

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:

- ▶ modifies the requirement to interview a child's parents or guardian;
- ▶ provides an exception to the unscheduled visit requirement under specified circumstances;
- ▶ makes 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:

62A-4a-202.3. Investigation -- Supported or unsupported reports -- Child in protective custody.

(1) When a child is taken into protective custody in accordance with Section

H.B. 303

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

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

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

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

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

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

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

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

~~(A)~~ (A) the division has reasonable cause to believe that the reported abuse was committed by a person who is not the child's parent and does not:

~~(i)~~ (I) live in the child's home; or

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

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

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

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

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

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

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

(4) (a) The division's determination of whether a report is [~~substantiated~~] supported or [~~unsubstantiated~~] unsupported may be based on the child's statements alone.

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

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

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

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

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

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

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

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

(6) (a) Within 24 hours after receipt of a child into protective custody, excluding weekends and holidays, the division shall convene a child protection team to review the circumstances regarding removal of the child from the child's home or school[;] and prepare the

testimony and evidence that will be required of the division at the shelter hearing, in accordance with Section 78-3a-306.

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

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

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

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

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

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

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

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

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

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

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

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

(b) contacting local schools;

(c) contacting local, county, and state law enforcement agencies; and

(d) checking public assistance records.