

SB0075S01 compared with SB0075

~~{deleted text}~~ shows text that was in SB0075 but was deleted in SB0075S01.

Inserted text shows text that was not in SB0075 but was inserted into SB0075S01.

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Senator Lincoln Fillmore proposes the following substitute bill:

CHILD WELFARE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill amends and enacts provisions concerning child and family services.

Highlighted Provisions:

This bill:

- ▶ ~~{enacts a definition of "child protection unit"}~~ defines terms;
- ▶ provides that a chief of police or a sheriff may create a child protection unit;
- ▶ permits the Division of Child and Family Services (the division) to include members of a child protection unit as part of a child protection team when the division takes a child into custody or files a petition to commence proceedings in juvenile court alleging that a child is abused or neglected;
- ▶ permits the division to include members of a child protection unit in the child protection team that assists the division in the division's protective, diagnostic,

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assessment, treatment, and coordination services;

- ▶ establishes a child protection unit pilot program;
- ▶ provides for sunset review of the child protection unit pilot program before it is repealed on December 31, 2019; and
- ▶ ensures that the division may make records that are the result of a child abuse or neglect report available to members of a child protection unit.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-913, as last amended by Laws of Utah 2002, Chapter 219

17-22-2, as last amended by Laws of Utah 2014, Chapter 366

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

62A-4a-202.3, as last amended by Laws of Utah 2008, Chapter 3

62A-4a-202.8, as last amended by Laws of Utah 2008, Chapter 3

62A-4a-409, as last amended by Laws of Utah 2010, Chapter 239

62A-4a-412, as last amended by Laws of Utah 2016, Chapter 144

63I-1-262, as last amended by Laws of Utah 2016, Chapter 231

78A-6-322, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:

62A-4a-202.9, Utah Code Annotated 1953

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

Section 1. Section **10-3-913** is amended to read:

10-3-913. Authority of chief of police.

(1) The chief of police has the same authority as the sheriff within the boundaries of the municipality of appointment. The chief has authority to:

- (a) suppress riots, disturbances, and breaches of the peace;
- (b) apprehend all persons violating state laws or city ordinances;

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(c) diligently discharge his duties and enforce all ordinances of the city to preserve the peace, good order, and protection of the rights and property of all persons; [~~and~~]

(d) attend the municipal justice court located within the city when required, provide security for the court, and obey its orders and directions[-]; and

(e) create a child protection unit, as defined in Section 62A-4a-101.

(2) This section is not a limitation of a police chief's statewide authority as otherwise provided by law.

(3) The chief of police shall, on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender.

Section 2. Section **17-22-2** is amended to read:

17-22-2. Sheriff -- General duties.

(1) The sheriff shall:

(a) preserve the peace;

(b) make all lawful arrests;

(c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

(d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

(e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;

(f) command the aid of as many inhabitants of his county as he considers necessary in the execution of these duties;

(g) take charge of and keep the county jail and the jail prisoners;

(h) receive and safely keep all persons committed to his custody, file and preserve the commitments of those persons, and record the name, age, place of birth, and description of

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each person committed;

(i) release on the record all attachments of real property when the attachment he receives has been released or discharged;

(j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;

(k) serve all process and notices as prescribed by law;

(l) if he makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if he fails to make service, certify the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;

(o) for the sheriff of a county that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;

(p) manage search and rescue services in his county;

(q) obtain saliva DNA specimens as required under Section 53-10-404;

(r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender; [~~and~~]

(s) create a child protection unit, as defined in Section 62A-4a-101, if the sheriff determines that creation of a child protection unit is warranted; and

[~~(s)~~] (t) perform any other duties that are required by law.

(2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Police interlocal entity" has the same meaning as defined in Sections 17-30-3 and 17-30a-102.

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(ii) "Police local district" has the same meaning as defined in Section 17-30-3.

(b) A sheriff in a county which includes within its boundary a police local district or police interlocal entity, or both:

(i) serves as the chief executive officer of each police local district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police local district or police interlocal entity, respectively; and

(ii) is subject to the direction of the police local district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police local district or police interlocal entity, respectively, and the sheriff.

(c) If a police interlocal entity or police local district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:

(i) does not serve as the chief executive officer of any interlocal entity created under that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and

(ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.

