

JUDICIARY AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Scott L Wyatt

LONG TITLE

General Description:

This bill clarifies when certain types of municipal funds are required to be deposited, makes changes to the sealing of certain court records, allows the tax commission to share certain information with specific agencies, eliminates the requirements for a written undertaking, corrects a number of erroneous cross-references, and makes technical corrections.

Highlighted Provisions:

This bill:

- ▶ clarifies that municipal funds are required to be deposited according to statutory requirements;
- ▶ changes the sealing of court records to classifying them as private;
- ▶ specifies that the tax commission may share specific information with the courts and the Office of Recovery Services;
- ▶ deletes the requirement that the Supreme Court approve forms for written undertakings for bail bonds;
- ▶ cleans up cross-references to the Juvenile Court Act of 1996 and the Utah Uniform Parentage Act; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **10-3-716**, as enacted by Chapter 48, Laws of Utah 1977
- 33 **26-2-22**, as last amended by Chapter 255, Laws of Utah 2001
- 34 **30-3-4**, as last amended by Chapters 47 and 157, Laws of Utah 1997
- 35 **30-3-15.3**, as last amended by Chapter 215, Laws of Utah 1997
- 36 **59-1-403**, as last amended by Chapter 204, Laws of Utah 2005
- 37 **59-10-540**, as last amended by Chapter 9, Laws of Utah 2001
- 38 **62A-4a-116.6**, as last amended by Chapter 210, Laws of Utah 2003
- 39 **62A-4a-202.2**, as last amended by Chapter 10, Laws of Utah 2001, First Special
- 40 Session
- 41 **62A-4a-202.6**, as last amended by Chapter 58, Laws of Utah 2001
- 42 **62A-11-104**, as last amended by Chapters 90 and 176, Laws of Utah 2003
- 43 **62A-11-328**, as enacted by Chapter 1, Laws of Utah 1988
- 44 **63A-11-102**, as enacted by Chapter 356, Laws of Utah 2004
- 45 **77-20-4**, as last amended by Chapter 287, Laws of Utah 2003
- 46 **78-3a-104**, as last amended by Chapter 2, Laws of Utah 2005
- 47 **78-3a-105**, as last amended by Chapter 356, Laws of Utah 2004
- 48 **78-3a-116**, as last amended by Chapters 190 and 324, Laws of Utah 2004
- 49 **78-3a-502**, as last amended by Chapter 212, Laws of Utah 2002
- 50 **78-30-4.14**, as last amended by Chapter 137, Laws of Utah 2005

51 REPEALS:

- 52 **59-10-545**, as last amended by Chapter 183, Laws of Utah 1990



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

55 Section 1. Section **10-3-716** is amended to read:

56 **10-3-716. Fines and forfeitures -- Disposition.**

57 All fines, penalties, and forfeitures for the violation of any ordinance, when collected,

58 shall be paid [~~into the municipal treasury within seven days after the collection date~~] in
59 accordance with Section 51-4-2. A violation of this section constitutes a class C misdemeanor.
60 The retention or use of any fine, penalty, or forfeiture by any person for personal use or benefit
61 constitutes a class B misdemeanor, except that if the amount or amounts exceed \$1,000 the
62 offense is a class A misdemeanor as defined in the Utah Criminal Code.

63 Section 2. Section **26-2-22** is amended to read:

64 **26-2-22. Inspection of vital records.**

65 (1) (a) The vital records shall be open to inspection, but only in compliance with the
66 provisions of this chapter, department rules, and Section 78-30-18. It is unlawful for any state
67 or local officer or employee to disclose data contained in vital records contrary to this chapter
68 or department rule.

69 (b) A custodian of vital records may permit inspection of a vital record or issue a
70 certified copy of a record or a part of it when the custodian is satisfied the applicant has
71 demonstrated a direct, tangible, and legitimate interest.

72 (2) A direct, tangible, and legitimate interest in a vital record is present only if:

73 (a) the request is from the subject, a member of the subject's immediate family, the
74 guardian of the subject, or a designated legal representative;

75 (b) the request involves a personal or property right of the subject of the record;

76 (c) the request is for official purposes of a state, local, or federal governmental agency;

77 (d) the request is for a statistical or medical research program and prior consent has
78 been obtained from the state registrar; or

79 (e) the request is a certified copy of an order of a court of record specifying the record
80 to be examined or copied.

