

HB0453S01 compared with HB0453

~~{deleted text}~~ shows text that was in HB0453 but was deleted in HB0453S01.

inserted text shows text that was not in HB0453 but was inserted into HB0453S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Senator Allen M. Christensen proposes the following substitute bill:

DOMESTIC VIOLENCE SERVICES

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Clark

Senate Sponsor: ~~{_____}~~ Allen M. Christensen

LONG TITLE

General Description:

This bill amends provisions of the Utah Human Services Code relating to the ~~{provision}~~ investigation of domestic violence ~~{services}~~ by the Division of Child and Family Services.

Highlighted Provisions:

This bill:

- ▶ ~~{amends the definition of "domestic violence services" to exclude treatment services for a person who is alleged to have committed, has been convicted of, has pled guilty to, or is a victim of}~~ provides that, except to the extent provided by rule made on or after May 10, 2011, the Division of Child and Family Services is not responsible for investigating domestic violence in the presence of a child ~~{, except to the extent that these services are included in the definition by rule;~~

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~~provides that protective services provided by the Division of Child and Family Services to a victim of domestic violence does not include a victim of domestic violence in the presence of a child, except to the extent permitted by the division by rule}; and~~

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{ 62A-4a-101, as last amended by Laws of Utah 2009, Chapter 75~~

~~}~~ **62A-4a-105**, as last amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section ~~{62A-4a-101}~~ **62A-4a-105** is amended to read:

~~{ 62A-4a-101. Definitions.~~

~~As used in this chapter:~~

~~(1) "Abuse" is as defined in Section 78A-6-105.~~

~~(2) "Adoption services" means:~~

~~(a) placing children for adoption;~~

~~(b) subsidizing adoptions under Section 62A-4a-105;~~

~~(c) supervising adoption placements until the adoption is finalized by the court;~~

~~(d) conducting adoption studies;~~

~~(e) preparing adoption reports upon request of the court; and~~

~~(f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.~~

~~(3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of Children, a person under 18 years of age.~~

~~(4) "Consumer" means a person who receives services offered by the division in accordance with this chapter.~~

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- ~~———— (5) "Chronic abuse" means repeated or patterned abuse.~~
- ~~———— (6) "Chronic neglect" means repeated or patterned neglect.~~
- ~~———— (7) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.~~
- ~~———— (8) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:~~
- ~~———— (a) in the child's own home by a responsible person; or~~
- ~~———— (b) outside of the child's home in a:~~
- ~~———— (i) day-care center;~~
- ~~———— (ii) family group home; or~~
- ~~———— (iii) family child care home.~~
- ~~———— (9) "Dependent child" or "dependency" means a child, or the condition of a child, who is homeless or without proper care through no fault of the child's parent, guardian, or custodian.~~
- ~~———— (10) "Director" means the director of the Division of Child and Family Services.~~
- ~~———— (11) "Division" means the Division of Child and Family Services.~~
- ~~———— (12) (a) "Domestic violence services" means, except as provided in Subsection (12)(b):~~
- ~~———— [(a)] (i) temporary shelter, treatment, and related services to:~~
- ~~———— [(i)] (A) a person who is a victim of abuse, as defined in Section 78B-7-102; and~~
- ~~———— [(ii)] (B) the dependent children of a person described in Subsection (12)(a)(i)(A); and~~
- ~~———— [(b)] (ii) treatment services for a person who is alleged to have committed, has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section 77-36-1.~~
- ~~———— (b) "Domestic violence services" does not include services for a person who is alleged to have committed, has been convicted of, has pled guilty to, or is a victim of domestic violence in the presence of a child, as defined in Section 76-5-109.1, except to the extent that the division includes these services in the definition of domestic violence services by rule passed on or after May 10, 2011.~~
- ~~———— (13) "Harm" is as defined in Section 78A-6-105.~~
- ~~———— (14) "Homemaking service" means the care of individuals in their domiciles, and help given to individual caretaker relatives to achieve improved household and family management through the services of a trained homemaker.~~
- ~~———— (15) "Incest" is as defined in Section 78A-6-105.~~

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~~———— (16) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of Children:~~

~~———— (a) a child; or~~

~~———— (b) a person:~~

~~———— (i) who is at least 18 years of age and younger than 21 years of age; and~~

~~———— (ii) for whom the division has been specifically ordered by the juvenile court to provide services:~~

~~———— (17) "Molestation" is as defined in Section 78A-6-105.~~

~~———— (18) "Natural parent" means a minor's biological or adoptive parent, and includes a minor's noncustodial parent.~~

~~———— (19) "Neglect" is as defined in Section 78A-6-105.~~

~~———— (20) "Protective custody," with regard to the division, means the shelter of a child by the division from the time the child is removed from the child's home until the earlier of:~~

~~———— (a) the shelter hearing; or~~

~~———— (b) the child's return home.~~

~~———— (21) "Protective services" means expedited services that are provided:~~

~~———— (a) in response to evidence of neglect, abuse, or dependency of a child;~~

~~———— (b) to a cohabitant who is neglecting or abusing a child, in order to:~~

~~———— (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and~~

~~———— (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and~~

~~———— (c) in cases where the child's welfare is endangered:~~

~~———— (i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;~~

~~———— (ii) to cause a protective order to be issued for the protection of the child, when appropriate; and~~

