

Senator Todd Weiler proposes the following substitute bill:

CHILD ABUSE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill amends definitions related to civil child abuse and child neglect.

Highlighted Provisions:

This bill:

- ▶ clarifies that "chronic abuse" and "chronic neglect" do not mean an isolated incident; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-101, as last amended by Laws of Utah 2017, Chapters 209, 323, and 459

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

Section 1. Section **62A-4a-101** is amended to read:

62A-4a-101. Definitions.



26 As used in this chapter:

27 (1) "Abuse" means the same as that term is defined in Section 78A-6-105.

28 (2) "Adoption services" means:

29 (a) placing children for adoption;

30 (b) subsidizing adoptions under Section 62A-4a-105;

31 (c) supervising adoption placements until the adoption is finalized by the court;

32 (d) conducting adoption studies;

33 (e) preparing adoption reports upon request of the court; and

34 (f) providing postadoptive placement services, upon request of a family, for the
35 purpose of stabilizing a possible disruptive placement.

36 (3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of
37 Children, a person under 18 years of age.

38 (4) "Child protection team" means a team consisting of:

39 (a) the caseworker assigned to the case;

40 (b) the caseworker who made the decision to remove the child;

41 (c) a representative of the school or school district where the child attends school;

42 (d) the peace officer who removed the child from the home;

43 (e) a representative of the appropriate Children's Justice Center, if one is established
44 within the county where the child resides;

45 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
46 with the child's circumstances;

47 (g) members of a child protection unit; and

48 (h) any other individuals determined appropriate and necessary by the team coordinator
49 and chair.

50 (5) "Child protection unit" means any unit created by a chief of police or a sheriff of a
51 city, town, metro township, or county that is composed of at least the following individuals
52 who are trained in the prevention, identification, and treatment of abuse or neglect:

53 (a) a law enforcement officer, as defined in Section 53-13-103; and

54 (b) a child advocate selected by the chief of police or a sheriff.

55 (6) (a) "Chronic abuse" means repeated or patterned abuse.

56 (b) "Chronic abuse" does not mean an isolated incident of abuse.

- 57 (7) (a) "Chronic neglect" means repeated or patterned neglect.
- 58 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 59 (8) "Consult" means an interaction between two persons in which the initiating person:
- 60 (a) provides information to another person;
- 61 (b) provides the other person an opportunity to respond; and
- 62 (c) takes the other person's response, if any, into consideration.
- 63 (9) "Consumer" means a person who receives services offered by the division in
- 64 accordance with this chapter.
- 65 (10) "Custody," with regard to the division, means the custody of a minor in the
- 66 division as of the date of disposition.
- 67 (11) "Day-care services" means care of a child for a portion of the day which is less
- 68 than 24 hours:
- 69 (a) in the child's own home by a responsible person; or
- 70 (b) outside of the child's home in a:
- 71 (i) day-care center;
- 72 (ii) family group home; or
- 73 (iii) family child care home.
- 74 (12) "Dependent child" or "dependency" means a child, or the condition of a child, who
- 75 is homeless or without proper care through no fault of the child's parent, guardian, or custodian.
- 76 (13) "Director" means the director of the Division of Child and Family Services.
- 77 (14) "Division" means the Division of Child and Family Services.
- 78 (15) "Domestic violence services" means:
- 79 (a) temporary shelter, treatment, and related services to:
- 80 (i) a person who is a victim of abuse, as defined in Section [78B-7-102](#); and
- 81 (ii) the dependent children of a person described in Subsection (12)(a)(i); and
- 82 (b) treatment services for a person who is alleged to have committed, has been
- 83 convicted of, or has pled guilty to, an act of domestic violence as defined in Section [77-36-1](#).
- 84 (16) "Harm" means the same as that term is defined in Section [78A-6-105](#).
- 85 (17) "Homemaking service" means the care of individuals in their domiciles, and help
- 86 given to individual caretaker relatives to achieve improved household and family management
- 87 through the services of a trained homemaker.

