

Representative Brian S. King proposes the following substitute bill:

REPORTING REQUIREMENT AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends reporting requirements regarding abuse, neglect, or exploitation of certain individuals.

Highlighted Provisions:

This bill:

▶ amends the reporting requirement for the suspected abuse, neglect, or exploitation of a vulnerable adult;

▶ addresses civil and criminal liability for reporting, or failing to report, suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services or the nearest police officer or law enforcement agency;

▶ amends the reporting requirement for the suspected abuse or neglect of a child;

▶ addresses civil and criminal liability for reporting, or failing to report, suspected abuse or neglect of a child to the Division of Child and Family Services or the nearest police officer or law enforcement agency;

▶ makes it a crime for an individual to threaten, intimidate, or attempt to intimidate certain individuals when a report is made, or an investigation is being conducted, in regards to the abuse or neglect of a child;

▶ repeals a statute with a reporting requirement for abuse, neglect, or exploitation of a



26 vulnerable adult; and

27 ▶ makes technical and conforming changes.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **62A-3-305**, as last amended by Laws of Utah 2012, Chapter 328

35 **62A-4a-403**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

36 REPEALS:

37 **76-5-111.1**, as last amended by Laws of Utah 2004, Chapter 50



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

40 Section 1. Section **62A-3-305** is amended to read:

41 **62A-3-305. Reporting requirements -- Investigation -- Immunity -- Violation --**
42 **Penalty -- Nonmedical healing.**

43 ~~[(1) A person who has reason to believe that a vulnerable adult has been the subject of~~
44 ~~abuse, neglect, or exploitation shall immediately notify Adult Protective Services intake or the~~
45 ~~nearest law enforcement agency. When the initial report is made to law enforcement, law~~
46 ~~enforcement shall immediately notify Adult Protective Services intake. Adult Protective~~
47 ~~Services and law enforcement shall coordinate, as appropriate, their efforts to provide~~
48 ~~protection to the vulnerable adult.]~~

49 (1) Except as provided in Subsection (5)(b), if an individual has reason to believe that a
50 vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual
51 shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective
52 Services or to the nearest peace officer or law enforcement agency.

53 (2) (a) If a peace officer or a law enforcement agency receives a report under
54 Subsection (1), the peace officer of the law enforcement agency shall immediately notify Adult
55 Protective Services.

56 (b) Adult Protective Services and the peace officer or the law enforcement agency shall

57 coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide
58 protection to the vulnerable adult.

59 ~~[(2)]~~ (3) When [the initial report or] a report under Subsection (1), or a subsequent
60 investigation by Adult Protective Services, indicates that a criminal offense may have occurred
61 against a vulnerable adult:

62 (a) Adult Protective Services shall notify the nearest local law enforcement agency
63 regarding the potential offense; and

64 (b) the law enforcement agency [may] shall initiate an investigation in cooperation
65 with Adult Protective Services.

66 ~~[(3) A person who in good faith makes a report or otherwise notifies a law enforcement~~
67 ~~agency or Adult Protective Services of suspected abuse, neglect, or exploitation is immune~~
68 ~~from civil and criminal liability in connection with the report or other notification.]~~

69 ~~[(4) (a) A person who willfully fails to report suspected abuse, neglect, or exploitation~~
70 ~~of a vulnerable adult is guilty of a class B misdemeanor.]~~

71 ~~[(b) A covered provider or covered contractor, as defined in Section 26-21-201, that~~
72 ~~knowingly fails to report suspected abuse or neglect, as required by this section, is subject to a~~
73 ~~private right of action and liability for the abuse or neglect of another person that is committed~~
74 ~~by the individual who was not reported to Adult Protective Services in accordance with this~~
75 ~~section.]~~

76 (4) An individual who in good faith makes a report under Subsection (1), or who
77 otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is
78 immune from civil and criminal liability in connection with the report or notification of
79 suspected abuse, neglect, or exploitation of a vulnerable adult.

80 (5) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
81 to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective
82 Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

83 (b) An individual is not guilty of violating Subsection (5)(a) if the individual is
84 prohibited from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under
85 a privilege designated by common law, statute, or rule of evidence.

86 (c) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
87 an individual's violation of Subsection (5)(a) as the basis for charging the individual with

88 another offense.

89 (6) A covered provider or covered contractor, as defined in Section 26-21-201, that
90 knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to
91 Adult Protective Services, or to the nearest peace officer or law enforcement agency, under
92 Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or
93 exploitation of a vulnerable adult that is committed by the individual who was not reported to
94 Adult Protective Services or to the nearest peace officer or law enforcement agency.

95 ~~[(5)]~~ (7) Under circumstances not amounting to a violation of Section 76-8-508, [a
96 person who] an individual is guilty of a class B misdemeanor if the individual threatens,
97 intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report[~~;~~a
98 witness, the person who made the report] under Subsection (1), the individual who made the
99 report under Subsection (1), a witness, or any other person cooperating with an investigation
100 conducted [pursuant to] in accordance with this chapter [is guilty of a class B misdemeanor].

