

LIMITATIONS ON FAMILY SERVICES

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill limits the services that the Division of Child and Family Services may provide.

Highlighted Provisions:

This bill:

- ▶ prohibits the Division of Child and Family Services from providing certain voluntary in-home services;
- ▶ requires the Division of Child and Family Services to provide a referral to a family seeking voluntary in-home services; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

62A-4a-103, as last amended by Laws of Utah 2017, Chapter 323

62A-4a-105, as last amended by Laws of Utah 2018, Chapter 281

62A-4a-202, as last amended by Laws of Utah 2017, Chapter 330

78A-6-117.5, as enacted by Laws of Utah 2017, Chapter 330



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

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

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

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

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

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

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

(3) The division shall ~~[also]~~ provide domestic violence services in accordance with federal law.

(4) Except as provided in Subsection 62A-4a-105(1) and except in the situation of a parent or guardian of a child who is adopted from the custody of the division, the division may not provide voluntary in-home services to a parent or guardian of a child whose health and safety is not immediately endangered.

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

62A-4a-105. Division responsibilities.

(1) The division shall:

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

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature ~~[or the executive director]~~ may assign to the division;

- 59 (b) provide the following services:
- 60 (i) financial and other assistance to an individual adopting a child with special needs
- 61 under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the
- 62 child as a legal ward of the state;
- 63 ~~[(ii) non-custodial and in-home services, including:]~~
- 64 ~~[(A) services designed to prevent family break-up; and]~~
- 65 ~~[(B) family preservation services;]~~
- 66 (ii) a referral to in-home services described in Section [62a-4a-202](#);
- 67 (iii) reunification services to families whose children are in substitute care in
- 68 accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;
- 69 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse
- 70 or neglect of a child in that family;
- 71 (v) shelter care in accordance with the requirements of this chapter and Title 78A,
- 72 Chapter 6, Juvenile Court Act;
- 73 (vi) domestic violence services, in accordance with the requirements of federal law;
- 74 (vii) protective services to victims of domestic violence, as defined in Section [77-36-1](#),
- 75 and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6,
- 76 Part 3, Abuse, Neglect, and Dependency Proceedings;
- 77 (viii) substitute care for dependent, abused, neglected, and delinquent children;
- 78 (ix) services for minors who are victims of human trafficking or human smuggling as
- 79 described in Sections [76-5-308](#) through [76-5-310](#) or who have engaged in prostitution or sexual
- 80 solicitation as defined in Section [76-10-1302](#); and
- 81 (x) training for staff and providers involved in the administration and delivery of
- 82 services offered by the division in accordance with this chapter;
- 83 (c) establish standards for all:
- 84 (i) contract providers of out-of-home care for minors and families;
- 85 (ii) facilities that provide substitute care for dependent, abused, neglected, and
- 86 delinquent children placed in the custody of the division; and
- 87 (iii) direct or contract providers of domestic violence services described in Subsection
- 88 (1)(b)(vi);
- 89 (d) have authority to:

- 90 (i) contract with a private, nonprofit organization to recruit and train foster care
91 families and child welfare volunteers in accordance with Section 62A-4a-107.5; and
- 92 (ii) approve facilities that meet the standards established under Subsection (1)(c) to
93 provide substitute care for dependent, abused, neglected, and delinquent children placed in the
94 custody of the division;
- 95 (e) cooperate with the federal government in the administration of child welfare and
96 domestic violence programs and other human service activities assigned by the department;
- 97 (f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of
98 division records to the same extent that the division is required to protect division records,
99 cooperate with and share all appropriate information in the division's possession regarding an
100 Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child
101 with the Indian tribe that is affiliated with the Indian child;
- 102 (g) in accordance with Subsection (2)(a), promote and enforce state and federal laws
103 enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and
104 runaway children, and status offenders, in accordance with the requirements of this chapter,
105 unless administration is expressly vested in another division or department of the state;
- 106 (h) cooperate with the Workforce Development Division in the Department of
107 Workforce Services in meeting the social and economic needs of an individual who is eligible
108 for public assistance;
- 109 (i) compile relevant information, statistics, and reports on child and family service
110 matters in the state;
- 111 (j) prepare and submit to the department, the governor, and the Legislature reports of
112 the operation and administration of the division in accordance with the requirements of
113 Sections 62A-4a-117 and 62A-4a-118;
- 114 (k) provide social studies and reports for the juvenile court in accordance with Section
115 78A-6-605;
- 116 (l) within appropriations from the Legislature, provide or contract for a variety of
117 domestic violence services and treatment methods;
- 118 (m) ensure regular, periodic publication, including electronic publication, regarding the
119 number of children in the custody of the division who:
- 120 (i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 78A-6-314, and promote adoption of those children;

(n) subject to Subsection (2)(b), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test; and

(o) perform other duties and functions required by law.

