

1 **REPEAL OF ATTORNEYS AND COUNSELORS**

2 **PROVISIONS**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Terry R. Spencer**

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

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

9 RENUMBERS AND AMENDS:

10 **38-2-7**, (Renumbered from 78-51-41, as last amended by Chapter 100, Laws of Utah 1989)

11 **78-2-4.5**, (Renumbered from 78-51-45, as enacted by Chapter 83, Laws of Utah 2000)

12 REPEALS:

13 **78-51-1**, Utah Code Annotated 1953

14 **78-51-2**, as last amended by Chapter 214, Laws of Utah 1971

15 **78-51-3**, as last amended by Chapter 214, Laws of Utah 1971

16 **78-51-4**, as last amended by Chapter 214, Laws of Utah 1971

17 **78-51-5**, Utah Code Annotated 1953

18 **78-51-6**, as last amended by Chapter 214, Laws of Utah 1971

19 **78-51-7**, as last amended by Chapter 214, Laws of Utah 1971

20 **78-51-8**, Utah Code Annotated 1953

21 **78-51-9**, Utah Code Annotated 1953

22 **78-51-10**, Utah Code Annotated 1953

23 **78-51-11**, Utah Code Annotated 1953

24 **78-51-12**, as last amended by Chapter 12, Laws of Utah 1981

25 **78-51-13**, Utah Code Annotated 1953

26 **78-51-14**, Utah Code Annotated 1953

27 **78-51-15**, Utah Code Annotated 1953

- 28 **78-51-16**, as last amended by Chapter 20, Laws of Utah 1995
- 29 **78-51-17**, Utah Code Annotated 1953
- 30 **78-51-18**, Utah Code Annotated 1953
- 31 **78-51-19**, Utah Code Annotated 1953
- 32 **78-51-20**, Utah Code Annotated 1953
- 33 **78-51-21**, as last amended by Chapter 215, Laws of Utah 1971
- 34 **78-51-22**, as last amended by Chapter 175, Laws of Utah 1957
- 35 **78-51-23**, Utah Code Annotated 1953
- 36 **78-51-24**, as last amended by Chapter 195, Laws of Utah 1963
- 37 **78-51-25**, as last amended by Chapter 196, Laws of Utah 1963
- 38 **78-51-26**, Utah Code Annotated 1953
- 39 **78-51-27**, Utah Code Annotated 1953
- 40 **78-51-28**, as last amended by Chapter 20, Laws of Utah 1995
- 41 **78-51-29**, Utah Code Annotated 1953
- 42 **78-51-30**, as last amended by Chapter 216, Laws of Utah 1971
- 43 **78-51-31**, Utah Code Annotated 1953
- 44 **78-51-32**, Utah Code Annotated 1953
- 45 **78-51-33**, Utah Code Annotated 1953
- 46 **78-51-34**, Utah Code Annotated 1953
- 47 **78-51-35**, as last amended by Chapter 20, Laws of Utah 1995
- 48 **78-51-36**, Utah Code Annotated 1953
- 49 **78-51-37**, Utah Code Annotated 1953
- 50 **78-51-38**, Utah Code Annotated 1953
- 51 **78-51-39**, Utah Code Annotated 1953
- 52 **78-51-40**, Utah Code Annotated 1953
- 53 **78-51-42**, Utah Code Annotated 1953
- 54 **78-51-43**, as last amended by Chapter 20, Laws of Utah 1995
- 55 **78-51-44**, Utah Code Annotated 1953

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

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

59 ~~[78-51-41].~~ **38-2-7. Attorney's lien.**

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

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

71 ~~[78-51-45].~~ **78-2-4.5. Admission to state bar -- Criminal history background**
72 **checks.**

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

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

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

84 Section 3. **Repealer.**

85 This act repeals:

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

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

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

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

- 90 Section **78-51-5, Nomination of commissioners.**
- 91 Section **78-51-6, Election of commissioners.**
- 92 Section **78-51-7, Organization of board.**
- 93 Section **78-51-8, Meetings -- Annual and special -- Notice.**
- 94 Section **78-51-9, Bylaws.**
- 95 Section **78-51-10, Admission to practice law -- Qualifications -- Enrollment -- Oath**
- 96 **-- Fees.**
- 97 Section **78-51-11, Roll of attorneys and counselors.**
- 98 Section **78-51-12, Disciplinary proceedings -- Rules established by board --**
- 99 **Disciplinary committees -- Written response to complainants -- Proceedings subject to open**
- 100 **meetings law.**
- 101 Section **78-51-13, Board of commissioners -- Powers -- Conduct of members of bar**
- 102 **holding judicial office.**
- 103 Section **78-51-14, Rules and regulations -- Supreme Court to approve.**
- 104 Section **78-51-15, Hearings and witnesses.**
- 105 Section **78-51-16, Rights of accused.**
- 106 Section **78-51-17, Record of proceedings.**
- 107 Section **78-51-18, Findings and report.**
- 108 Section **78-51-19, Review by Supreme Court -- Inherent powers of courts not affected.**
- 109 Section **78-51-20, Studies and recommendations by state bar.**
- 110 Section **78-51-21, Annual license -- Fees -- Disbursement of funds.**
- 111 Section **78-51-22, Issuance of license -- Form.**
- 112 Section **78-51-23, Powers of board respecting funds.**
- 113 Section **78-51-24, Active and inactive members of bar.**
- 114 Section **78-51-25, Practicing without a license prohibited -- Action or proceedings to**
- 115 **enforce -- Exception.**
- 116 Section **78-51-26, Duties of attorneys and counselors.**
- 117 Section **78-51-27, Certain conduct forbidden -- Penalty.**
- 118 Section **78-51-28, Exceptions.**
- 119 Section **78-51-29, Permitting use of name forbidden -- Penalty.**
- 120 Section **78-51-30, Partnership with public prosecutor.**

- 121 Section 78-51-31, Deceit and collusion.
- 122 Section 78-51-32, Authority of attorneys and counselors.
- 123 Section 78-51-33, Proof of authority for appearance.
- 124 Section 78-51-34, Change of attorney.
- 125 Section 78-51-35, Effect -- Notice of change.
- 126 Section 78-51-36, Notice to appoint successor.
- 127 Section 78-51-37, Conviction of crime -- Judgment of disbarment -- Duty of clerks of
- 128 court.
- 129 Section 78-51-38, Suretyship -- Attorney forbidden to assume.
- 130 Section 78-51-39, Certain officials not to practice law.
- 131 Section 78-51-40, Corporations and associations forbidden to practice -- Exceptions.
- 132 Section 78-51-42, Refusing to pay over money -- Penalty.
- 133 Section 78-51-43, Exception -- Demand for bond.
- 134 Section 78-51-44, Exception on giving bond.

Legislative Review Note
as of 10-4-00 9:24 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Judiciary Interim Committee recommended this bill.