

CHILD WELFARE INVESTIGATIONS AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions regarding child welfare procedures.

Highlighted Provisions:

This bill:

▶ requires a child welfare caseworker to obtain a warrant before entering a private premises under certain circumstances;

▶ when a child is removed from the child's home by a child welfare caseworker, requires that the removal be recorded; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-2-701, as last amended by Laws of Utah 2022, Chapter 308 and renumbered and amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 334

80-2-702, as last amended by Laws of Utah 2022, Chapter 308 and renumbered and amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination



28 Clause, Laws of Utah 2022, Chapter 334

29 **80-2a-202**, as last amended by Laws of Utah 2023, Chapter 330



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

32 Section 1. Section **80-2-701** is amended to read:

33 **80-2-701. Division preremoval investigation -- Supported or unsupported reports**
34 **-- Convening of child protection team -- Coordination with law enforcement --**
35 **Consultation with child protection team before close of investigation.**

36 (1) (a) The division shall conduct a thorough preremoval investigation upon receiving a
37 report under Section **80-2-602** or **80-2-603** if there is reasonable cause to suspect that a
38 situation of abuse, neglect, or the circumstances described in Subsection **80-2-603**(2) exist.

39 (b) The primary purpose of the preremoval investigation described in Subsection (1)(a)
40 shall be protection of the child.

41 (2) The preremoval investigation described in Subsection (1)(a) shall meet the
42 reasonable professional standards described in Section **80-2-702**.

43 (3) The division shall make a written report of the division's preremoval investigation
44 under Subsection (1)(a) that includes a determination regarding whether the alleged abuse or
45 neglect in the report described in Subsection (1)(a) is supported, unsupported, or without merit.

46 (4) The division:

47 (a) shall use an interdisciplinary approach if appropriate in dealing with a report made
48 under Section **80-2-602**, **80-2-603**, or **80-2-604**;

49 (b) in accordance with Section **80-2-706**, shall convene a child protection team to assist
50 the division in the division's protective, diagnostic, assessment, treatment, and coordination
51 services; and

52 (c) may include a member of the child protection team in the division's protective,
53 diagnostic, assessment, treatment, or coordination services.

54 (5) If a report of neglect is based on or includes an allegation of educational neglect,
55 the division shall immediately consult with school authorities to verify the child's status in
56 accordance with Sections **53G-6-201** through **53G-6-206**.

57 (6) Upon completion of the initial preremoval investigation under this section, the
58 division shall give notice of the completion to the person who made the initial report described

59 in Subsection (1)(a).

60 (7) (a) A division child welfare caseworker:

61 [~~(a)~~] (i) has authority to:

62 [~~(i)~~] (A) except as provided in Subsection (7)(b), enter upon public or private premises,
63 using appropriate legal processes; and

64 [~~(ii)~~] (B) [~~(b)~~] investigate a report of alleged child abuse or neglect, upon notice to a
65 parent of the parent's rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C.
66 Sec. 5106, or any successor thereof; and

67 [~~(b)~~] (ii) may take a child into protective custody in accordance with Chapter 2a,
68 Removal and Protective Custody of a Child.

69 (b) A child welfare caseworker shall obtain a warrant before entering upon private
70 premises if:

71 (i) the purpose for entering the private premises is to obtain evidence for a preremoval
72 investigation; and

73 (ii) the private premises is the home of an individual who is suspected to have created
74 the situation described in Subsection (1)(a).

75 (8) In a case, if law enforcement has investigated or is conducting an investigation of
76 alleged abuse or neglect of a child, the division:

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

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

81 (9) In a mutual case in which a child protection team is involved in the investigation of
82 alleged abuse or neglect of a child, the division shall consult with the child protection team
83 before closing the case.

84 Section 2. Section **80-2-702** is amended to read:

85 **80-2-702. Division post-removal investigation -- Supported or unsupported**
86 **reports -- Convening of child protection team -- Cooperation with law enforcement --**
87 **Close of investigation.**

88 (1) If a child is taken into protective custody in accordance with Section **80-2a-202** or
89 **80-3-204** or the division takes any other action that requires a shelter hearing under Subsection

90 **80-3-301**(1), the division shall immediately initiate an investigation of:

91 (a) the circumstances of the child; and

92 (b) the grounds upon which the decision to place the child into protective custody was
93 made.