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

(i) 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 support;

(ii) 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

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

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

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

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

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

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

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

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

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

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

152 ~~[(i) (A) the child is at risk of being removed from the home; or]~~
153 ~~[(B) the family is in crisis; and]~~
154 ~~[(ii) the division determines that it is reasonable and appropriate.]~~
155 ~~[(b) In determining whether in-home services are reasonable and appropriate, in~~
156 ~~keeping with Subsection [62A-4a-201](#)(1), the child's health, safety, and welfare shall be the~~
157 ~~paramount concern.]~~
158 ~~[(c) The division shall consider whether the services described in Subsection (1)(b):]~~
159 ~~[(i) will be effective within a six-month period; and]~~
160 ~~[(ii) are likely to prevent continued abuse or neglect of the child:]~~
161 ~~[(2)]~~ (1) (a) The division shall maintain a statewide inventory of in-home services
162 available through public and private agencies or individuals for use by caseworkers.
163 (b) The inventory described in Subsection ~~[(2)(a)]~~ (1)(a) shall include:
164 (i) the method of accessing each service;
165 (ii) eligibility requirements for each service;
166 (iii) the geographic areas and the number of families that can be served by each
167 service; and
168 (iv) information regarding waiting lists for each service.
169 ~~[(3) (a) As part of its in-home services for the preservation of families, the division~~
170 ~~shall provide in-home services in varying degrees of intensity and contact that are specific to~~
171 ~~the needs of each individual family.]~~
172 ~~[(b) As part of its in-home services, the division shall:]~~
173 ~~[(i) provide customized assistance;]~~
174 ~~[(ii) provide support or interventions that are tailored to the needs of the family;]~~
175 ~~[(iii) discuss the family's needs with the parent;]~~
176 ~~[(iv) discuss an assistance plan for the family with the parent; and]~~
177 ~~[(v) address:]~~
178 ~~[(A) the safety of children;]~~
179 ~~[(B) the needs of the family; and]~~
180 ~~[(C) services necessary to aid in the preservation of the family and a child's ability to~~
181 ~~remain in the home.]~~
182 ~~[(c) In-home services shall be, as practicable, provided within the region that the family~~

resides, using existing division staff.]

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

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

~~[(i) limiting the number of families assigned; and]~~

~~[(ii) being available to respond to assigned families within 24 hours.]~~

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

~~[(a) federal grants;]~~

~~[(b) federal waivers; and]~~

~~[(c) private money.]~~

~~[(6) The division shall provide in-home family services pursuant to an order under Section ~~78A-6-117.5~~.]~~

(2) When a parent or guardian contacts the division for voluntary services, the division shall make an referral to a service from the statewide inventory described in Subsection (1).

Section 4. Section **78A-6-117.5** is amended to read:

78A-6-117.5. Custody in Division of Child and Family Services or in the Division of Juvenile Justice Services.

(1) Notwithstanding Subsection ~~78A-6-117~~(2)(c), the court may not vest custody in the Division of Child and Family Services except pursuant to Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

~~[(2) If the court finds that a child is at risk of being removed from the home or that the family is in crisis, the court may order the Division of Child and Family Services to conduct an assessment to determine if provision of in-home family preservation services is appropriate. If considered appropriate by the Division of Child and Family Services, services shall be provided pursuant to Section ~~62A-4a-202~~.]~~

~~[(3)]~~ (2) Notwithstanding Section ~~78A-6-117~~, a court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.

~~[(4)]~~ (3) Notwithstanding Section ~~78A-6-117~~, a court may not commit a minor to the

214 temporary custody of the Division of Juvenile Justice Services for residential observation and
215 evaluation or residential observation and assessment.