~~———— (iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:~~

~~———— (A) removal from the child's home;~~

~~———— (B) placement in substitute care; and~~

~~———— (C) petitioning the court for termination of parental rights.~~

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- ~~———— (22) "Severe abuse" is as defined in Section 78A-6-105.~~
- ~~———— (23) "Severe neglect" is as defined in Section 78A-6-105.~~
- ~~———— (24) "Sexual abuse" is as defined in Section 78A-6-105.~~
- ~~———— (25) "Sexual exploitation" is as defined in Section 78A-6-105.~~
- ~~———— (26) "Shelter care" means the temporary care of a minor in a nonsecure facility.~~
- ~~———— (27) "State" means:~~
 - ~~———— (a) a state of the United States;~~
 - ~~———— (b) the District of Columbia;~~
 - ~~———— (c) the Commonwealth of Puerto Rico;~~
 - ~~———— (d) the Virgin Islands;~~
 - ~~———— (e) Guam;~~
 - ~~———— (f) the Commonwealth of the Northern Mariana Islands; or~~
 - ~~———— (g) a territory or possession administered by the United States.~~
- ~~———— (28) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.~~
- ~~———— (29) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.~~
- ~~———— (30) "Substance abuse" is as defined in Section 78A-6-105.~~
- ~~———— (31) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated.~~
- ~~———— (32) "Substitute care" means:~~
 - ~~———— (a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;~~
 - ~~———— (b) services provided for a minor awaiting placement; and~~
 - ~~———— (c) the licensing and supervision of a substitute care facility.~~
- ~~———— (33) "Supported" means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse, neglect,~~

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~~or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported.~~

~~—— (34) "Temporary custody," with regard to the division, means the custody of a child in the division from the date of the shelter hearing until disposition.~~

~~—— (35) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.~~

~~—— (36) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.~~

~~—— (37) "Unsupported" means a finding at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division worker did not conclude that the allegation was without merit.~~

~~—— (38) "Without merit" means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.~~

~~—— Section 2. Section ~~62A-4a-105~~ is amended to read:~~

~~‡~~ **62A-4a-105. Division responsibilities.**

~~{(1)}~~ The division shall:

~~{(1)}{ (a)}~~ administer services to minors and families, including child welfare services, domestic violence services, and all other responsibilities that the Legislature or the executive director may assign to the division;

~~{(2)}{ (b)}~~ establish standards for all contract providers of out-of-home care for minors and families;

~~{(3)}{ (c)}~~ cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

~~{(4)}{ (d)}~~ provide for the compilation of relevant information, statistics, and reports on child and family service matters in the state;

~~{(5)}{ (e)}~~ prepare and submit to the department, the governor, and the Legislature

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reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

~~§§(6)-(f)~~ promote and enforce state and federal laws enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state. In carrying out the provisions of this Subsection ~~§§(6)-(f)~~, the division shall cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and supports. The division shall take the initiative in all matters involving the protection of abused or neglected children if adequate provisions have not been made or are not likely to be made, and shall make expenditures necessary for the care and protection of those children, within the division's budget. Except to the extent provided by rule made by the division on or after May 10, 2011, the division is not responsible for investigating domestic violence in the presence of a child as described in Section 76-5-109.1;

~~§§(7)-(g)~~ provide substitute care for dependent, abused, neglected, and delinquent children, establish standards for substitute care facilities, and approve those facilities;

~~§§(8)-(h)~~ provide adoption assistance to persons adopting children with special needs under Part 9, Adoption Assistance, of this chapter. The financial support provided under this Subsection ~~§§(8)-(h)~~ may not exceed the amounts the division would provide for the child as a legal ward of the state;

~~§§(9)-(i)~~ cooperate with the Employment Development Division in the Department of Workforce Services in meeting social and economic needs of individuals eligible for public assistance;

~~§§(10)-(j)~~ conduct court-ordered home evaluations for the district and juvenile courts with regard to child custody issues. The court shall order either or both parties to reimburse the division for the cost of that evaluation, in accordance with the community rate for that service or with the department's fee schedule rate;

~~§§(11)-(k)~~ provide noncustodial and in-home preventive services, designed to prevent family breakup, family preservation services, and reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and

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Title 78A, Chapter 6, Juvenile Court Act of 1996;

~~§§(12)§(d)~~ provide protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

~~§§(13)§(m)~~ establish programs and provide services to minors who have been placed in the custody of the division for reasons other than abuse or neglect, pursuant to Section 62A-4a-250;

~~§§(14)§(n)~~ provide shelter care in accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act of 1996;

~~§§(15)§(o)~~ provide social studies and reports for the juvenile court in accordance with Section 78A-6-605;

~~§§(16)§(p)~~ arrange for and provide training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

~~§§(17)§(q)~~ provide domestic violence services in accordance with the requirements of federal law, and establish standards for all direct or contract providers of domestic violence services. Within appropriations from the Legislature, the division shall provide or contract for a variety of domestic violence services and treatment methods;

~~§§(18)§(r)~~ ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who have a permanency goal of adoption, or for whom a final plan of termination of parental rights has been approved, pursuant to Section 78A-6-314, and promote adoption of those children;

~~§§(19)§§(s) except as provided in Subsection (2),~~ provide protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

~~§§(20)§(t)~~ refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for court-ordered drug screening test. The court shall order the individual to pay all costs of the tests unless:

~~§§(a)§(i)~~ the cost of the drug screening is specifically funded or provided for by other federal or state programs;

~~§§(b)§(ii)~~ the individual is a participant in a drug court; or

~~§§(c)§(iii)~~ the court finds that the individual is impecunious;

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~~{(21)}~~{(u)}~~~~ have authority to contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

~~{(22)}~~{(v)}~~~~ perform such other duties and functions as required by law.

~~{
(2) The protective services described in Subsection (1)(s) do not include protective services related to a person who is solely a victim of the type of domestic violence described in Section 76-5-109.1, domestic violence in the presence of a child, except to the extent permitted by the division by rule passed on or after May 10, 2011.~~

Legislative Review Note

~~as of 3-9-11 2:18 PM~~

~~Office of Legislative Research and General Counsel}~~