Section 3. Section **62A-4a-101** is amended to read:

62A-4a-101. Definitions.

As used in this chapter:

(1) "Abuse" [~~is as~~] means the same as that term is 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

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Children, a person under 18 years of age.

(4) "Child protection team" means a team consisting of:

(a) the caseworker assigned to the case;

(b) the caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

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

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

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

(g) members of a child protection unit; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(5) "Child protection unit" means any unit created by a chief of police or a sheriff of a city, town, metro township, or county that is composed of at least the following individuals who are trained in the prevention, identification, and treatment of abuse or neglect:

(a) a law enforcement officer, as defined in Section 53-13-103; and

(b) a child advocate selected by the chief of police or a sheriff.

~~[(5)]~~ (6) "Chronic abuse" means repeated or patterned abuse.

~~[(6)]~~ (7) "Chronic neglect" means repeated or patterned neglect.

(8) "Consult" means an interaction between two persons in which the initiating person:

(a) provides information to another person;

(b) provides the other person an opportunity to respond; and

(c) takes the other person's response, if any, into consideration.

~~[(4)]~~ ~~[(8)]~~ (9) "Consumer" means a person who receives services offered by the division in accordance with this chapter.

~~[(7)]~~ ~~[(9)]~~ (10) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.

~~[(8)]~~ ~~[(10)]~~ (11) "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

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(b) outside of the child's home in a:

- (i) day-care center;
- (ii) family group home; or
- (iii) family child care home.

~~(9)~~ ~~(11)~~ 12 "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)~~ ~~(12)~~ 13 "Director" means the director of the Division of Child and Family Services.

~~(11)~~ ~~(13)~~ 14 "Division" means the Division of Child and Family Services.

~~(12)~~ ~~(14)~~ 15 "Domestic violence services" means:

- (a) temporary shelter, treatment, and related services to:
 - (i) a person who is a victim of abuse, as defined in Section 78B-7-102; and
 - (ii) the dependent children of a person described in Subsection (12)(a)(i); and
- (b) 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.

~~(13)~~ ~~(15)~~ 16 "Harm" ~~[is as]~~ means the same as that term is defined in Section 78A-6-105.

~~(14)~~ ~~(16)~~ 17 "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)~~ ~~(17)~~ 18 "Incest" ~~[is as]~~ means the same as that term is defined in Section 78A-6-105.

~~(16)~~ ~~(18)~~ 19 "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)~~ ~~(19)~~ 20 "Molestation" ~~[is as]~~ means the same as that term is defined in Section

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78A-6-105.

(21) "Mutual case" means a case that has been:

(a) opened by the division under the division's discretion and procedures;

(b) opened by the law enforcement agency with jurisdiction over the case; and

(c) accepted for investigation by the child protection unit established by the chief of police or sheriff, as applicable.

[~~(18)~~] (~~(20)~~22) "Natural parent" means a minor's biological or adoptive parent, and includes a minor's noncustodial parent.

[~~(19)~~] (~~(21)~~23) "Neglect" [~~is as~~] means the same as that term is defined in Section 78A-6-105.

[~~(20)~~] (~~(22)~~24) "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)~~] (~~(23)~~25) "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)]~~ ~~(24;26)~~ "Severe abuse" [~~is-as~~] means the same as that term is defined in Section 78A-6-105.

~~[(23)]~~ ~~(25;27)~~ "Severe neglect" [~~is-as~~] means the same as that term is defined in Section 78A-6-105.

~~[(24)]~~ ~~(26;28)~~ "Sexual abuse" [~~is-as~~] means the same as that term is defined in Section 78A-6-105.

~~[(25)]~~ ~~(27;29)~~ "Sexual exploitation" [~~is-as~~] means the same as that term is defined in Section 78A-6-105.

~~[(26)]~~ ~~(28;30)~~ "Shelter care" means the temporary care of a minor in a nonsecure facility.

~~[(27)]~~ ~~(29;31)~~ "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)]~~ ~~(30;32)~~ "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)]~~ ~~(31;33)~~ "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

~~[(30)]~~ ~~(32;34)~~ "Substance abuse" [~~is-as~~] means the same as that term is defined in Section 78A-6-105.

