

1 **CHILD WELFARE AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Ronda Rudd Menlove

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of Title 62A, Chapter 4a, Child and Family Services.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ renames, clarifies, and modifies provisions related to in-home services for the  
13 preservation of families; and  
14 ▶ provides that a parent may not file a petition for restoration of legal custody during  
15 the existence of a permanent guardianship.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **62A-4a-103**, as last amended by Laws of Utah 2009, Chapter 75

23 **62A-4a-105**, as last amended by Laws of Utah 2013, Chapter 416

24 **62A-4a-202**, as last amended by Laws of Utah 2006, Chapter 75

25 **78A-6-1103**, as last amended by Laws of Utah 2011, Chapter 208

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

28 Section 1. Section **62A-4a-103** is amended to read:

29 **62A-4a-103. Division -- Creation -- Purpose.**

30 (1) (a) There is created the Division of Child and Family Services within the  
31 department, under the administration and general supervision of the executive director.

32 (b) The division is the child, youth, and family services authority of the state and has  
33 all functions, powers, duties, rights, and responsibilities created in accordance with this  
34 chapter, except those assumed by the department.

35 (2) (a) The primary purpose of the division is to provide child welfare services.

36 (b) The division shall, when possible and appropriate, provide [~~preventive services and~~  
37 ~~family preservation services~~] in-home services for the preservation of families in an effort to  
38 protect the child from the trauma of separation from his family, protect the integrity of the  
39 family, and the constitutional rights of parents. In keeping with its ultimate goal and purpose  
40 of protecting children, however, when a child's welfare is endangered or reasonable efforts to  
41 maintain or reunify a child with his family have failed, the division shall act in a timely fashion  
42 in accordance with the requirements of this chapter and Title 78A, Chapter 6, Part 3, Abuse,  
43 Neglect, and Dependency Proceedings, to provide the child with a stable, permanent  
44 environment.

45 (3) The division shall also provide domestic violence services in accordance with  
46 federal law.

47 Section 2. Section **62A-4a-105** is amended to read:

48 **62A-4a-105. Division responsibilities.**

49 (1) The division shall:

50 (a) administer services to minors and families, including:

51 (i) child welfare services;

52 (ii) domestic violence services; and

53 (iii) all other responsibilities that the Legislature or the executive director may assign  
54 to the division;

55 (b) provide the following services:

56 (i) financial and other assistance to an individual adopting a child with special needs  
57 under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the

58 child as a legal ward of the state;

59 (ii) non-custodial and in-home [~~preventative~~] services, including:

60 (A) services designed to prevent family break-up; and

61 (B) family preservation services;

62 (iii) reunification services to families whose children are in substitute care in

63 accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act

64 [~~of 1996~~];

65 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse

66 or neglect of a child in that family;

67 (v) shelter care in accordance with the requirements of this chapter and Title 78A,

68 Chapter 6, Juvenile Court Act [~~of 1996~~];

69 (vi) domestic violence services, in accordance with the requirements of federal law;

70 (vii) protective services to victims of domestic violence, as defined in Section 77-36-1,

71 and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6,

72 Part 3, Abuse, Neglect, and Dependency Proceedings;

73 (viii) substitute care for dependent, abused, neglected, and delinquent children;

74 (ix) programs and services for minors who have been placed in the custody of the

75 division for reasons other than abuse or neglect, under Section 62A-4a-250; and

76 (x) training for staff and providers involved in the administration and delivery of

77 services offered by the division in accordance with this chapter;

78 (c) establish standards for all:

79 (i) contract providers of out-of-home care for minors and families;

80 (ii) facilities that provide substitute care for dependent, abused, neglected, and

81 delinquent children placed in the custody of the division; and

82 (iii) direct or contract providers of domestic violence services described in Subsection

83 (1)(b)(vi);

84 (d) have authority to:

85 (i) contract with a private, nonprofit organization to recruit and train foster care

