

1 **CHILD AND FAMILY SERVICES INVESTIGATIVE**

2 **AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jerry W. Stevenson**

6 House Sponsor: Paul Ray

8 **LONG TITLE**

9 **General Description:**

10 This bill addresses investigations of alleged child abuse or neglect by the Division of
11 Child and Family Services.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ removes provisions indicating that the Division of Child and Family Services is not
- 15 required to conduct a preremoval investigation of alleged child abuse or neglect if
- 16 the alleged perpetrator does not have access to the child; and
- 17 ▶ makes technical and conforming changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **62A-4a-409**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

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

27 Section 1. Section **62A-4a-409** is amended to read:

28 **62A-4a-409. Investigation by division -- Temporary protective custody --**
29 **Preremoval interviews of children.**

30 (1) (a) ~~[Except as provided in Subsection (1)(c), the]~~ The division shall conduct a
31 thorough preremoval investigation upon receiving either an oral or written report of alleged
32 abuse or neglect, or an oral or written report under Subsection 62A-4a-404(2), when there is
33 reasonable cause to suspect that a situation of abuse, neglect, or the circumstances described
34 under Subsection 62A-4a-404(2) exist.

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

37 ~~[(c) The division is not required to conduct an investigation under Subsection (1)(a) if
38 the division determines the person responsible for the child's care:]~~

39 ~~[(i) is not the alleged perpetrator; and]~~

40 ~~[(ii) is willing and able to ensure the alleged perpetrator does not have access to the
41 child:]~~

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

44 (3) The division shall make a written report of its investigation that shall include a
45 determination regarding whether the alleged abuse or neglect is supported, unsupported, or
46 without merit.

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

49 (b) The division shall convene a child protection team to assist the division in the
50 division's protective, diagnostic, assessment, treatment, and coordination services.

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

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

56 (i) health, mental health, education, and law enforcement agencies;

57 (ii) the child;

58 (iii) parent and family support groups unless the parent is alleged to be the perpetrator;
59 and

60 (iv) other appropriate agencies or individuals.

61 (5) If a report of neglect is based upon or includes an allegation of educational neglect,
62 the division shall immediately consult with school authorities to verify the child's status in
63 accordance with Sections [53G-6-201](#) through [53G-6-206](#).

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

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

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

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

74 (i) the specific allegations concerning the child; and

75 (ii) the time and place of the interview;

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

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

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

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

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

88 (i) may include:

89 (A) a school teacher;

90 (B) an administrator;

91 (C) a guidance counselor;

92 (D) a child care provider;

93 (E) a family member;

94 (F) a family advocate; or

95 (G) a member of the clergy; and

96 (ii) may not be an individual who is alleged to be, or potentially may be, the
97 perpetrator.

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

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

107 (a) the division shall coordinate with law enforcement to ensure that there is an
108 adequate safety plan to protect the child from further abuse or neglect; and

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

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

