

CHILD WELFARE REVISIONS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Steven R. Mascaro

LONG TITLE

General Description:

This bill amends Division of Child and Family Services child abuse, neglect, and dependency investigation requirements.

Highlighted Provisions:

This bill:

- ▶ provides an exception to the parents' interview requirement under specified circumstances;
- ▶ provides an exception to the unscheduled visit requirement under specified circumstances;
- ▶ makes technical corrections to the terms "unsubstantiated" and "substantiated"; and
- ▶ makes other technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-202.3, as last amended by Chapter 265, Laws of Utah 2002

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

Section 1. Section **62A-4a-202.3** is amended to read:



28 **62A-4a-202.3. Investigation -- Substantiation of reports -- Child in protective**
 29 **custody.**

30 (1) When a child is taken into protective custody in accordance with Section
 31 62A-4a-202.1, 78-3a-106, or 78-3a-301, or when the division takes any other action which
 32 would require a shelter hearing under Subsection 78-3a-306(1), the division shall immediately
 33 initiate an investigation of the circumstances of the minor and the facts surrounding the minor's
 34 being taken into protective custody.

35 (2) (a) The division's investigation shall include, among other actions necessary to
 36 meet reasonable professional standards:

37 ~~[(a)]~~ (i) a search for and review of any records of past reports of abuse or neglect
 38 involving the same child, any sibling or other child residing in that household, and the alleged
 39 perpetrator;

40 ~~[(b)]~~ (ii) with regard to a child who is five years of age or older, a personal interview
 41 with the child outside of the presence of the alleged perpetrator, conducted in accordance with
 42 the requirements of Subsection (7);

43 ~~[(c)]~~ (iii) if their whereabouts are known, an interview with at least one of the child's
 44 [natural] parents or [other] guardian[; unless their whereabouts are unknown];

45 ~~[(d)]~~ (iv) an interview with the person who reported the abuse, unless anonymous;

46 ~~[(e)]~~ (v) where possible and appropriate, interviews with other third parties who have
 47 had direct contact with the child, including school personnel and the child's health care
 48 provider;

49 ~~[(f)]~~ (vi) an unscheduled visit to the child's home, unless:

50 (A) the division has reasonable cause to believe that the reported abuse was committed
 51 by a person who **Ĥ IS NOT THE CHILD'S PARENT AND ĥ** does not:

52 ~~[(g)]~~ (I) live in the child's home; or

53 ~~[(h)]~~ (II) otherwise have access to the child~~[-and]~~ in the child's home; or

54 (B) an unscheduled visit is not necessary to obtain evidence for the investigation; and

55 ~~[(i)]~~ (vii) if appropriate and indicated in any case alleging physical injury, sexual
 56 abuse, or failure to meet the child's medical needs, a medical examination. That examination
 57 shall be obtained no later than 24 hours after the child was placed in protective custody.

58 ~~Ĥ [(b) For purposes of Subsection (2)(a)(iii): ĥ~~

59 ~~Ĥ (i) even if the whereabouts of both parents are known, the division is not required to~~
 60 ~~interview a second parent unless the division has reason to believe that the second parent has~~
 61 ~~substantial, relevant information distinct from the information provided by the first parent; and~~
 62 ~~(ii) all interviews with parents shall be conducted prior to the completion of the~~
 63 ~~investigation.] ĥ~~

64 (3) The division may rely on a written report of a prior interview rather than
 65 conducting an additional interview, if:

66 (a) law enforcement has previously conducted a timely and thorough investigation
 67 regarding the alleged abuse [or], neglect, or dependency and has produced a written report;

68 (b) that investigation included one or more of the interviews required by Subsection
 69 (2); and

70 (c) the division finds that an additional interview is not in the best interest of the child.

71 (4) (a) The division's determination of whether a report is ~~Ĥ [substantiated]~~

71a ~~SUPPORTED ĥ~~ or

72 ~~Ĥ [unsubstantiated] UNSUPPORTED ĥ~~ may be based on the child's statements alone.

73 (b) Inability to identify or locate the perpetrator may not be used by the division as a
 74 basis for determining that a report is unsubstantiated, or for closing the case.

75 (c) The division may not determine a case to be [~~unsubstantiated~~] ~~unsupported~~ or
 76 identify a case as [~~unsubstantiated~~] ~~unsupported~~ solely because the perpetrator was an
 77 out-of-home perpetrator.

78 (d) Decisions regarding whether a report is [~~substantiated, unsubstantiated~~] ~~supported,~~
 79 ~~unsupported~~, or without merit shall be based on the facts of the case at the time the report was
 80 made.

81 (5) The division should maintain protective custody of the child if it finds that one or
 82 more of the following conditions exist:

83 (a) the minor has no natural parent, guardian, or responsible relative who is able and
 84 willing to provide safe and appropriate care for the minor;

85 (b) shelter of the minor is a matter of necessity for the protection of the minor and there
 86 are no reasonable means by which the minor can be protected in the minor's home or the home
 87 of a responsible relative;

88 (c) there is substantial evidence that the parent or guardian is likely to flee the
 89 jurisdiction of the court; or

90 (d) the minor has left a previously court ordered placement.

91 (6) (a) Within 24 hours after receipt of a child into protective custody, excluding
92 weekends and holidays, the division shall convene a child protection team to review the
93 circumstances regarding removal of the child from the child's home or school[;] and prepare the
94 testimony and evidence that will be required of the division at the shelter hearing, in
95 accordance with Section 78-3a-306.

96 (b) Members of [~~that~~] the team shall include:

97 (i) the caseworker assigned to the case and the caseworker who made the decision to
98 remove the child;

99 (ii) a representative of the school or school district in which the child attends school;

100 (iii) the peace officer who removed the child from the home;

101 (iv) a representative of the appropriate Children's Justice Center, if one is established
102 within the county where the child resides;

103 (v) if appropriate, and known to the division, a therapist or counselor who is familiar
104 with the child's circumstances; and

105 (vi) any other individuals [~~as~~] determined [~~to be~~] appropriate and necessary by the team
106 coordinator and chair.

107 (c) At [~~that~~] the 24-hour meeting, the division shall have available for review and
108 consideration[;] the complete child protective services and foster care history of the child and
109 the child's parents and siblings.

110 (7) After receipt of a child into protective custody and prior to the adjudication hearing,
111 all investigative interviews with the child that are initiated by the division shall be audio or
112 video taped, and the child shall be allowed to have a support person of the child's choice
113 present. That support person may not be an alleged perpetrator.

114 (8) The division shall cooperate with law enforcement investigations regarding the
115 alleged perpetrator.

116 (9) The division may not close an investigation solely on the grounds that the division
117 investigator is unable to locate the child[;] until all reasonable efforts have been made to locate
118 the child and family members. Those efforts include:

119 (a) visiting the home at times other than normal work hours;

120 (b) contacting local schools;

- 121 (c) contacting local, county, and state law enforcement agencies; and
- 122 (d) checking public assistance records.

Legislative Review Note
as of 2-11-04 11:47 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0303

Child Welfare Revisions

17-Feb-04

9:03 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst