

H.B. 25

CHILD WELFARE - LICENSING AND MANAGEMENT INFORMATION SYSTEMS

HOUSE FLOOR AMENDMENTS

AMENDMENT 1

JANUARY 17, 2006 10:05 AM

Representative **Wayne A. Harper** proposes the following amendments:

1. *Page 1, Lines 19 through 20:*

19 ▶ describes the circumstances under which a person's name and **other** information should be
20 entered on, or removed from, the Licensing Information System;

2. *Page 2, Lines 40 through 41:*

40 62A-2-121, as last amended by Chapters 60, 107 and 188, Laws of Utah 2005
41 **62A-4a-101, as last amended by Chapter 95, Laws of Utah 2005**
 62A-4a-412, as last amended by Chapters 122 and 356, Laws of Utah 2004

3. *Page 14, Lines 404 through 405:*

404 (b) juvenile court records show that a court made a substantiated finding under Section
405 78-3a-320, that the person committed a severe type of child abuse or neglect.

= **Section 6. Section 62A-4a-101 is amended to read:**

62A-4a-101. Definitions.

As used in this chapter:

(1) "Abuse" means:

- (a) actual or threatened nonaccidental physical or mental harm;
- (b) negligent treatment;
- (c) sexual exploitation; or
- (d) any sexual abuse.

(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) "Board" means the Board of Child and Family Services established in accordance with Sections 62A-1-105, 62A-1-107, and 62A-4a-102.

(4) "Child" has the same meaning as "minor," as defined in this section.

(5) "Consumer" means a person who receives services offered by the division in accordance with

this chapter.

- (6) "Chronic physical abuse" means repeated or patterned physical abuse.
- (7) "Chronic neglect" means a repeated or patterned failure or refusal by a parent, guardian, or custodian to provide necessary care for a minor's safety, morals, or well-being.
- (8) "Chronic emotional abuse" means repeated or patterned emotional abuse.
- (9) "Custody," with regard to the division, means the custody of a child in the division as of the date of disposition.
- (10) "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
 - (b) outside of the child's home in a:
 - (i) day-care center;
 - (ii) family group home; or
 - (iii) family child care home.
- (11) "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.
- (12) "Director" means the director of the Division of Child and Family Services.
- (13) "Division" means the Division of Child and Family Services.
- (14) (a) "Domestic violence services" means:
 - (i) temporary shelter, treatment, and related services to persons who are victims of abuse and their dependent children; and
 - (ii) treatment services for domestic violence perpetrators.
- (b) As used in this Subsection (14):
 - (i) "abuse" means the same as that term is defined in Subsection 30-6-1(1); and
 - (ii) "domestic violence perpetrator" means 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 Subsection 77-36-1(2).
- (15) "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.
- (16) (a) "Minor" means a person under 18 years of age.
- (b) "Minor" may also include a person under 21 years of age for whom the division has been specifically ordered by the juvenile court to provide services.
- (17) "Natural parent" means a minor's biological or adoptive parent, and includes a minor's noncustodial parent.
- (18) (a) "Neglect" means:
 - (i) abandonment of a child, except as provided in Part 8, Safe Relinquishment of a Newborn Child;
 - (ii) subjecting a child to mistreatment or abuse;
 - (iii) lack of proper parental care by reason of the fault or habits of the parent, guardian, or custodian;

(iv) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence, education, or medical care, including surgery or psychiatric services when required, or any other care necessary for the child's health, safety, morals, or well-being; or

(v) a child at risk of being neglected or abused because another child in the same home is neglected or abused.

(b) The aspect of neglect relating to education, described in Subsection (18)(a)(iv), means that, after receiving notice that a child has been frequently absent from school without good cause, or that the child has failed to cooperate with school authorities in a reasonable manner, a parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(c) A parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child, is not guilty of neglect.

(d) (i) Notwithstanding Subsection (18)(a), a health care decision made for a child by the child's parent or guardian does not constitute neglect unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(ii) Nothing in Subsection (18)(d)(i) may prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(19) "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.

(20) "Protective services" means expedited services that are provided:

- (a) in response to evidence of neglect, abuse, or dependency of a minor;
 - (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 minor, 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.
- (21) "Services to unwed parents" means social, educational, and medical services arranged for or provided to unwed parents to help them plan for themselves and the unborn child.
- (22) "Severe neglect" means neglect that causes or threatens to cause serious harm to a minor.

- (23) "Shelter care" means the temporary care of minors in nonsecure facilities.
- (24) "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.
- (25) "Severe emotional abuse" means emotional abuse that causes or threatens to cause serious harm to a minor.
- (26) "Severe physical abuse" means physical abuse that causes or threatens to cause serious harm to a minor.
- (27) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.
- (28) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.
- (29) "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.
- (30) "Substitute care" means:
- (a) the placement of a minor in a family home, group care facility, or other placement 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 child's own home would be contrary to the child's welfare;
 - (b) services provided for a child awaiting placement; and
 - (c) the licensing and supervision of a substitute care facility.
- (31) "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.
- (32) "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.
- (33) "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.
- (34) "Unsubstantiated" means **except as provided in Subsections 62A-4a-1008(1)(a) and (1)(b)(ii),** a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.
- (35) "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.

(36) "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.

Renumber remaining bill sections accordingly.

4. Page 29, Lines 867 through 874:

867 (1) (a) For purposes of Subsection (1)(b)(ii) only, "unsubstantiated" means a finding by the
division that there is insufficient evidence to conclude that abuse or neglect occurred.

(b) Unless the executive director determines that there is good cause for keeping a
868 report of abuse or neglect in the Management Information System, based on standards
869 established by rule, the division shall delete any reference to:

870 ~~{(a)}~~ (i) a report that is determined by the division to be without merit, if no subsequent
report involving the same alleged

871 perpetrator ~~{has occurred}~~ is made within one year after the day on which the division
determines that the report is without merit ; ~~{or}~~

(ii) a report that, before May 1, 2002, is determined by the division to be unsubstantiated, if no
subsequent report involving the same alleged perpetrator is made within five years after the day on which
the division determines that the report is unsubstantiated;

(iii) a report that, on or after May 1, 2002, is determined by the division to be unsupported, if no
subsequent report involving the same alleged perpetrator is made within five years after the day on which
the division determines that the report is unsupported; or

872 ~~{(b)}~~ (iv) a report that ~~[has been]~~ is determined by a court of competent jurisdiction to be
873 unsubstantiated or without merit, if no subsequent report involving the same alleged

874 perpetrator ~~{has occurred}~~ is made within five years after the day on which the court determines
that the report is unsubstantiated or without merit.