86 families and child welfare volunteers in accordance with Section [62A-4a-107.5](#); and  
87 (ii) approve facilities that meet the standards established under Subsection (1)(c) to  
88 provide substitute care for dependent, abused, neglected, and delinquent children placed in the  
89 custody of the division;

90 (e) cooperate with the federal government in the administration of child welfare and  
91 domestic violence programs and other human service activities assigned by the department;

92 (f) in accordance with Subsection (2)(a), promote and enforce state and federal laws  
93 enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and  
94 runaway children, and status offenders, in accordance with the requirements of this chapter,  
95 unless administration is expressly vested in another division or department of the state;

96 (g) cooperate with the Employment Development Division in the Department of  
97 Workforce Services in meeting the social and economic needs of an individual who is eligible  
98 for public assistance;

99 (h) compile relevant information, statistics, and reports on child and family service  
100 matters in the state;

101 (i) prepare and submit to the department, the governor, and the Legislature reports of  
102 the operation and administration of the division in accordance with the requirements of  
103 Sections [62A-4a-117](#) and [62A-4a-118](#);

104 (j) provide social studies and reports for the juvenile court in accordance with Section  
105 [78A-6-605](#);

106 (k) within appropriations from the Legislature, provide or contract for a variety of  
107 domestic violence services and treatment methods;

108 (l) ensure regular, periodic publication, including electronic publication, regarding the  
109 number of children in the custody of the division who:

110 (i) have a permanency goal of adoption; or  
111 (ii) have a final plan of termination of parental rights, pursuant to Section [78A-6-314](#),  
112 and promote adoption of those children;

113 (m) subject to Subsection (2)(b), refer an individual receiving services from the

114 division to the local substance abuse authority or other private or public resource for a  
115 court-ordered drug screening test; and

116 (n) perform other duties and functions required by law.

117 (2) (a) In carrying out the requirements of Subsection (1)(f), the division shall:

118 (i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and  
119 with all public and private licensed child welfare agencies and institutions, to develop and  
120 administer a broad range of services and support;

121 (ii) take the initiative in all matters involving the protection of abused or neglected  
122 children, if adequate provisions have not been made or are not likely to be made; and

123 (iii) make expenditures necessary for the care and protection of the children described  
124 in this Subsection (2)(a), within the division's budget.

125 (b) When an individual is referred to a local substance abuse authority or other private  
126 or public resource for court-ordered drug screening under Subsection (1)(n), the court shall  
127 order the individual to pay all costs of the tests unless:

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

130 (ii) the individual is a participant in a drug court; or

131 (iii) the court finds that the individual is impecunious.

132 (3) Except to the extent provided by rule, the division is not responsible for  
133 investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

134 (4) The division may not require a parent who has a child in the custody of the division  
135 to pay for some or all of the cost of any drug testing the parent is required to undergo.

136 Section 3. Section **62A-4a-202** is amended to read:

137 **62A-4a-202. In-home services for the preservation of families.**

138 (1) (a) Within appropriations from the Legislature and money obtained under  
139 Subsection (5), the division shall provide [~~preventive,~~] in-home services [~~and family~~  
140 ~~preservation services for~~] for the purpose of family preservation to any family with a child  
141 whose health and safety is not immediately endangered, when:

142 (i) (A) the child is at risk of being removed from the home; or

143 (B) the family is in crisis; and

144 (ii) the division determines that it is reasonable and appropriate.

145 (b) In determining whether [~~preventive or family preservation~~] in-home services are  
146 reasonable and appropriate, in keeping with the provisions of Subsection 62A-4a-201(1) the  
147 child's health, safety, and welfare shall be the paramount concern.

148 (c) The division shall consider whether the services described in Subsection (1)(b):

149 (i) will be effective within a six-month period; and

150 (ii) are likely to prevent continued abuse or [~~continued~~] neglect of the child.

151 (2) (a) The division shall maintain a statewide inventory of [~~early intervention,~~  
152 ~~preventive, and family preservation~~] in-home services available through public and private  
153 agencies or individuals for use by caseworkers.

