

REPEAL OF ATTORNEYS AND COUNSELORS PROVISIONS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Terry R. Spencer

This act modifies the Judicial Code by repealing Chapter 51, Attorneys and Counselors, and moving two of the sections from that chapter to other parts of the code.

This act affects sections of Utah Code Annotated 1953 as follows:

RENUMBERS AND AMENDS:

38-2-7, (Renumbered from 78-51-41, as last amended by Chapter 100, Laws of Utah 1989)

78-2-4.5, (Renumbered from 78-51-45, as enacted by Chapter 83, Laws of Utah 2000)

REPEALS:

78-51-1, Utah Code Annotated 1953

78-51-2, as last amended by Chapter 214, Laws of Utah 1971

78-51-3, as last amended by Chapter 214, Laws of Utah 1971

78-51-4, as last amended by Chapter 214, Laws of Utah 1971

78-51-5, Utah Code Annotated 1953

78-51-6, as last amended by Chapter 214, Laws of Utah 1971

78-51-7, as last amended by Chapter 214, Laws of Utah 1971

78-51-8, Utah Code Annotated 1953

78-51-9, Utah Code Annotated 1953

78-51-10, Utah Code Annotated 1953

78-51-11, Utah Code Annotated 1953

78-51-12, as last amended by Chapter 12, Laws of Utah 1981

78-51-13, Utah Code Annotated 1953

78-51-14, Utah Code Annotated 1953

78-51-15, Utah Code Annotated 1953

78-51-16, as last amended by Chapter 20, Laws of Utah 1995

78-51-17, Utah Code Annotated 1953

78-51-18, Utah Code Annotated 1953

- 78-51-19**, Utah Code Annotated 1953
- 78-51-20**, Utah Code Annotated 1953
- 78-51-21**, as last amended by Chapter 215, Laws of Utah 1971
- 78-51-22**, as last amended by Chapter 175, Laws of Utah 1957
- 78-51-23**, Utah Code Annotated 1953
- 78-51-24**, as last amended by Chapter 195, Laws of Utah 1963
- 78-51-25**, as last amended by Chapter 196, Laws of Utah 1963
- 78-51-26**, Utah Code Annotated 1953
- 78-51-27**, Utah Code Annotated 1953
- 78-51-28**, as last amended by Chapter 20, Laws of Utah 1995
- 78-51-29**, Utah Code Annotated 1953
- 78-51-30**, as last amended by Chapter 216, Laws of Utah 1971
- 78-51-31**, Utah Code Annotated 1953
- 78-51-32**, Utah Code Annotated 1953
- 78-51-33**, Utah Code Annotated 1953
- 78-51-34**, Utah Code Annotated 1953
- 78-51-35**, as last amended by Chapter 20, Laws of Utah 1995
- 78-51-36**, Utah Code Annotated 1953
- 78-51-37**, Utah Code Annotated 1953
- 78-51-38**, Utah Code Annotated 1953
- 78-51-39**, Utah Code Annotated 1953
- 78-51-40**, Utah Code Annotated 1953
- 78-51-42**, Utah Code Annotated 1953
- 78-51-43**, as last amended by Chapter 20, Laws of Utah 1995
- 78-51-44**, Utah Code Annotated 1953

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

Section 1. Section **38-2-7**, which is renumbered from Section 78-51-41 is renumbered and amended to read:

[78-51-41]. 38-2-7. Attorney's lien.

The compensation of an attorney and counselor for services is governed by agreement, express or implied, which is not restrained by law. From the commencement of an action, or the service of an answer containing a counterclaim or at the time that the attorney and client enter into a written or oral employment agreement, the attorney who is so employed has a lien upon the client's cause of action or counterclaim, which attaches to any settlement, verdict, report, decision, or judgment in the client's favor and to the proceeds thereof in whosoever hands they may come, and cannot be affected by any settlement between the parties before or after judgment. Any written employment agreement shall contain a statement that the attorney has a lien upon the client's cause of action or counterclaim.

Section 2. Section **78-2-4.5**, which is renumbered from Section 78-51-45 is renumbered and amended to read:

[78-51-45]. 78-2-4.5. Admission to state bar -- Criminal history background checks.

(1) The Utah State Bar shall require each person applying for admission to the Utah State Bar to submit a complete set of fingerprints for the purpose of conducting a national criminal history background check.

(2) Fingerprints of applicants for admission to the Utah State Bar shall be submitted to the Department of Public Safety, Bureau of Criminal Identification to be used to conduct a criminal history background check and to the Federal Bureau of Investigation to obtain a national criminal history background check.

(3) The criminal history background information obtained from the Department of Public Safety and the national criminal history background information obtained from the Federal Bureau of Investigation pursuant to this section may be used by the Utah State Bar to determine an applicant's character, fitness, and suitability for admission to the Utah State Bar.

Section 3. Repealer.

This act repeals:

Section 78-51-1, Utah State Bar -- Qualification for membership.

Section 78-51-2, Board of commissioners -- Number -- Term -- Vacancies.

Section **78-51-3, Territorial divisions.**

Section **78-51-4, Number of commissioners from each division.**

Section **78-51-5, Nomination of commissioners.**

Section **78-51-6, Election of commissioners.**

Section **78-51-7, Organization of board.**

Section **78-51-8, Meetings -- Annual and special -- Notice.**

Section **78-51-9, Bylaws.**

Section **78-51-10, Admission to practice law -- Qualifications -- Enrollment -- Oath -- Fees.**

Section **78-51-11, Roll of attorneys and counselors.**

Section **78-51-12, Disciplinary proceedings -- Rules established by board -- Disciplinary committees -- Written response to complainants -- Proceedings subject to open meetings law.**

Section **78-51-13, Board of commissioners -- Powers -- Conduct of members of bar holding judicial office.**

Section **78-51-14, Rules and regulations -- Supreme Court to approve.**

Section **78-51-15, Hearings and witnesses.**

Section **78-51-16, Rights of accused.**

Section **78-51-17, Record of proceedings.**

Section **78-51-18, Findings and report.**

Section **78-51-19, Review by Supreme Court -- Inherent powers of courts not affected.**

Section **78-51-20, Studies and recommendations by state bar.**

Section **78-51-21, Annual license -- Fees -- Disbursement of funds.**

Section **78-51-22, Issuance of license -- Form.**

Section **78-51-23, Powers of board respecting funds.**

Section **78-51-24, Active and inactive members of bar.**

Section **78-51-25, Practicing without a license prohibited -- Action or proceedings to enforce -- Exception.**

Section **78-51-26, Duties of attorneys and counselors.**

Section **78-51-27, Certain conduct forbidden -- Penalty.**

Section **78-51-28, Exceptions.**

Section **78-51-29, Permitting use of name forbidden -- Penalty.**

Section **78-51-30, Partnership with public prosecutor.**

Section **78-51-31, Deceit and collusion.**

Section **78-51-32, Authority of attorneys and counselors.**

Section **78-51-33, Proof of authority for appearance.**

Section **78-51-34, Change of attorney.**

Section **78-51-35, Effect -- Notice of change.**

Section **78-51-36, Notice to appoint successor.**

Section **78-51-37, Conviction of crime -- Judgment of disbarment -- Duty of clerks of court.**

Section **78-51-38, Suretyship -- Attorney forbidden to assume.**

Section **78-51-39, Certain officials not to practice law.**

Section **78-51-40, Corporations and associations forbidden to practice -- Exceptions.**

Section **78-51-42, Refusing to pay over money -- Penalty.**

Section **78-51-43, Exception -- Demand for bond.**

Section **78-51-44, Exception on giving bond.**