

Senator Lyle W. Hillyard proposes to substitute the following bill:

AMENDMENTS - CHILD ABUSE DATABASE

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

1 AN ACT RELATING TO HUMAN SERVICES; REQUIRING WITHOUT MERIT AND
2 UNSUBSTANTIATED REPORTS OF CHILD ABUSE OR NEGLECT TO BE REMOVED
3 FROM THE CHILD WELFARE DATABASE WHEN SUBSEQUENT REPORTS HAVE NOT
4 OCCURRED WITHIN A SPECIFIED TIME PERIOD; INCLUDING THE NAME OF A
5 PERSON ON THE LICENSING DATABASE WHEN NOTICE WENT UNDELIVERED;
6 CLARIFYING THE CIRCUMSTANCES UNDER WHICH A JUVENILE PERPETRATOR
7 MAY BE INCLUDED ON THE LICENSING DATABASE; § **CLARIFYING WHEN A PERSON'S**
8 **CONDUCT DOES NOT CONSTITUTE CHILD ABUSE OR NEGLECT**; § PROHIBITING A PERSON
9 FROM
10 ASKING ANOTHER PERSON TO OBTAIN INFORMATION FROM THE DATABASE;
11 PERMITTING A FINDING OF ABUSE OR NEGLECT TO BE SUPPORTED SOLELY BY A
12 CHILD'S OUT-OF-COURT STATEMENT THAT IS FOUND TO BE RELIABLE UNDER
13 EXISTING STATUTE OR COURT RULE; REQUIRING A NEW OPPORTUNITY TO
14 CHALLENGE, IN CERTAIN CIRCUMSTANCES, IF THE USE OF THE LICENSING
15 DATABASE IS BROADENED; CLARIFYING WHEN A COURT DETERMINATION OF
16 ABUSE OR NEGLECT IS TO BE INCLUDED ON THE LICENSING DATABASE; AND
17 MAKING TECHNICAL AND CONFORMING AMENDMENTS.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

§ **30-3-5.2**, as last amended by Chapters 79 and 318, Laws of Utah 1996 §

62A-2-121, as enacted by Chapter 358, Laws of Utah 1998

62A-4a-116, as last amended by Chapter 196, Laws of Utah 1998

62A-4a-116.5, as enacted by Chapter 196, Laws of Utah 1998

62A-4a-412, as last amended by Chapters 169, 196 and 274, Laws of Utah 1998

26 **63-46b-15**, as last amended by Chapter 1, Laws of Utah 1996

27 **78-3a-104**, as last amended by Chapters 274 and 315, Laws of Utah 1998

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

28a **§ Section 1. Section 30-3-5.2 is amended to read:**

28b **30-3-5.2. Allegations of child abuse or child sexual abuse -- Investigation.**

28c **When, in any divorce proceeding or upon a request for modification of a divorce decree, an**
 28d **allegation of child abuse or child sexual abuse is made, implicating either party, the court [~~shall~~] _**
 28e **AFTER MAKING AN INQUIRY, MAY order that an investigation be conducted by the Division of Child**
 28f **and Family Services within the Department of Human Services in accordance with Title 62A, Chapter**
 28g **4a. A final award of custody or visitation may not be rendered until a report on that investigation _**
 28h **CONSISTENT WITH SECTION 62A-4a-412, is received by the court. That investigation shall be**
 28i **conducted by the Division of Child and Family Services within 30 days of the court's notice and**
 28j **request for an investigation. In reviewing this report, the court shall comply with Section 78-7-9. §**

29 Section **§ [~~1~~] 2 §** . Section **62A-2-121** is amended to read:

30 **62A-2-121. Access to abuse and neglect information for licensing purposes.**

31 (1) With respect to human services licensees, the department may access only the licensing
 32 part of the Division of Child and Family Service's management information system created by
 33 Section 62A-4a-116 for the purpose of:

34 (a) determining whether a person associated with a licensee, who provides care described
 35 in Subsection (2), has a substantiated finding of abuse or neglect; [~~and~~]

36 (b) informing a licensee, who provides care described in Subsection (2), that a person
 37 associated with the licensee has a substantiated finding of child abuse or neglect.

