

**CONFLICT OF INTEREST INVESTIGATIONS  
INTO ALLEGATION OF CHILD ABUSE OR  
NEGLECT**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: D. Chris Buttars**

**This act modifies the Human Services Code by removing the requirement that allegations of abuse and neglect of children in the custody of the Division of Child and Family Services be investigated only by law enforcement officers. The act authorizes the division to contract with independent child protective services investigators who shall have the same rights and duties to investigate as a child protective investigator employed by the division.**

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

AMENDS:

**62A-4a-202.5**, as last amended by Chapter 282, Laws of Utah 1998

**62A-4a-202.6**, as enacted by Chapter 274, Laws of Utah 1998

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

Section 1. Section **62A-4a-202.5** is amended to read:

**62A-4a-202.5. Law enforcement investigation of alleged abuse in foster care.**

~~[A law enforcement officer, as defined in Section 53-13-103, shall investigate]~~

Investigations of any report or allegation of abuse or neglect of a child that allegedly occurs while the child is living in substitute care in the protective custody, temporary custody, or custody of the division shall be conducted by:

(1) a law enforcement officer, as defined in Section 53-13-103; or

(2) a child protective services investigator under Section 62A-4a-202.6.

Section 2. Section **62A-4a-202.6** is amended to read:

**62A-4a-202.6. Child protective services investigators within attorney general's office**

**-- Authority.**



28 (1) (a) Pursuant to Section 67-5-16 the attorney general may employ, with the consent of  
29 the division, child protective services investigators to investigate reports of abuse or neglect of a  
30 child that occur while the child is in the custody of the division.

31 (b) ~~§ [The]~~ (i) **UNDER THE DIRECTION OF THE BOARD OF CHILD AND FAMILY SERVICES,**  
31a **THE § division § [may] SHALL § , in accordance with Subsection 62A-4a-409(5), contract with an**  
32 **independent child protective service investigator to investigate reports of abuse or neglect of a**  
33 **child that occur while the child is in the custody of the division.**

33a **§ (ii) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL DESIGNATE AN ENTITY**  
33b **WITHIN THE DEPARTMENT, OTHER THAN THE DIVISION, TO MONITOR THE CONTRACT FOR THE**  
33c **INVESTIGATORS DESCRIBED IN SUBSECTION (b)(i). §**

34 (2) The investigators described in Subsection (1) may also investigate allegations of abuse  
35 or neglect of a child by a department employee or a licensed substitute care provider.

36 (3) The investigators described in Subsection (1), if not peace officers, shall have the same  
37 rights, duties, and authority of a child protective services investigator employed by the division to:

38 (a) make a thorough investigation upon receiving either an oral or written report of alleged  
39 abuse or neglect of a child, with the primary purpose of that investigation being the protection of  
40 the child;

41 (b) make an inquiry into the child's home environment, emotional, or mental health, the  
42 nature and extent of the child's injuries, and the child's physical safety;

43 (c) make a written report of their investigation, including determination regarding whether  
44 the alleged abuse or neglect was substantiated, unsubstantiated, or without merit, and forward a  
45 copy of that report to the division within the time mandates for investigations established by the  
46 division;

47 (d) immediately consult with school authorities to verify the child's status in accordance  
48 with Sections 53A-11-101 through 53A-11-103 when a report is based upon or includes an  
49 allegation of educational neglect;

50 (e) enter upon public or private premises, using appropriate legal processes, to investigate  
51 reports of alleged child abuse or neglect; and

52 (f) take a child into protective custody, and deliver the child to a law enforcement officer,  
53 or to the division. Control and jurisdiction over the child shall be determined by the provisions  
54 of Title 62A, Chapter 4a, Part 2, Child Welfare Services, Title 78, Chapter 3a, Juvenile Courts, and  
55 as otherwise provided by law.

**Legislative Review Note**  
**as of 1-11-01 10:42 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**