81 (3) For purposes of Subsection (2):

82 (a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or
83 grandchild;

84 (b) a designated legal representative means an attorney, physician, funeral director,
85 genealogist, or other agent of the subject or the subject's immediate family who has been

86 delegated the authority to access vital records;

87 (c) except as provided in Title 78, Chapter 30, Adoption, a parent, or the immediate
88 family member of a parent, who does not have legal or physical custody of or visitation or
89 parent-time rights for a child because of the termination of parental rights pursuant to Title 78,
90 Chapter 3a, Juvenile ~~Courts~~ Court Act of 1996, or by virtue of consenting to or relinquishing
91 a child for adoption pursuant to Title 78, Chapter 30, Adoption, may not be considered as
92 having a direct, tangible, and legitimate interest; and

93 (d) a commercial firm or agency requesting names, addresses, or similar information
94 may not be considered as having a direct, tangible, and legitimate interest.

95 (4) Upon payment of a fee established in accordance with Section 63-38-3.2, the
96 following records shall be available to the public:

97 (a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding
98 confidential information collected for medical and health use, if 100 years or more have passed
99 since the date of birth;

100 (b) a death record if 50 years or more have passed since the date of death; and

101 (c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have passed
102 since the date of the event upon which the record is based.

103 Section 3. Section **30-3-4** is amended to read:

104 **30-3-4. Pleadings -- Findings -- Decree -- Use of affidavit -- Sealing.**

105 (1) (a) The complaint shall be in writing and signed by the petitioner or petitioner's
106 attorney.

107 (b) A decree of divorce may not be granted upon default or otherwise except upon legal
108 evidence taken in the cause. If the decree is to be entered upon the default of the respondent,
109 evidence to support the decree may be submitted upon the affidavit of the petitioner with the
110 approval of the court.

111 (c) If the petitioner and the respondent have a child or children, a decree of divorce
112 may not be granted until both parties have attended the mandatory course described in Section
113 30-3-11.3, and have presented a certificate of course completion to the court. The court may

114 waive this requirement, on its own motion or on the motion of one of the parties, if it
115 determines course attendance and completion are not necessary, appropriate, feasible, or in the
116 best interest of the parties.

117 (d) All hearings and trials for divorce shall be held before the court or the court
118 commissioner as provided by Section 78-3-31 and rules of the Judicial Council. The court or
119 the commissioner in all divorce cases shall enter the decree upon the evidence or, in the case of
120 a decree after default of the respondent, upon the petitioner's affidavit.

121 ~~[(2) The file, except the decree of divorce, may be sealed by order of the court upon the~~
122 ~~motion of either party. The sealed portion of the file is available to the public only upon an~~
123 ~~order of the court. The concerned parties, the attorneys of record or attorney filing a notice of~~
124 ~~appearance in the action, the Office of Recovery Services if a party to the proceedings has~~
125 ~~applied for or is receiving public assistance, or the court have full access to the entire record.~~
126 ~~This sealing does not apply to subsequent filings to enforce or amend the decree.]~~

127 (2) (a) A party to an action brought under this title or to an action under Title 78,
128 Chapter 45, Uniform Civil Liability for Support Act, Title 78, Chapter 45c, Utah Uniform
129 Child Custody Jurisdiction and Enforcement Act, Title 78, Chapter 45f, Uniform Interstate
130 Family Support Act, Title 78, Chapter 45g, Utah Uniform Parentage Act, or to an action to
131 modify or enforce a judgment in the action may file a motion to have the file other than the
132 final judgment, order, or decree classified as private.

133 (b) If the court finds that there are substantial interests favoring restricting access that
134 clearly outweigh the interests favoring access, the court may classify the file, or any part
135 thereof other than the final order, judgment, or decree, as private. An order classifying part of
136 the file as private does not apply to subsequent filings.

137 (c) The record is private until the judge determines it is possible to release the record
138 without prejudice to the interests that justified the closure. Any interested person may petition
139 the court to permit access to a record classified as private under this section. The petition shall
140 be served on the parties to the closure order.

141 Section 4. Section **30-3-15.3** is amended to read:

142 **30-3-15.3. Commissioners -- Powers.**

143 Commissioners shall:

144 (1) secure compliance with court orders;

145 (2) require attendance at the mandatory course as provided in Section 30-3-11.3;

146 (3) serve as judge pro tempore, master or referee on:

147 (a) assignment of the court; and

148 (b) with the written consent of the parties:

149 (i) orders to show cause where no contempt is alleged;

150 (ii) default divorces where the parties have had marriage counseling but there has been

151 no reconciliation;

152 (iii) uncontested actions under [~~the~~] Title 78, Chapter 45g, Utah Uniform Parentage153 Act [~~on Paternity~~];154 (iv) actions under [~~the~~] Title 78, Chapter 45, Uniform Civil Liability for Support Act;

155 and

156 (v) actions under [~~the Reciprocal Enforcement of~~] Title 78, Chapter 45f, Uniform157 Interstate Family Support Act; and

158 (4) represent the interest of children in divorce or annulment actions, and the parties in

159 appropriate cases.