101 (8) The physician-patient privilege does not constitute grounds for excluding evidence
102 regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any
103 judicial or administrative proceeding resulting from a report under Subsection (1).

104 ~~[(6)]~~ (9) An adult is not considered abused, neglected, or a vulnerable adult for the
105 reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in
106 lieu of medical care.

107 Section 2. Section **62A-4a-403** is amended to read:

108 **62A-4a-403. Reporting requirements -- Investigation -- Penalty -- Legal privileges**
109 **-- Liability.**

110 ~~[(1) (a) Except as provided in Subsection (2), when any individual, including an~~
111 ~~individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67,~~
112 ~~Utah Medical Practice Act, has reason to believe that a child has been subjected to abuse or~~
113 ~~neglect, or observes a child being subjected to conditions or circumstances that would~~
114 ~~reasonably result in abuse or neglect, that individual shall immediately report the alleged abuse~~
115 ~~or neglect to the nearest peace officer, law enforcement agency, or office of the division.]~~

116 ~~[(b) (i) Upon receipt of a report described in Subsection (1)(a)]~~

117 (1) Except as provided in Subsections (3) and (6)(b), if an individual, including an
118 individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67,

119 Utah Medical Practice Act, has reason to believe that a child is, or has been, the subject of
120 abuse or neglect, or observes a child being subjected to conditions or circumstances that would
121 reasonably result in abuse or neglect, the individual shall immediately report the suspected
122 abuse or neglect to the division or to the nearest peace officer or law enforcement agency.

123 (2) (a) (i) If a peace officer or a law enforcement agency receives a report under
124 Subsection (1), the peace officer or law enforcement agency shall immediately notify the
125 nearest office of the division.

126 (ii) [If an initial report of abuse or neglect is made to the division] If the division
127 receives a report under Subsection (1), the division shall immediately notify the appropriate
128 local law enforcement agency.

129 [~~(e)~~] (b) (i) The division shall, in addition to the division's own investigation in
130 accordance with Section 62A-4a-409, coordinate with law enforcement on investigations by
131 law enforcement undertaken to investigate [a report described in Subsection (1)(a)] the report
132 of abuse or neglect under Subsection (1).

133 (ii) If law enforcement undertakes an investigation of a [report described in Subsection
134 (1)(a)] report under Subsection (1), the law enforcement agency undertaking the investigation
135 shall provide a final investigatory report to the division upon request.

136 [~~(2)~~] (3) Subject to Subsection [~~(3)~~] (4), the [notification] reporting requirement
137 described in Subsection [~~(1)(a)~~] (1) does not apply to a member of the clergy, with regard to
138 any confession made to the member of the clergy while functioning in the ministerial capacity
139 of the member of the clergy and without the consent of the individual making the confession,
140 if:

141 (a) the perpetrator made the confession directly to the member of the clergy; and

142 (b) the member of the clergy is, under canon law or church doctrine or practice, bound
143 to maintain the confidentiality of that confession.

144 [~~(3)~~] (4) (a) When a member of the clergy receives information about abuse or neglect
145 from any source other than confession of the perpetrator, the member of the clergy is required
146 to report that information even though the member of the clergy may have also received
147 information about abuse or neglect from the confession of the perpetrator.

148 (b) Exemption of the reporting requirement for a member of the clergy does not
149 exempt the member of the clergy from any other efforts required by law to prevent further

150 abuse or neglect by the perpetrator.

151 (5) An individual who in good faith makes a report under Subsection (1), or who
152 otherwise notifies the division or a peace officer or law enforcement agency, is immune from
153 civil and criminal liability in connection with the report or notification of suspected abuse or
154 neglect of a child.

155 (6) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
156 to report suspected abuse or neglect of a child under Subsection (1).

157 (b) An individual is not guilty of violating Subsection (6)(a) if the individual is
158 prohibited from reporting suspected abuse or neglect of a child under a privilege designated by
159 common law, statute, or rule of evidence.

160 (c) Notwithstanding any contrary provision of law, a prosecutor may not use an
161 individual's violation of Subsection (6)(a) as the basis for charging the individual with another
162 offense.

163 (7) Under circumstances not amounting to a violation of Section [76-8-508](#), an
164 individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or
165 attempts to intimidate a child who is the subject of a report under Subsection (1), the individual
166 who made the report under Subsection (1), a witness, or any other person cooperating with an
167 investigation conducted in accordance with this chapter.

168 Section 3. **Repealer.**

169 This bill repeals:

170 Section [76-5-111.1](#), **Reporting requirements -- Investigation -- Immunity --**
171 **Violation -- Penalty -- Physician-patient privilege -- Nonmedical healing.**