94 (2) The division's investigation under Subsection (1) shall conform to reasonable
95 professional standards and include:

96 (a) a search for and review of any records of past reports of abuse or neglect involving:

97 (i) the same child;

98 (ii) any sibling or other child residing in the same household as the child; and

99 (iii) the alleged perpetrator;

100 (b) with regard to a child who is five years old or older, a personal interview with the
101 child:

102 (i) outside of the presence of the alleged perpetrator; and

103 (ii) conducted in accordance with the requirements of Section **80-2-704**;

104 (c) if a parent or guardian is located, an interview with at least one of the child's parents
105 or guardian;

106 (d) an interview with the person who reported the abuse, unless the report was made
107 anonymously;

108 (e) if possible and appropriate, interviews with other third parties who have had direct
109 contact with the child, including:

110 (i) school personnel; and

111 (ii) the child's health care provider;

112 (f) an unscheduled visit to the child's home, unless:

113 (i) there is a reasonable basis to believe that the reported abuse was committed by a
114 person who:

115 (A) is not the child's parent; and

116 (B) does not live in the child's home or otherwise have access to the child in the child's
117 home; or

118 (ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and

119 (g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or
120 failure to meet the child's medical needs, a medical examination, obtained no later than 24

- 121 hours after the child is placed in protective custody.
- 122 (3) The division may rely on a written report of a prior interview rather than
123 conducting an additional interview under Subsection (2), if:
- 124 (a) law enforcement:
- 125 (i) previously conducted a timely and thorough investigation regarding the alleged
126 abuse, neglect, or dependency; and
- 127 (ii) produced a written report;
- 128 (b) the investigation described in Subsection (3)(a)(i) included one or more of the
129 interviews described in Subsection (2); and
- 130 (c) the division finds that an additional interview is not in the best interest of the child.
- 131 (4) (a) (i) The division shall:
- 132 (A) make a determination after the division's investigation under Subsection (1)
133 regarding whether the report is supported, unsupported, or without merit; and
- 134 (B) base the determination on the facts of the case at the time the report is made.
- 135 (ii) The division's determination of whether a report is supported or unsupported may
136 be based on the child's statements alone.
- 137 (b) The division may not:
- 138 (i) use the inability to identify or locate the perpetrator as a basis for:
- 139 (A) determining that a report is unsupported; or
- 140 (B) closing the case; or
- 141 (ii) determine a case is unsupported or identify a case as unsupported solely because
142 the perpetrator is an out-of-home perpetrator.
- 143 (5) The division shall maintain protective custody of the child if the division finds that
144 one or more of the following conditions exist:
- 145 (a) the child does not have a natural parent, guardian, or responsible relative who is
146 able and willing to provide safe and appropriate care for the child;
- 147 (b) (i) shelter of the child is a matter of necessity for the protection of the child; and
- 148 (ii) there are no reasonable means by which the child can be protected in:
- 149 (A) the child's home; or
- 150 (B) the home of a responsible relative;
- 151 (c) there is substantial evidence that the parent or guardian is likely to flee the

152 jurisdiction of the juvenile court; or

153 (d) the child has left a previously court ordered placement.

154 (6) Within 24 hours after receipt of a child into protective custody, excluding weekends
155 and holidays, the division shall:

156 (a) convene a child protection team in accordance with Section 80-2-706; and

157 (b) prepare the testimony and evidence that will be required of the division at the
158 shelter hearing, in accordance with Section 80-3-301.

159 (7) The division shall cooperate with a law enforcement investigation and with the
160 members of a child protection team, if applicable, regarding the alleged perpetrator.

161 (8) The division may not close an investigation solely on the grounds that the division
162 is unable to locate the child until all reasonable efforts have been made to locate the child and
163 family members including:

164 (a) visiting the home at times other than normal work hours;

165 (b) contacting local schools;

166 (c) contacting local, county, and state law enforcement agencies; and

167 (d) checking public assistance records.

168 (9) A child welfare caseworker shall obtain a warrant before entering upon private
169 premises if:

170 (a) the purpose for entering the private premises is to obtain evidence for a
171 post-removal investigation; and

172 (b) the private premises is the home of an individual who is suspected to have created
173 the situation that led to the child's removal into temporary custody.

174 Section 3. Section 80-2a-202 is amended to read:

175 **80-2a-202. Removal of a child by a peace officer or child welfare caseworker --**

176 **Search warrants -- Protective custody and temporary care of a child.**

177 (1) A peace officer or child welfare caseworker may remove a child or take a child into
178 protective custody, temporary custody, or custody in accordance with this section.