~~[(31)]~~ ~~(33;35)~~ "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)]~~ ~~(34;36)~~ "Substitute care" means:

- (a) the placement of a minor in a family home, group care facility, or other placement

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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)]~~ ~~(~~35~~;37)~~ "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, 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)]~~ ~~(~~36~~;38)~~ "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)]~~ ~~(~~37~~;39)~~ "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)]~~ ~~(~~38~~;40)~~ "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.

~~[(37)]~~ ~~(~~39~~;41)~~ "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)]~~ ~~(~~40~~;42)~~ "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 4. 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 62A-4a-202.1, 78A-6-106, or 78A-6-302, or when the division takes any other action ~~[which]~~ that would require a shelter hearing under Subsection 78A-6-306(1), the division shall immediately initiate an investigation of the:

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- (a) circumstances of the child; and
 - (b) grounds upon which the decision to place the child into protective custody was made.
- (2) The division's investigation shall conform to reasonable professional standards, and shall include:
- (a) a search for and review of any records of past reports of abuse or neglect involving:
 - (i) the same child;
 - (ii) any sibling or other child residing in the same household as the child; and
 - (iii) the alleged perpetrator;
 - (b) with regard to a child who is five years of age or older, a personal interview with the child:
 - (i) outside of the presence of the alleged perpetrator; and
 - (ii) conducted in accordance with the requirements of Subsection (7);
 - (c) if a parent or guardian can be located, an interview with at least one of the child's parents or guardian;
 - (d) an interview with the person who reported the abuse, unless the report was made anonymously;
 - (e) where possible and appropriate, interviews with other third parties who have had direct contact with the child, including:
 - (i) school personnel; and
 - (ii) the child's health care provider;
 - (f) an unscheduled visit to the child's home, unless:
 - (i) there is a reasonable basis to believe that the reported abuse was committed by a person who:
 - (A) is not the child's parent; and
 - (B) does not:
 - (I) live in the child's home; or
 - (II) otherwise have access to the child in the child's home; or
 - (ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and
 - (g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or failure to meet the child's medical needs, a medical examination, obtained no later than 24

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hours after the child is 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:

(i) previously conducted a timely and thorough investigation regarding the alleged abuse, neglect, or dependency; and

(ii) produced a written report;

(b) the investigation described in Subsection (3)(a)(i) 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 supported or 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:

(i) determining that a report is unsupported; or

(ii) closing the case.

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

(d) Decisions regarding whether a report is 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 child does not have a natural parent, guardian, or responsible relative who is able and willing to provide safe and appropriate care for the child;

(b) (i) shelter of the child is a matter of necessity for the protection of the child; and

(ii) there are no reasonable means by which the child can be protected in:

(A) the child's home; or

(B) 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 child has left a previously court ordered placement.

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(6) (a) Within 24 hours after receipt of a child into protective custody, excluding weekends and holidays, the division shall:

(i) convene a child protection team to review the circumstances regarding removal of the child from the child's home or school; and

(ii) prepare the testimony and evidence that will be required of the division at the shelter hearing, in accordance with Section 78A-6-306.

~~[(b) The child protection team described in Subsection (6)(a)(i) shall include:]~~

~~[(i) the caseworker assigned to the case;]~~

~~[(ii) the caseworker who made the decision to remove the child;]~~

~~[(iii) a representative of the school or school district where the child attends school;]~~

~~[(iv) the peace officer who removed the child from the home;]~~

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

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

~~[(vii) any other individuals determined appropriate and necessary by the team coordinator and chair.]~~

(b) The child protection team may include members of a child protection unit.

(c) At 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) (a) 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:

(i) except as provided in Subsection (7)(b), audio or video taped; and

(ii) except as provided in Subsection (7)(c), conducted with a support person of the child's choice present.

(b) (i) Subject to Subsection (7)(b)(ii), an interview described in Subsection (7)(a) may be conducted without being taped if the child:

(A) is at least nine years old;

(B) refuses to have the interview audio taped; and

(C) refuses to have the interview video taped.

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(ii) If, pursuant to Subsection (7)(b)(i), an interview is conducted without being taped, the child's refusal shall be documented, as follows:

(A) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or

(B) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:

(I) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or

(II) if complying with Subsection (7)(b)(ii)(B)(I) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.

