged perpetrator or victim.
- (4) The division:
 - (a) may inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection (2), if an immediate referral is justified by the facts;
 - (b) shall inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection (2) if a second letter is sent to the reporting person involving the same alleged perpetrator or victim; and
 - (c) shall determine, in consultation with law enforcement:
 - (i) what information should be given to an alleged perpetrator relating to a false report; and
 - (ii) whether good cause exists, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for not informing an alleged perpetrator about a false report.
- (5) This section does not require the division to conduct an investigation beyond what is described in Subsections (1) and (2), to determine whether a report is false.

Renumbered and Amended by Chapter 334, 2022 General Session