38 (2) (a) A licensee or individual applying for or renewing a license to provide child-placing
 39 services, youth programs, substitute care, foster care, or institutionalized care to children shall
 40 submit to the department the name and other identifying information of a person associated with
 41 the licensee.

42 (b) The office shall process the information to determine whether the licensee or a person
 43 associated with a licensee has a substantiated finding of child abuse or neglect.

44 (3) The office shall adopt rules defining the circumstances under which a person who has
 45 a substantiated finding of child abuse or neglect may provide child-placing services, foster care,
 46 youth programs, substitute care, or institutionalized care for children in a facility licensed by the
 47 department.

48 Section **§ [~~2~~] 3 §** . Section **62A-4a-116** is amended to read:

49 **62A-4a-116. Management information system -- Requirements.**

50 (1) The division shall develop and implement a management information system that
 51 meets the requirements of this section and the requirements of federal law and regulation.

52 (2) With regard to all child welfare cases, the management information system shall:

53 (a) provide each caseworker with a complete history of each child in his caseload,

54 including:

55 (i) all past action taken by the division with regard to that child and his siblings, the
56 complete case history and all reports and information in the control or keeping of the division

57 regarding that child and his siblings;

58 (ii) the number of times the child has been in foster care;

59 (iii) the cumulative period of time the child has been in foster care;

60 (iv) all reports of abuse or neglect received by the division with regard to that child's parent
61 or parents, including documentation regarding whether each report was substantiated ~~[or]~~,
62 unsubstantiated, or without merit;

63 (v) the number of times the child's parent or parents have failed any treatment plan; and

64 (vi) the number of different caseworkers who have been assigned to that child in the past;

65 (b) contain all key elements of each family's current treatment plan, including the dates and
66 number of times the plan has been administratively or judicially reviewed, the number of times the
67 parent or parents have failed that treatment plan, and the exact length of time that treatment plan
68 has been in effect; ~~[and]~~

69 (c) alert caseworkers regarding deadlines for completion of and compliance with treatment
70 plans~~[-]; and~~

71 (d) unless the executive director determines that there is good cause for keeping the report
72 on the system based on standards established by rule, delete any reference to:

73 (i) a report that is without merit if no subsequent report involving the same alleged
74 perpetrator has occurred within one year; or

75 (ii) a report that is unsubstantiated if no subsequent report involving the same alleged
76 perpetrator has occurred within ten years.

77 (3) With regard to all child protective services cases, the management information system
78 shall, in addition to the information required in Subsection (2), monitor compliance with the policy
79 of the division, the laws of this state, and federal law and regulation.

80 (4) (a) The division shall develop and maintain a part of the information management
81 system for licensing purposes, which shall be:

82 (i) limited to:

83 (A) substantiated findings of child abuse or neglect since January 1, ~~[1994]~~ 1988, after
84 notice and an opportunity to challenge has been provided under Section 62A-4a-116.5;

85 ~~[(B) substantiated findings of child abuse or neglect for which a notice has been sent under~~
86 ~~Section 62A-4a-116.5 by July 1, 1998, and found by an administrative hearing officer before~~
87 ~~December 1, 1998, to have occurred between January 1, 1988, and January 1, 1994, except that~~

88 if a person applies for licensure or an adoption before June 30, 1999, and that person has not
 89 previously been given notice under Section 62A-4a-116.5, the department may determine whether
 90 a substantiated finding exists between January 1, 1988, and January 1, 1994, and if so, provide
 91 notice and an opportunity to challenge under Section 62A-4a-116.5 before the license or adoption
 92 may be approved;]

