

FOSTER CARE REVISIONS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kerry W. Gibson

Senate Sponsor: Scott K. Jenkins

LONG TITLE

General Description:

This bill amends provisions of the Utah Human Services Code relating to removing a foster child from a foster home.

Highlighted Provisions:

This bill:

- ▶ provides that the explanation required to be given to a foster parent for removing a child from a foster home shall be in writing;

- ▶ provides that, for a child who has been in a foster home for at least two years, the review that may be requested by a foster parent prior to removal shall be by the juvenile court judge currently assigned to the child's case or, if the judge is not available, another juvenile court judge;

- ▶ provides that it is unlawful for a person, with the intent to avoid compliance with the requirements described in this bill, to:

- take action, or encourage another to take action, against the license of a foster parent; or

- remove a child from a foster home before the child has been placed with the foster parents for two years; and

- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **62A-4a-206**, as last amended by Laws of Utah 2008, Chapters 3, 17, and 382

33

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

35 Section 1. Section **62A-4a-206** is amended to read:

36 **62A-4a-206. Process for removal of a child from foster family -- Procedural due**
37 **process.**

38 (1) (a) The Legislature finds that, except with regard to a child's natural parent or legal
39 guardian, a foster family has a very limited but recognized interest in its familial relationship
40 with a foster child who has been in the care and custody of that family. In making
41 determinations regarding removal of a child from a foster home, the division may not dismiss
42 the foster family as a mere collection of unrelated individuals.

43 (b) The Legislature finds that children in the temporary custody and custody of the
44 division are experiencing multiple changes in foster care placements with little or no
45 documentation, and that numerous studies of child growth and development emphasize the
46 importance of stability in foster care living arrangements.

47 (c) For the reasons described in Subsections (1)(a) and (b), the division shall provide
48 procedural due process for a foster family prior to removal of a foster child from their home,
49 regardless of the length of time the child has been in that home, unless removal is for the
50 purpose of:

51 (i) returning the child to the child's natural parent or legal guardian;

52 (ii) immediately placing the child in an approved adoptive home;

53 (iii) placing the child with a relative, as defined in Subsection 78A-6-307(1)(b), who
54 obtained custody or asserted an interest in the child within the preference period described in
55 Subsection 78A-6-307(18)(a); or

56 (iv) placing an Indian child in accordance with preplacement preferences and other
57 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

58 (2) (a) The division shall maintain and utilize due process procedures for removal of a
59 foster child from a foster home, in accordance with the procedures and requirements of Title
60 63G, Chapter 4, Administrative Procedures Act.

61 (b) Those procedures shall include requirements for:

62 (i) personal communication with, and a written explanation of the reasons for the
63 removal to, the foster parents prior to removal of the child; and

64 (ii) an opportunity for foster parents to present their information and concerns to the
65 division and to:

66 (A) request a review, to be held before removal of the child, by a third party neutral
67 fact finder [~~prior to removal of the child.~~]; or

68 (B) if the child has been placed with the foster parents for a period of at least two
69 years, request a review, to be held before removal of the child, by:

70 (I) the juvenile court judge currently assigned to the child's case; or

71 (II) if the juvenile court judge currently assigned to the child's case is not available,
72 another juvenile court judge.

73 (c) If the division determines that there is a reasonable basis to believe that the child is
74 in danger or that there is a substantial threat of danger to the health or welfare of the child, it
75 shall place the child in emergency foster care during the pendency of the procedures described
76 in this subsection, instead of making another foster care placement.

77 (3) If the division removes a child from a foster home based upon the child's statement
78 alone, the division shall initiate and expedite the processes described in Subsection (2). The
79 division may take no formal action with regard to that foster parent's license until after those
80 processes, in addition to any other procedure or hearing required by law, have been completed.

81 (4) When a complaint is made to the division by a foster child against a foster parent,
82 the division shall, within 30 business days, provide the foster parent with information
83 regarding the specific nature of the complaint, the time and place of the alleged incident, and
84 who was alleged to have been involved.

85 (5) Whenever the division places a child in a foster home, it shall provide the foster

86 parents with:

87 (a) notification of the requirements of this section;

88 (b) a written description of the procedures enacted by the division pursuant to

89 Subsection (2) and how to access those processes; and

90 (c) written notification of the foster parents' ability to petition the juvenile court
91 directly for review of a decision to remove a foster child who has been in their custody for 12
92 months or longer, in accordance with the limitations and requirements of Section 78A-6-318.

93 (6) The requirements of this section do not apply to the removal of a child based on a
94 foster parent's request for that removal.

95 (7) It is unlawful for a person, with the intent to avoid compliance with the
96 requirements of this section, to:

97 (a) take action, or encourage another to take action, against the license of a foster
98 parent; or

99 (b) remove a child from a foster home before the child has been placed with the foster
100 parents for two years.