154 (b) The inventory described in Subsection (2)(a) shall include:

155 (i) the method of accessing each service;

156 (ii) eligibility requirements for each service;

157 (iii) the geographic areas and the number of families that can be served by each  
158 service; and

159 (iv) information regarding waiting lists for each service.

160 (3) (a) As [~~a~~] part of its [~~preventive~~] in-home services for the preservation of families,  
161 the division shall provide [~~family preservation~~] in-home services in varying degrees of intensity  
162 and contact that[: (a)] are [~~short-term, intensive, crisis intervention programs;~~] specific to the  
163 needs of each individual family.

164 (b) As part of its in-home services, the division shall:

165 (i) provide customized assistance;

166 (ii) provide support or interventions that are tailored to the needs of the family;

167 (iii) discuss the family's needs with the parent;

168 (iv) discuss an assistance plan for the family with the parent; and

169 [~~(b)~~] (v) address:

170            [(i)] (A) the safety of children; [and]  
 171            [(ii)] (B) the needs of the family; and  
 172            (C) services necessary to aid in the preservation of the family and a child's ability to  
 173 remain in the home.

174            (c) In-home services shall be, as practicable, [are] provided within the region that the  
 175 family resides, using existing division staff.

176            (4) (a) The division may use specially trained caseworkers, private providers, or other  
 177 persons to provide the [family preservation] in-home services described in Subsection (3).

178            [~~(b) Family preservation caseworkers may:~~  
 179            [~~(i) only be assigned a minimal number of families;~~  
 180            [~~(ii) be available 24 hours for an intensive period of at least six weeks; and]~~  
 181            [~~(iii) respond to an assigned family within 24 hours.]~~  
 182            [~~(c) The division shall allow family preservation caseworkers to be creative and~~  
 183 ~~flexible in responding to the needs of each individual family.]~~

184            (b) The division shall allow a caseworker to be flexible in responding to the needs of  
 185 each individual family, including:

- 186            (i) limiting the number of families assigned; and
- 187            (ii) being available to respond to assigned families within 24 hours.

188            (5) To provide, expand, and improve the delivery of in-home services to prevent the  
 189 removal of children from their homes and promote the preservation of families, the division  
 190 shall make substantial effort to obtain funding, including:

- 191            (a) federal grants;
- 192            (b) federal waivers; and
- 193            (c) private money.

194            Section 4. Section **78A-6-1103** is amended to read:

195            **78A-6-1103. Modification or termination of custody order or decree -- Grounds --**  
 196 **Procedure.**

197            (1) A parent or guardian of any child whose legal custody has been transferred by the

198 court to an individual, agency, or institution, except a secure youth corrections facility, may  
199 petition the court for restoration of custody or other modification or revocation of the court's  
200 order, on the ground that a change of circumstances has occurred which requires such  
201 modification or revocation in the best interest of the child or the public.

202 (2) The court shall make a preliminary investigation. If the court finds that the alleged  
203 change of circumstances, if proved, would not affect the decree, it may dismiss the petition. If  
204 the court finds that a further examination of the facts is needed, or if the court on its own  
205 motion determines that the decree should be reviewed, it shall conduct a hearing. Notice shall  
206 be given to all persons concerned. At the hearing, the court may enter an order continuing,  
207 modifying, or terminating the decree.

208 (3) (a) A ~~[petition by a]~~ parent may not ~~[be filed]~~ file a petition under this section after  
209 the parent's parental rights have been terminated in accordance with Part 5, Termination of  
210 Parental Rights Act.

211 (b) A parent may not file a petition for restoration of custody under this section during  
212 the existence of a permanent guardianship established for the child under Subsection  
213 [78A-6-117\(2\)\(y\)](#).

214 (4) An individual, agency, or institution vested with legal custody of a child may  
215 petition the court for a modification of the custody order on the ground that the change is  
216 necessary for the welfare of the child or in the public interest. The court shall proceed upon the  
217 petition in accordance with Subsections (1) and (2).