(iii) The division shall track the number of interviews under this Subsection (7) that are not taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals, or taped refusals, than other interviewers.

(c) (i) Notwithstanding Subsection (7)(a)(ii), the support person who is present for an interview of a child may not be an alleged perpetrator.

(ii) Subsection (7)(a)(ii) does not apply if the child refuses to have a support person present during the interview.

(iii) If a child described in Subsection (7)(c)(ii) refuses to have a support person present in the interview, the interviewer shall document, in writing, the refusal and the reasons for the refusal.

(iv) The division shall track the number of interviews under this Subsection (7) where a child refuses to have a support person present for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals than other interviewers.

(8) The division shall cooperate with law enforcement investigations and with a child protection unit, if applicable, 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 including:

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- (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.

Section 5. Section **62A-4a-202.8** is amended to read:

62A-4a-202.8. Child protection team meeting -- Timing.

(1) Subject to Subsection (2), if the division files a petition under Section 78A-6-304, the division shall convene a child protection team meeting to:

- (a) review the circumstances of the filing of the petition; and
- (b) develop or review implementation of a safety plan to protect the child from further abuse, neglect, or dependency.

(2) The child protection team meeting required under Subsection (1) shall be held within the shorter of:

- (a) 14 days of the day on which the petition is filed under Section 78A-6-304 if the conditions of Subsection (2)(b) or (c) are not met;
- (b) 24 hours of the filing of the petition under Section 78A-6-304, excluding weekends and holidays, if the child who is the subject of the petition will likely be taken into protective custody unless there is an expedited hearing and services ordered under the protective supervision of the court; or
- (c) 24 hours after receipt of a child into protective custody, excluding weekends and holidays, if the child is taken into protective custody as provided in Section 62A-4a-202.3.

(3) The child protection team ~~[shall]~~ may include ~~[as many persons under Subsection 62A-4a-202.3(6)(b) as appropriate.]~~ members of a child protection unit.

(4) At its meeting the child protection team shall review the complete child protective services and foster care history of the child and the child's parents and siblings.

Section 6. Section **62A-4a-202.9** is enacted to read:

62A-4a-202.9. Child protection unit pilot program.

(1) The division shall establish and operate, ~~as funding allows,~~ a child protection unit pilot program in ~~{any area}~~ up to three areas of the state where a local government has established a child protection unit.

(2) The child protection unit pilot program is established to improve communications

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between a child protection unit and the division in the division's management of child welfare matters and to strengthen the state's child welfare system.

(3) The pilot program may include:

(a) involving a child protection unit in the child protection team during the division's investigation when a child is taken into protective custody, as described in Section 62A-4a-202.3;

(b) involving a child protection unit in the child protection team meetings, as described in Section 62A-4a-202.8;

(c) involving a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services, as described in Section 62A-4a-409; or

(d) receiving referrals, reports, or other information from a child protection unit about a child protection unit's investigations of cases that may involve abuse, neglect, or dependency of a child.

(4) The division shall consult with a child protection unit before the division closes a mutual case, as described in Section 62A-4a-409.

(5) The child protection unit shall notify the division if the child protection unit closes an investigation related to a mutual case.

(6) The division and the child protection unit shall meet to discuss coordinate on mutual cases at least once every month.

(7) Subject to Section 62A-4a-412, while in meetings or while coordinating with the child protection unit about a particular mutual case, the division:

(a) shall grant the child protection unit access to the division's information or records on the mutual case, including information or records from:

(i) the division's case management files;

(ii) the child's school, as defined in Section 53A-6-103;

(iii) the Division of Juvenile Justice Services; or

(iv) the child's mental health providers; and

(b) may not allow.

(8) A child protection unit may share case-specific information obtained from the division with members of a multi-disciplinary that is:

(a) assembled by the child protection unit to keep or copy any of the information or

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records described in Subsection (7)(a):

(8) for a particular case:

(b) assembled when a case demonstrates:

(i) the likelihood of severe child abuse or neglect; or

(ii) a high risk of repetition as evidenced by previous involvements with law

enforcement;

(c) assembled for the purpose of information sharing and identification of resources, services, or actions that are in the best interest of the child or the child's family; and

(d) composed of:

(i) a victim advocate;

(ii) a therapist;

(iii) a representative of the child's school district; or

(iv) another individual that the child protection unit designates as valuable to provide necessary services to the child or the family of the child.