- 88 (18) "Incest" means the same as that term is defined in Section [78A-6-105](#).
- 89 (19) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 90 (20) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 91 (21) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of
- 92 Children:
- 93 (a) a child; or
- 94 (b) a person:
- 95 (i) who is at least 18 years of age and younger than 21 years of age; and
- 96 (ii) for whom the division has been specifically ordered by the juvenile court to provide
- 97 services.
- 98 (22) "Molestation" means the same as that term is defined in Section [78A-6-105](#).
- 99 (23) "Mutual case" means a case that has been:
- 100 (a) opened by the division under the division's discretion and procedures;
- 101 (b) opened by the law enforcement agency with jurisdiction over the case; and
- 102 (c) accepted for investigation by the child protection unit established by the chief of
- 103 police or sheriff, as applicable.
- 104 (24) "Natural parent" means a minor's biological or adoptive parent, and includes a
- 105 minor's noncustodial parent.
- 106 (25) "Neglect" means the same as that term is defined in Section [78A-6-105](#).
- 107 (26) "Protective custody," with regard to the division, means the shelter of a child by
- 108 the division from the time the child is removed from the child's home until the earlier of:
- 109 (a) the shelter hearing; or
- 110 (b) the child's return home.
- 111 (27) "Protective services" means expedited services that are provided:
- 112 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 113 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 114 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
- 115 causes of neglect or abuse; and
- 116 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 117 (c) in cases where the child's welfare is endangered:
- 118 (i) to bring the situation to the attention of the appropriate juvenile court and law

- 119 enforcement agency;
- 120 (ii) to cause a protective order to be issued for the protection of the child, when
- 121 appropriate; and
- 122 (iii) to protect the child from the circumstances that endanger the child's welfare
- 123 including, when appropriate:
- 124 (A) removal from the child's home;
- 125 (B) placement in substitute care; and
- 126 (C) petitioning the court for termination of parental rights.
- 127 (28) "Severe abuse" means the same as that term is defined in Section [78A-6-105](#).
- 128 (29) "Severe neglect" means the same as that term is defined in Section [78A-6-105](#).
- 129 (30) "Sexual abuse" means the same as that term is defined in Section [78A-6-105](#).
- 130 (31) "Sexual exploitation" means the same as that term is defined in Section
- 131 [78A-6-105](#).
- 132 (32) "Shelter care" means the temporary care of a minor in a nonsecure facility.
- 133 (33) "Sibling" means a child who shares or has shared at least one parent in common
- 134 either by blood or adoption.
- 135 (34) "Sibling visitation" means services provided by the division to facilitate the
- 136 interaction between a child in division custody with a sibling of that child.
- 137 (35) "State" means:
- 138 (a) a state of the United States;
- 139 (b) the District of Columbia;
- 140 (c) the Commonwealth of Puerto Rico;
- 141 (d) the Virgin Islands;
- 142 (e) Guam;
- 143 (f) the Commonwealth of the Northern Mariana Islands; or
- 144 (g) a territory or possession administered by the United States.
- 145 (36) "State plan" means the written description of the programs for children, youth, and
- 146 family services administered by the division in accordance with federal law.
- 147 (37) "Status offense" means a violation of the law that would not be a violation but for
- 148 the age of the offender.
- 149 (38) "Substance abuse" means the same as that term is defined in Section [78A-6-105](#).

150 (39) "Substantiated" or "substantiation" means a judicial finding based on a
151 preponderance of the evidence that abuse or neglect occurred. Each allegation made or
152 identified in a given case shall be considered separately in determining whether there should be
153 a finding of substantiated.

154 (40) "Substitute care" means:

155 (a) the placement of a minor in a family home, group care facility, or other placement
156 outside the minor's own home, either at the request of a parent or other responsible relative, or
157 upon court order, when it is determined that continuation of care in the minor's own home
158 would be contrary to the minor's welfare;

159 (b) services provided for a minor awaiting placement; and

160 (c) the licensing and supervision of a substitute care facility.

161 (41) "Supported" means a finding by the division based on the evidence available at the
162 completion of an investigation that there is a reasonable basis to conclude that abuse, neglect,
163 or dependency occurred. Each allegation made or identified during the course of the
164 investigation shall be considered separately in determining whether there should be a finding of
165 supported.

166 (42) "Temporary custody," with regard to the division, means the custody of a child in
167 the division from the date of the shelter hearing until disposition.

168 (43) "Transportation services" means travel assistance given to an individual with
169 escort service, if necessary, to and from community facilities and resources as part of a service
170 plan.

171 (44) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
172 conclude that abuse or neglect occurred.

173 (45) "Unsupported" means a finding at the completion of an investigation that there is
174 insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a
175 finding of unsupported means also that the division worker did not conclude that the allegation
176 was without merit.

177 (46) "Without merit" means a finding at the completion of an investigation by the
178 division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or
179 that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.