93 (B) the name of a person who was not sent a notice of agency action under Section
 94 62A-4a-116.5 because his location was not available on the management information system or
 95 who was sent a notice of agency § ACTION § that was returned to the division as undelivered for the sole
 96 purpose of alerting the division of the need to afford the person an opportunity to challenge the
 97 finding of § [substantiated] § child abuse or neglect under Section 62A-4a-116.5 before any adverse
 98 action, beyond delaying the person's licensing application to provide an opportunity for challenge,
 99 may be taken;

100 (C) an adjudication of child abuse or neglect by a court of competent jurisdiction if
 101 Subsection 62A-4a-116.5(5) has been met; and

102 (D) any criminal conviction or guilty plea related to neglect, physical abuse, or sexual
 103 abuse of any person; and

104 (ii) accessible by:

105 (A) the Office of Licensing § [:] §

106 (I) for licensing purposes § [f] § only § [H] § ;

106a **§ (B) the division: §**

107 § [(HH)] (I) § to screen a person at the request of the Office of the Guardian Ad Litem Director,
 108 created by Section 78-3a-912, at the time the person seeks a paid or voluntary position with the
 109 Office of the Guardian Ad Litem and each year thereafter that the person remains with the office;
 110 and

111 § [(HH)] (II) § to respond to a request for information from the person who is identified as a
 112 perpetrator in the report, after advising the person of the screening § [presentation] PROHIBITION § in
 112a Subsection

113 (4)(d)(iii); [and]

114 § [(B)] (C) § subject to the provisions of Subsection (4)(c), the Bureau of Health Facility
 114a Licensure

115 within the Department of Health only for the purpose of licensing a child care program or provider,
 116 or for determining whether a person associated with a covered health care facility, as defined by
 117 the Department of Health by rule, who provides direct care to a child has a substantiated finding
 118 of child abuse or neglect[-]; and

119 § ~~(C)~~ (D) § the department as provided in Subsection (5) and Section 62A-1-118.

120 (b) For the purpose of Subsection (4)(a), "substantiated":

121 (i) means a finding § ~~[, at the completion of an investigation,]~~ § that there is a reasonable basis
122 to conclude that:

123 (A) a person 18 years of age or older committed one or more of the following types of
124 child abuse or neglect [has occurred]:

125 ~~(A)~~ (I) physical abuse;

126 ~~(B)~~ (II) sexual abuse;

127 ~~(C)~~ (III) sexual exploitation;

128 ~~(D)~~ (IV) abandonment;

129 ~~(E)~~ (V) medical neglect resulting in death, disability, or serious illness; or

130 ~~(F)~~ (VI) chronic or severe neglect; and

131 (B) a person under the age of 18 § [who has] § :

132 (I) caused serious physical injury, as defined in Section 76-5-109(d), to another child
133 which indicates a significant risk to other children; or

134 (II) engaged in sexual behavior with or upon another child which indicates a significant
135 risk to other children; and

136 (ii) does not include § : A § the use of reasonable and necessary physical restraint or force by an
137 educator in accordance with Subsection 53A-11-802(2) or Section 76-2-401 § : OR

137a **(B) A PERSON'S CONDUCT THAT:**

137b **(I) IS JUSTIFIED UNDER SECTION 76-2-401; OR**

137c **(II) CONSTITUTED THE USE OF REASONABLE AND NECESSARY PHYSICAL RESTRAINT OR**

137d **FORCE IN SELF-DEFENSE OR OTHERWISE APPROPRIATE TO THE CIRCUMSTANCES TO OBTAIN**

137e **POSSESSION OF A WEAPON OR OTHER DANGEROUS OBJECT IN THE POSSESSION OR UNDER**

137f **THE CONTROL OF A CHILD OR TO PROTECT THE CHILD OR ANOTHER PERSON FROM PHYSICAL**

137g **INJURY. §**

138 (iii) (A) For purposes of Subsection (4)(b)(i)(B), "significant risk" shall be determined in

139 accordance with risk assessment tools and policies established by the division that focus on age,

140 social factors, emotional factors, sexual factors, intellectual factors, family risk factors, and other

141 related considerations.