(9) The division and the child protection unit shall collect data on the effectiveness of the pilot program in strengthening the state's child welfare system and shall report the data to the Child Welfare Legislative Oversight Committee on or before November 30 of each year that the pilot program is in effect.

Section 7. Section **62A-4a-409** is amended to read:

62A-4a-409. Investigation by division -- Temporary protective custody -- Preremoval interviews of children.

(1) (a) The division shall make a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal alcohol syndrome, or fetal drug dependency exists.

(b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.

(2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or

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without merit.

(4) (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.

(b) ~~[For this purpose, the]~~ The division shall convene ~~[appropriate interdisciplinary"]~~ a child protection ~~[teams"]~~ team to assist ~~[it in its]~~ the division in the division's protective, diagnostic, assessment, treatment, and coordination services.

(c) The division may include members of a child protection unit in the division's protective, diagnostic, assessment, treatment, and coordination services.

~~(d)~~ (d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:

- (i) health, mental health, education, and law enforcement agencies;
- (ii) the child;
- (iii) parent and family support groups unless the parent is alleged to be the perpetrator;

and

- (iv) other appropriate agencies or individuals.

(5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53A-11-101 through 53A-11-103.

(6) When the division completes its initial investigation under this part, it shall give notice of that completion to the person who made the initial report.

(7) Division workers or other child protection team members have authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

(8) With regard to any interview of a child prior to removal of that child from the child's home:

(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:

- (i) the specific allegations concerning the child; and
- (ii) the time and place of the interview;

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(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);

(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);

(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;

(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and

(f) the child shall be allowed to have a support person of the child's choice present, who:

(i) may include:

(A) a school teacher;

(B) an administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate; or

(G) clergy; and

(ii) may not be a person who is alleged to be, or potentially may be, the perpetrator.

(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court Act [~~of 1996~~], and as otherwise provided by law.

(10) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an

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adequate safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

(11) With regard to ~~cases~~ a mutual case in which a child protection unit was involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection unit before closing ~~fa~~the case.

Section 8. Section **62A-4a-412** is amended to read:

62A-4a-412. Reports and information confidential.

(1) Except as otherwise provided in this chapter, reports made pursuant to this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection unit;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;

(g) an office of the public prosecutor or its deputies in performing an official duty;

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(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a school district, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report; and

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130.

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that it is a violation of Subsection (2)(a) to do so is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in its possession available under

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Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

- (i) identify the referent;
- (ii) impede a criminal investigation; or
- (iii) endanger a person's safety.

(4) Any person who wilfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:

- (a) may provide this report to the person who is the subject of the report; and
- (b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

Section 9. Section **63I-1-262** is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Section 62A-4a-213 is repealed July 1, 2019.

(2) Section 62A-4a-202.9 is repealed December 31, 2019.

~~[(2)]~~ (3) Subsection 62A-15-1101(5) is repealed July 1, 2018.

Section 10. Section **78A-6-322** is amended to read:

78A-6-322. Abuse, neglect, or dependency of child -- Coordination of proceedings.

(1) In each case where an information or indictment has been filed against a defendant concerning abuse, neglect, or dependency of a child, and a petition has been filed in juvenile court concerning the victim, the appropriate county attorney's or district attorney's office shall coordinate with the attorney general's office.

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(2) Law enforcement personnel, Division of Child and Family Services personnel, the appointed guardian ad litem, pretrial services personnel, and corrections personnel shall make reasonable efforts to facilitate the coordination required by this section.

(3) Members of interdisciplinary child protection teams, established under Section 62A-4a-409, may participate in the coordination required by this section.

(4) Members of a child protection unit, established under Section 10-3-913 or 17-22-2, may coordinate with the attorney general's office, Division of Child and Family Services personnel, the appointed guardian ad litem, pretrial services personnel, and corrections personnel as appropriate.

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Legislative Review Note

Office of Legislative Research and General Counsel†