

Senator Wayne A. Harper proposes the following substitute bill:

CHILD WELFARE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill makes amendments to child welfare provisions.

Highlighted Provisions:

This bill:

▶ clarifies that the division may support a finding of child abuse or neglect and that a judge may substantiate a finding;

▶ clarifies language regarding policies and rules;

▶ clarifies procedures for the Department of Human Services regarding child pornography;

▶ requires the Office of Licensing, within the Department of Human Services, to run a background check on employees of congregate care settings where a child may be placed by the Division of Child and Family Services;

▶ defines "threatened harm";

▶ outlines requirements for a juvenile court to follow when a child is placed in a residential treatment program;

▶ clarifies who may be involved in the development of a child and family plan;

~~§→ [→ clarifies that a party may attend a team meeting with the party's counsel in accordance with the Utah Rules of Professional Conduct;] ←§~~

3rd Sub. S.B. 128



1018 (4) If there is a lapse in the contract with a private child protective service investigator
 1019 and no other investigator is available under Subsection (1)(a) or (c), the department may
 1020 conduct an independent investigation.

1021 Section 14. Section **62A-4a-205** is amended to read:

1022 **62A-4a-205. Child and family plan -- Parent-time and relative visitation.**

1023 (1) No more than 45 days after a child enters the temporary custody of the division, the
 1024 child's child and family plan shall be finalized.

1025 (2) (a) The division may use an interdisciplinary team approach in developing each
 1026 child and family plan.

1027 (b) The interdisciplinary team described in Subsection (2)(a) may include
 1028 representatives from the following fields:

1029 (i) mental health;

1030 (ii) education; and

1031 (iii) if appropriate, law enforcement.

1032 (3) (a) The division shall involve all of the following in the development of a child's
 1033 child and family plan:

1034 (i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

1035 (ii) the child;

1036 (iii) the child's foster parents; ~~§→~~ **and** ~~←§~~

1037 (iv) if appropriate, the child's stepparent ~~§→~~ [~~;~~ **and**

1038 ~~—— (v) the child's guardian ad litem, if one has been appointed by the court.] . ←§~~

1039 ~~(b) §→ [A parent or guardian's legal counsel may be present during the development of the~~

1040 ~~child's child and family plan if legal counsel for the division is present.] Subsection (3)(a) does not~~

1040a ~~prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being~~

1040b ~~involved in the development of a child's child and family plan if the party or counsel's~~

1040c ~~participation is otherwise permitted by law. ←§~~

1041 [~~(b)~~] (c) In relation to all information considered by the division in developing a child
 1042 and family plan, additional weight and attention shall be given to the input of the child's natural
 1043 and foster parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii).

1044 [~~(c)~~] (d) (i) The division shall make a substantial effort to develop a child and family
 1045 plan with which the child's parents agree.

1046 (ii) If a parent does not agree with a child and family plan:

1047 (A) the division shall strive to resolve the disagreement between the division and the
 1048 parent; and

3281 reunification services.

3282 (b) if the child:

3283 (i) has been in the current placement for less than 180 days before the day on which the
3284 petitioner files the petition for adoption; or

3285 (ii) is placed with, or is in the custody or guardianship of, an individual who previously
3286 informed the division or the court that the individual is unwilling or unable to adopt the child.

3287 (9) (a) If the court grants a hearing on more than one petition for adoption, there is a
3288 rebuttable presumption that it is in the best interest of a child to be placed for adoption with a
3289 petitioner:

3290 (i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah
3291 Adoption Act; and

3292 (ii) (A) with whom the child has continuously resided for six months;

3293 (B) who has filed a written statement with the court within 120 days after the day on
3294 which the shelter hearing is held, as described in Subsection (8)(a)(iii); or

3295 (C) who is a relative described in Subsection (8)(a)(iv).

3296 (b) The court may consider other factors relevant to the best interest of the child to
3297 determine whether the presumption is rebutted.

3298 (c) The court shall weigh the best interest of the child uniformly between petitioners if
3299 more than one petitioner satisfies a rebuttable presumption condition described in Subsection
3300 (9)(a).

3301 (10) Nothing in this section shall be construed to prevent the division or the child's
3302 guardian ad litem from appearing or participating in any proceeding for a petition for adoption.

3303 ~~[(11) Neither the court nor the division is obligated to inform a petitioner of the
3304 petitioner's rights or duties under this section]~~

3305 (11) The division shall use ~~§~~→ **[reasonable] best** ←~~§~~ efforts to provide a known relative
3305a **§**→ with timely ←~~§~~ information
3306 relating to the relative's rights or duties under this section.

3307 Section 35. **Effective date.**

3308 This bill takes effect on May 14, 2019, except that Section 78A-6-311.5 takes effect on
3309 October 1, 2019.