142 (B) The division shall train its child protection. workers to apply the risk assessment tools
143 and policies established under Subsection (4)(b)(iii)(A).

144 (c) (i) The Department of Health shall:

145 (A) designate two persons within the Department of Health to access the licensing part of
146 the management information system; and

147 (B) adopt measures to:

148 (I) protect the security of the licensing part of the management information system; and

149 (II) strictly limit access to the licensing part of the management information system to

150 those designated under Subsection (4)(c)(i)(A).

151 (ii) Those designated under Subsection (4)(c)(i)(A) shall receive training from the
152 department with respect to:

153 (A) accessing the licensing part of the management information system;

154 (B) maintaining strict security; and

155 (C) the criminal provisions in Section 62A-4a-412 for the improper release of information.

156 (iii) Those designated under Subsection (4)(c)(i)(A):

157 (A) are the only ones in the Department of Health with the authority to access the licensing
158 part of the management information system; and

159 (B) may only access the licensing part of the management information system in
160 accordance with the provisions of Subsection (4)(a)(ii).

160a **§ (iv) THE DEPARTMENT OF HEALTH MAY OBTAIN INFORMATION IN THE POSSESSION OF**
160b **THE DIVISION THAT RELATES TO A SUBSTANTIATED FINDING OF ABUSE OR NEGLECT OF**
160c **A PERSON SCREENED UNDER THIS SUBSECTION ~~[(c)]~~ (4)(c) . §**

161 (d) (i) Information in the licensing part of the management information system is
162 confidential and may only be used or disclosed as specifically provided in this section, Section
163 62A-4a-121, and Section 62A-4a-116.5.

164 (ii) No person, unless listed in Subsection (4)(a)(ii), may request another person to obtain
165 or release a report or any other information in the possession of the division obtained as a result
166 of the report that is available under Subsection (4)(a)(ii)(A)(III) to screen for potential perpetrators
167 of child abuse or neglect.

168 (iii) A person who requests information knowing that it is a violation of Subsection
169 (4)(d)(ii) to do so is subject to the criminal penalty in Section 62A-4a-412.

170 (5) All information contained in the management information system shall be available
171 to the department upon the approval of the executive director, on a need-to-know basis.

172 (6) The information contained in the management information system shall be encrypted.
173 Section 3. Section **62A-4a-116.5** is amended to read:

174 **62A-4a-116.5. Opportunity to appeal a substantiated finding of child abuse or**
175 **neglect.**

176 ~~§ [(1) If the division makes a substantiated finding of abuse or neglect pursuant to Subsection~~
177 ~~62A-4a-116(4)(b), the division shall send notice of agency action regarding the division's finding~~
178 ~~to the person found to have committed the abuse or neglect.] (1)(a) THE DIVISION SHALL SEND A~~
178a ~~NOTICE OF AGENCY ACTION TO A PERSON IF THE DIVISION FINDS, AT THE CONCLUSION OF AN~~
178b ~~INVESTIGATION, THAT, IN THE OPINION OF THE DIVISION, THERE IS A REASONABLE BASIS TO~~
178c ~~CONCLUDE THAT THE PERSON COMMITTED ABUSE OR NEGLECT LISTED IN SUBSECTION~~
178d ~~62A-4a-116(4)(b)(i). IN THE EVENT THAT THE PERSON IS UNDER THE AGE OF 18, THE DIVISION~~
178da ~~SHALL:~~