179 (2) (a) Except as provided in Subsection (2)(b), a peace officer or a child welfare
180 caseworker may not enter the home of a child whose case is not under the jurisdiction of the
181 juvenile court, remove a child from the child's home or school, or take a child into protective
182 custody unless:

183 (i) there exist exigent circumstances sufficient to relieve the peace officer or the child
184 welfare caseworker of the requirement to obtain a search warrant under Subsection (3);

185 (ii) the peace officer or child welfare caseworker obtains a search warrant under
186 Subsection (3);

187 (iii) the peace officer or child welfare caseworker obtains a court order after the child's
188 parent or guardian is given notice and an opportunity to be heard; or

189 (iv) the peace officer or child welfare caseworker obtains the consent of the child's
190 parent or guardian.

191 (b) A peace officer or a child welfare caseworker may not take action under Subsection
192 (2)(a) solely on the basis of:

193 (i) educational neglect, truancy, or failure to comply with a court order to attend
194 school; or

195 (ii) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid
196 Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in
197 a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section
198 [26B-4-201](#).

199 (c) When removing a child under this section, a peace officer or a child welfare
200 caseworker shall ensure the removal is recorded through the use of a body-worn camera or
201 other video recording device.

202 (3) (a) The juvenile court may issue a warrant authorizing a peace officer or a child
203 welfare caseworker to search for a child and take the child into protective custody if it appears
204 to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to
205 by a peace officer or another individual, and upon the examination of other witnesses if
206 required by the juvenile court, that there is probable cause to believe that:

207 (i) there is a threat of substantial harm to the child's health or safety;

208 (ii) it is necessary to take the child into protective custody to avoid the harm described
209 in Subsection (3)(a)(i); and

210 (iii) it is likely that the child will suffer substantial harm if the child's parent or
211 guardian is given notice and an opportunity to be heard before the child is taken into protective
212 custody.

213 (b) In accordance with Section [77-23-210](#), a peace officer making the search under

214 Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the
215 child.

216 (4) (a) A child welfare caseworker may take action under Subsection (2) accompanied
217 by a peace officer or without a peace officer if a peace officer is not reasonably available.

218 (b) (i) Before taking a child into protective custody, and if possible and consistent with
219 the child's safety and welfare, a child welfare caseworker shall determine whether there are
220 services available that, if provided to a parent or guardian of the child, would eliminate the
221 need to remove the child from the custody of the child's parent or guardian.

222 (ii) In determining whether the services described in Subsection (4)(b)(i) are
223 reasonably available, the child welfare caseworker shall consider the child's health, safety, and
224 welfare as the paramount concern.

225 (iii) If the child welfare caseworker determines the services described in Subsection
226 (4)(b)(i) are reasonably available, the services shall be utilized.

227 (5) (a) If a peace officer or a child welfare caseworker takes a child into protective
228 custody under Subsection (2), the peace officer or child welfare caseworker shall:

229 (i) notify the child's parent or guardian in accordance with Section 80-2a-203; and

230 (ii) release the child to the care of the child's parent or guardian or another responsible
231 adult, unless:

232 (A) the child's immediate welfare requires the child remain in protective custody; or

233 (B) the protection of the community requires the child's detention in accordance with
234 Chapter 6, Part 2, Custody and Detention.

235 (b) (i) If a peace officer or child welfare caseworker is executing a warrant under
236 Subsection (3), the peace officer or child welfare caseworker shall take the child to:

237 (A) a shelter facility; or

238 (B) if the division makes an emergency placement under Section 80-2a-301, the
239 emergency placement.

240 (ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility
241 under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall promptly file
242 a written report that includes the child's information, on a form provided by the division, with
243 the shelter facility.

244 (c) A child removed or taken into protective custody under this section may not be

245 placed or kept in detention pending court proceedings, unless the child may be held in
246 detention under Chapter 6, Part 2, Custody and Detention.

247 (6) (a) The juvenile court shall issue a warrant authorizing a peace officer or a child
248 welfare worker to search for a child who is missing, has been abducted, or has run away, and
249 take the child into physical custody if the juvenile court determines that the child is missing,
250 has been abducted, or has run away from the protective custody, temporary custody, or custody
251 of the division.

252 (b) If the juvenile court issues a warrant under Subsection (6)(a):

253 (i) the division shall notify the child's parent or guardian who has a right to parent-time
254 with the child in accordance with Subsection 80-2a-203(5)(a);

255 (ii) the court shall order:

256 (A) the law enforcement agency that has jurisdiction over the location from which the
257 child ran away to enter a record of the warrant into the National Crime Information Center
258 database within 24 hours after the time in which the law enforcement agency receives a copy of
259 the warrant; and

260 (B) the division to notify the law enforcement agency described in Subsection
261 (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and

262 [~~Ⓒ~~] (iii) the court shall specify the location to which the peace officer or the child
263 welfare caseworker shall transport the child.

264 Section 4. **Effective date.**

265 This bill takes effect on May 1, 2024.