

Section 4. Section **78A-6-301.5** is enacted to read:

78A-6-301.5. Second medical opinion.

(1) In cases of alleged medical neglect where the division seeks protective custody, temporary custody, or custody of the child based on the report or testimony of a physician or any witness making claims of neglect, a parent or guardian shall be presumed innocent until proven guilty and have a reasonable amount of time, as determined by the court, the right to obtain a second medical opinion from another physician of the parent's or guardian's choosing who has expertise in the applicable field, who is credentialed in a manner that is satisfactory to the parents or guardians. The division shall only be awarded custody of a child if a jury of their peers in a court of law convicts both parents, or all available legal guardians, of willfully and maliciously causing objective and tangible harm to the child. Psychological and other subjective definitions of harm will not be grounds to grant custody to the division or for removing parental rights of any kind.

(2) Regardless of any risk of death or a deteriorating condition of the child's health, the child shall remain in the custody of the parent or guardian while the parent or guardian obtains a second medical opinion and after that opinion has been obtained, except for when the guilty verdict from the jury trial condition is met, as mentioned in subsection (1).

(3) If the second medical opinion results in a different diagnosis or treatment recommendation from that of the opinion of the physician the division used, the court shall always give deference to the second medical opinion if that is the choice of the parent, except for when the guilty verdict from the jury trial condition is met, as mentioned in subsection (1). -as long as that opinion is reasonable and informed and is consistent with treatment that is regularly prescribed by medical experts in the applicable field.

(4) The law hereby acknowledges a parent's right to choose any medical treatment that they wish for their child, acknowledging that parents will always have the strongest desire above all others to find the best care for a child's specific circumstance, including in emergency circumstances. Subsections (1) through (3) do not apply to emergency treatment or care when the child faces an immediate threat of death or serious and irreparable harm and when there is insufficient time to safely allow the parent or guardian to provide alternative necessary care and treatment of the parent's or guardian's choosing.

(5) The medical principle of informed consent will always be followed, giving absolute control to parents or legal guardians, except for when the guilty verdict from the jury trial condition is met, as mentioned in subsection (1).

Section 4. Section **78A-6-301.6** is enacted to read:

78A-6-301.6. Conflicts of Interest with second medical opinion

(1) Any 3rd party entity that could be considered to financially benefit from private or government funds in the event of the transfer of custody of a child is hereby banned from having employees or offices in the same building as any medical facility in the state. This includes, but is not necessarily limited to, the Utah Division of Child and Family Services.