178db ~~(i) MAKE REASONABLE EFFORTS TO IDENTIFY THE PERSON'S PARENT OR LEGAL~~
178dc ~~GUARDIAN; AND §~~

178de (ii) SEND A NOTICE TO EACH PARENT OR LEGAL GUARDIAN IDENTIFIED UNDER
178df SUBSECTION (1)(a)(i) THAT LIVES AT A DIFFERENT ADDRESS UNLESS THERE IS GOOD CAUSE, AS
178dg DEFINED BY RULE, FOR NOT SENDING A NOTICE TO A PARENT OR LEGAL GUARDIAN.
178e (b) FOR PURPOSES OF THIS SECTION ONLY, WHICH GOVERNS THE RIGHT OF A PERSON
178f TO CHALLENGE THE DIVISION'S INITIAL FINDING OR OPINION OF ABUSE OR NEGLECT AS IT
178g PERTAINS TO THE LICENSING PART OF THE MANAGEMENT INFORMATION SYSTEM, THE DIVISION
178h SHALL REFER TO A FINDING UNDER SUBSECTION (1)(a) AS A "FINDING" OR A "INITIAL FINDING"
178i OF ABUSE OR NEGLECT WHEN NOTIFYING OR EXPLAINING A NOTIFICATION TO A PERSON. §

178j (c) NOTHING IN THIS SECTION MAY BE CONSTRUED AS AFFECTING:
 178k (i) THE MANNER IN WHICH THE DIVISION CONDUCTS AN INVESTIGATION; OR
 178l (ii) THE USE OR EFFECT, IN ANY OTHER SETTING, OF:
 178m (A) AN INITIAL DIVISION FINDING OR SUBSTANTIATION OF CHILD ABUSE OR NEGLECT AT
 178n THE COMPLETION OF AN INVESTIGATION FOR ANY PURPOSE OTHER THAN FOR NOTIFICATION
 178o UNDER SUBSECTION (1)(b); OR
 178p (B) THE TERM "SUBSTANTIATED" AS USED IN ANY OTHER PROVISION OF THE CODE. §
 179 (2) The notice shall state:
 179a § (a) THAT THE DIVISION CONDUCTED AN INVESTIGATION;
 179b (b) THAT THE DIVISION FOUND, AT THE CONCLUSION OF THE INVESTIGATION, THAT
 179c THERE
 179d WAS, IN THE OPINION OF THE DIVISION, A REASONABLE BASIS TO CONCLUDE THAT ABUSE OR
 179e NEGLECT OCCURRED; §
 180 § [(a)] (c) § the facts that support the finding § [of substantiation] § ;

181 § ~~(b)~~ (d) § that the person may be disqualified from adopting a child or working for or being
 182 licensed by:

- 183 (i) the department;
- 184 (ii) a human services licensee;
- 185 (iii) a child care provider or program; and
- 186 (iv) a covered health care facility;

187 § ~~(c)~~ (e) § that the person has the right to request:

- 188 (i) a copy of the § [substantiated] § report; and
- 189 (ii) an opportunity to challenge the finding and its inclusion on the licensing part of the
 190 management information system described in Subsection 62A-4a-116(4), except as provided in
 191 Subsection (5)(b); and

192 § ~~(d)~~ (f) § that failure to request an opportunity to challenge the finding within 30 days of the
 193 notice being received will result in an unappealable finding of substantiation § **OF CHILD ABUSE OR**
 193a **NEGLECT** § , unless the person can
 194 show good cause for why compliance within the 30-day requirement was virtually impossible or
 195 unreasonably burdensome.

196 (3) (a) A person may make a request to challenge a § [substantiated] § finding within 30 days
 197 of:

- 198 (i) a notice being received under Subsection (2);
- 199 (ii) a finding by a court of competent jurisdiction based on the same underlying facts that:
 200 (A) child abuse or neglect, as described in Subsection 62A-4a-116(4)(b), did not occur;
 201 or
 202 (B) the person was not responsible for the child abuse or neglect that did occur; or
 203 (iii) the dismissal of criminal charges or a verdict of not guilty based on the same
 204 underlying facts.

205 (b) The 30-day requirement of Subsection (3)(a) shall be extended for good cause shown
 206 that compliance was virtually impossible or unreasonably burdensome.

207 (c) The division may approve or deny a request made under Subsection (3)(a).

208 (d) If the division denies the request or fails to act within 30 days after receiving a request
 209 submitted under Subsection (3)(a), the Office of Administrative Hearings shall hold an
 210 adjudicative proceeding pursuant to Title 63, Chapter 46b, Administrative Procedures Act.

