

REPORTING REQUIREMENTS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill addresses the circumstances under which the Division of Child and Family Services may share reports related to child abuse and neglect.

Highlighted Provisions:

This bill:

- ▶ provides that the Division of Child and Family Services may share reports related to child abuse and neglect with a local education agency for certain purposes; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-412, as last amended by Laws of Utah 2019, Chapter 335

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

Section 1. 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 under 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

30 Access and Management Act, and may only be made available to:

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

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

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

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

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

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

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

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

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

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

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

54 (j) the State Board of Education, acting on behalf of itself or on behalf of a [~~school~~
55 ~~district~~] local education agency, as defined in Section [63J-5-102](#), for the purpose of evaluating
56 whether an individual should be permitted to obtain or retain a license as an educator or serve
57 as an employee or volunteer in a school, limited to information with substantiated or supported

58 findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug
59 offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against
60 the Person, and with the understanding that the office must provide the subject of a report
61 received under Subsection (1)(k) with an opportunity to respond to the report before making a
62 decision concerning licensure or employment;

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

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

67 (m) a licensed child-placing agency or person who is performing a preplacement
68 adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and
69 78B-6-130; or

70 (n) an Indian tribe to:

71 (i) certify or license a foster home;

72 (ii) render services to a subject of a report; or

73 (iii) investigate an allegation of abuse, neglect, or dependency.

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

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

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

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

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

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

92 (4) Any person who wilfully permits, or aides and abets the release of data or
93 information obtained as a result of this part, in the possession of the division or contained on
94 any part of the Management Information System, in violation of this part or Sections
95 [62A-4a-1003](#) through [62A-4a-1007](#), is guilty of a class C misdemeanor.

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

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

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