211 (4) (a) In an adjudicative proceeding held pursuant to Subsection (3)(d), the division shall

212 prove by a preponderance of the evidence that there is a reasonable basis to conclude that:

213 (i) child abuse or neglect, as described in Subsection 62A-4a-116(4)(b), occurred; and

214 (ii) the person was substantially responsible for the abuse or neglect that occurred.

215 (b) The administrative hearing officer may make a determination of substantiation based

216 solely on the out-of-court statement of the child that the officer finds to be reliable under the

217 standards set forth in:

218 (i) Section 76-5-411;

219 (ii) Utah Rules of Criminal Procedure, Rule 15.5;

220 (iii) Section 78-3a-116(5);

221 (iv) the Utah Rules of Evidence; or

222 (v) Utah case law.

223 (5) (a) A person may not make a request to challenge a **§ [substantiated]** § finding under

224 Subsection (3)(a), if, at anytime, a court of competent jurisdiction has made a determination based

225 on the same underlying facts that:

226 (i) child abuse or neglect, as described in Subsection 62A-4a-116(4)(b), occurred; [~~and~~]

227 (ii) the person was substantially responsible for the abuse or neglect that occurred[-]; and

228 (iii) the person:

229 (A) was a party to the proceeding; or

230 (B) (I) had notice of the proceeding; and

231 (II) was provided a meaningful opportunity to challenge the facts underlying the court's

232 determination.

233 (b) An adjudicative proceeding held pursuant to Subsection (4) may be stayed during the

234 time a judicial action is pending.

235 (6) Nothing in this section may affect the inclusion or exclusion of a report or finding of

236 child abuse or neglect from or access by the division, its caseworkers, and child protective services

237 workers to that part of the management information system used for purposes of child welfare

238 cases and child protective services as described in Subsections 62A-4a-116(2) and (3).

239 (7) By December 31, 1998, the division shall provide notice to each person with a

240 **§ [substantiated]** § finding of abuse or neglect since January 1, 1994.

241 (8) A person who, after receiving notice, fails to challenge a **§ [substantiated]** § finding of child

242 abuse or neglect may request the opportunity to challenge the finding under this section:

243 (a) if since the time that the person received notice, state law has been amended to permit
 244 a broader use of or access to information on the licensing part of the management information
 245 system; and

246 (b) before the finding may be used against the person in connection with the broader use
 247 or access.

248 Section 4. Section **62A-4a-412** is amended to read:

249 **62A-4a-412. Reports and information confidential.**

250 (1) Except as otherwise provided in this chapter, reports made pursuant to this part, as well
 251 as any other information in the possession of the division obtained as the result of a report, with
 252 the exception of information on the licensing part of the management information system which
 253 is governed by Subsection 62A-4a-116(4)(ii), is confidential and may only be made available to:

254 (a) a police or law enforcement agency investigating a report of known or suspected child
 255 abuse or neglect;

256 (b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

257 (c) an agency that has responsibility or authority to care for, treat, or supervise a child who
 258 is the subject of a report;

259 (d) any subject of the report, the natural parents of the minor, and the guardian ad litem;

260 (e) a court, upon a finding that access to the records may be necessary for the

261 determination of an issue before it **§ , PROVIDED THAT IN A DIVORCE, CUSTODY, OR RELATED**

261a **PROCEEDING BETWEEN PRIVATE PARTIES, THE RECORD ALONE IS:**

261b **(i) LIMITED TO OBJECTIVE OR UNDISPUTED FACTS THAT WERE VERIFIED AT THE TIME**
 261c **OF THE INVESTIGATION ; AND**

261d **(ii) DEVOID OF CONCLUSIONS DRAWN BY THE DIVISION OR ANY OF ITS WORKERS ON THE**
 261e **ULTIMATE ISSUE OF WHETHER OR [A] NOT A PERSON'S ACTS OR OMISSIONS CONSTITUTED ANY**
 261f **LEVEL OF ABUSE OR NEGLECT OF ANOTHER PERSON. §;**

262 (f) an office of the public prosecutor or its deputies in performing an official duty;

263 (g) a person authorized by a Children's Justice Center, for the purposes described in
 264 Section 67-5b-102;

265 [~~(h) the Bureau of Health Facility Licensure within the Department of Health, as provided~~
 266 ~~for in Section 26-21-9.5, for the sole purpose of determining whether a person associated with a~~
 267 ~~covered health care facility and who provides direct care to children has a substantiated finding~~
 268 ~~of child abuse or neglect;]~~

269 [~~(i) the Bureau of Health Facility Licensure within the Department of Health for the~~
 270 ~~purpose of determining whether a person associated with a child care provider has a substantiated~~
 271 ~~finding of child abuse or neglect on the licensing part of the management information system~~
 272 ~~created in Section 62A-4a-116; and]~~

273 [(~~j~~) (h)] a person engaged in bona fide research, when approved by the director of the

274 division, if the information does not include names and addresses[-]; and
 275 (i) any person identified in the report as a perpetrator or possible perpetrator of child abuse
 276 or neglect, after being advised of the screening prohibition in Subsection (2).

277 (2) (a) No person, unless listed in Subsection (1), may request another person to obtain or
 278 release a report or any other information in the possession of the division obtained as a result of
 279 the report that is available under Subsection (1)(i) to screen for potential perpetrators of child
 280 abuse or neglect.

281 (b) A person who requests information knowing that it is a violation of Subsection (2)(a)
 282 to do so is subject to the criminal penalty in Subsection (4).

283 ~~[(2)]~~ (3) The division and law enforcement officials shall ensure the anonymity of the
 284 person or persons making the initial report and any others involved in its subsequent investigation.

285 ~~[(3)]~~ (4) Any person who wilfully permits, or aides and abets the release of data or
 286 information obtained as a result of this part, in the possession of the division or contained ~~[in the~~
 287 ~~central register]~~ on any part of the management information system, in violation of this part or
 288 Section 62A-4a-116, is guilty of a class C misdemeanor.

289 ~~[(4)]~~ (5) The physician-patient privilege is not a ground for excluding evidence regarding
 290 a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in
 291 good faith pursuant to this part.

292 Section 5. Section **63-46b-15** is amended to read:

293 **63-46b-15. Judicial review -- Informal adjudicative proceedings.**

294 (1) (a) The district courts have jurisdiction to review by trial de novo all final agency
 295 actions resulting from informal adjudicative proceedings, except that the juvenile courts have
 296 jurisdiction over all state agency actions relating to:

297 (i) the removal or placement of children in state custody [and actions relating to];

298 (ii) the support of [those] children under Subsection (1)(a)(i) as determined
 299 administratively under Section 78-3a-906[-]; and

300 (iii) substantiated findings of abuse or neglect pursuant to 62A-4a-116.5.

301 (b) Venue for judicial review of informal adjudicative proceedings shall be as provided
 302 in the statute governing the agency or, in the absence of such a venue provision, in the county
 303 where the petitioner resides or maintains his principal place of business.

304 (2) (a) The petition for judicial review of informal adjudicative proceedings shall be a

305 complaint governed by the Utah Rules of Civil Procedure and shall include:
306 (i) the name and mailing address of the party seeking judicial review;
307 (ii) the name and mailing address of the respondent agency;
308 (iii) the title and date of the final agency action to be reviewed, together with a duplicate
309 copy, summary, or brief description of the agency action;
310 (iv) identification of the persons who were parties in the informal adjudicative proceedings
311 that led to the agency action;
312 (v) a copy of the written agency order from the informal proceeding;
313 (vi) facts demonstrating that the party seeking judicial review is entitled to obtain judicial
314 review;
315 (vii) a request for relief, specifying the type and extent of relief requested; and
316 (viii) a statement of the reasons why the petitioner is entitled to relief.
317 (b) All additional pleadings and proceedings in the district court are governed by the Utah
318 Rules of Civil Procedure.
319 (3) (a) The district court, without a jury, shall determine all questions of fact and law and
320 any constitutional issue presented in the pleadings.
321 (b) The Utah Rules of Evidence apply in judicial proceedings under this section.
322 Section 6. Section **78-3a-104** is amended to read:
323 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**
324 (1) Except as otherwise provided by law, the juvenile court has exclusive original
325 jurisdiction in proceedings concerning:
326 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a
327 person younger than 21 years of age who has violated any law or ordinance before becoming 18
328 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;
329 (b) a person 21 years of age or older who has failed or refused to comply with an order of
330 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st
331 birthday; however, the continuing jurisdiction is limited to causing compliance with existing
332 orders;
333 (c) a minor who is an abused child, neglected child, or dependent child, as those terms are
334 defined in Section 78-3a-103;
335 (d) a protective order for a minor who is alleged to be an abused child or neglected child,

336 except as provided in Section 78-3a-105, and unless the petition is filed by a natural parent of the
337 minor against a natural parent of the minor;

338 (e) the determination of the custody of a minor or to appoint a guardian of the person or
339 other guardian of a minor who comes within the court's jurisdiction under other provisions of this
340 section;

341 (f) the termination of the legal parent-child relationship in accordance with Part 4,
342 Termination of Parental Rights Act, including termination of residual parental rights and duties;

343 (g) the treatment or commitment of a mentally retarded minor;

344 (h) a minor who, in defiance of earnest and persistent efforts on the part of his parents and
345 school authorities as required under Section 53A-11-103, is a habitual truant from school;

346 (i) the judicial consent to the marriage of a minor under age 16 upon a determination of
347 voluntariness or where otherwise required by law, employment, or enlistment of a minor when
348 consent is required by law;

349 (j) any parent or parents of a minor committed to a secure youth corrections facility, to
350 order, at the discretion of the court and on the recommendation of a secure youth corrections
351 facility, the parent or parents of a minor committed to a secure youth corrections facility for a
352 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth
353 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other
354 therapist the court may direct, for a period directed by the court as recommended by a secure youth
355 corrections facility;

356 (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

357 (l) the treatment or commitment of a mentally ill child. The court may commit a child to
358 the physical custody of a local mental health authority or to the legal custody of the Division of
359 Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part
360 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not
361 commit a child directly to the Utah State Hospital; ~~and~~

362 (m) the commitment of a minor in accordance with Section 62A-8-501[-];

363 (n) de novo review of final agency actions resulting from an informal adjudicative
364 proceeding as provided in Section 63-46b-15.

365 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive
366 jurisdiction over any traffic offense committed by a minor under 16 years of age and concurrent

367 jurisdiction over all other traffic offenses committed by a minor 16 years of age or older, except
368 that the court shall have exclusive jurisdiction over the following traffic offenses committed by
369 a minor under 18 years of age:

- 370 (a) Section 76-5-207, automobile homicide;
- 371 (b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;
- 372 (c) Section 41-6-45, reckless driving;
- 373 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer
374 for an extended period of time; and
- 375 (e) Section 41-6-13.5, fleeing a peace officer.

376 (3) The court also has jurisdiction over traffic offenses that are part of a single criminal
377 episode filed in a petition that contains an offense over which the court has jurisdiction.

378 (4) The juvenile court has jurisdiction over questions of custody, support, and visitation
379 certified to it by the district court pursuant to Section 78-3a-105.

380 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is
381 referred to it by the Division of Child and Family Services or by public or private agencies that
382 contract with the division to provide services to that minor where, despite earnest and persistent
383 efforts by the division or agency, the minor has demonstrated that he:

- 384 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities
385 to the extent that his behavior or condition endangers his own welfare or the welfare of others; or
- 386 (b) has run away from home.

387 (6) This section does not restrict the right of access to the juvenile court by private
388 agencies or other persons.

389 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising
390 under Section 78-3a-602.