160 Section 5. Section **59-1-403** is amended to read:161 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

162 (1) (a) Except as provided in this section, any of the following may not divulge or

163 make known in any manner any information gained by that person from any return filed with

164 the commission:

165 (i) a tax commissioner;

166 (ii) an agent, clerk, or other officer or employee of the commission; or

167 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or

168 town.

169 (b) Except as provided in Subsection (1)(c), an official charged with the custody of a

170 return filed with the commission is not required to produce the return or evidence of anything
171 contained in the return in any action or proceeding in any court, except:

172 (i) in accordance with judicial order;

173 (ii) on behalf of the commission in any action or proceeding under:

174 (A) this title; or

175 (B) other law under which persons are required to file returns with the commission;

176 (iii) on behalf of the commission in any action or proceeding to which the commission
177 is a party; or

178 (iv) on behalf of any party to any action or proceeding under this title if the report or
179 facts shown by the return are directly involved in the action or proceeding.

180 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
181 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
182 pertinent to the action or proceeding.

183 (2) This section does not prohibit:

184 (a) a person or that person's duly authorized representative from receiving a copy of
185 any return or report filed in connection with that person's own tax;

186 (b) the publication of statistics as long as the statistics are classified to prevent the
187 identification of particular reports or returns; and

188 (c) the inspection by the attorney general or other legal representative of the state of the
189 report or return of any taxpayer:

190 (i) who brings action to set aside or review a tax based on the report or return;

191 (ii) against whom an action or proceeding is contemplated or has been instituted under
192 this title; or

193 (iii) against whom the state has an unsatisfied money judgment.

194 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
195 commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative
196 Rulemaking Act, provide for a reciprocal exchange of information with:

197 (i) the United States Internal Revenue Service; or

198 (ii) the revenue service of any other state.

199 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
200 corporate franchise tax, the commission may by rule, made in accordance with Title 63,
201 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns
202 and other written statements with the federal government, any other state, any of the political
203 subdivisions of another state, or any political subdivision of this state, except as limited by
204 Sections 59-12-209 and 59-12-210, if these political subdivisions or the federal government
205 grant substantially similar privileges to this state.

206 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
207 corporate franchise tax, the commission may by rule, in accordance with Title 63, Chapter 46a,
208 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
209 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
210 due.

211 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
212 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
213 requested by the executive secretary, any records, returns, or other information filed with the
214 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
215 regarding the environmental assurance program participation fee.

216 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
217 provide that person sales and purchase volume data reported to the commission on a report,
218 return, or other information filed with the commission under:

219 (i) Chapter 13, Part 2, Motor Fuel; or

220 (ii) Chapter 13, Part 4, Aviation Fuel.

221 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
222 as defined in Section 59-22-202, the commission shall report to the manufacturer:

223 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
224 manufacturer and reported to the commission for the previous calendar year under Section
225 59-14-407; and

226 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
227 manufacturer for which a tax refund was granted during the previous calendar year under
228 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

229 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
230 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
231 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

232 (h) Notwithstanding Subsection (1), the commission may:

233 (i) provide to the Division of Consumer Protection within the Department of
234 Commerce and the attorney general data:

235 (A) reported to the commission under Section 59-14-212; or

236 (B) related to a violation under Section 59-14-211; and

237 (ii) upon request provide to any person data reported to the commission under
238 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

239 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
240 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning
241 and Budget, provide to the committee or office the total amount of revenues collected by the
242 commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
243 specified by the committee or office.

244 (j) Notwithstanding Subsection (1), the commission shall at the request of the
245 Legislature provide to the Legislature the total amount of sales or uses exempt under
246 Subsection 59-12-104 (50) reported to the commission in accordance with Section 59-12-105.

247 (k) Notwithstanding Subsection (1), the commission shall make the directory required
248 by Section 59-14-603 available for public inspection.

249 (l) Notwithstanding Subsection (1), the commission shall comply with the reporting
250 requirements of Section 10-1-409.

251 (m) Notwithstanding Subsection (1), the commission may share information with
252 federal, state, or local agencies as provided in Subsection 59-14-606(3).

253 (n) (i) Notwithstanding Subsection (1), the commission shall provide the Office of

254 Recovery Services within the Department of Human Services any relevant information
255 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
256 who has become obligated to the Office of Recovery Services.

257 (ii) The information described in Subsection (3)(n)(i) may be provided by the Office of
258 Recovery Services to any other state's child support collection agency involved in enforcing
259 that support obligation.

260 (o) (i) Notwithstanding Subsection (1), upon request from the state court administrator,
261 the commission shall provide to the state court administrator, the name, address, telephone
262 number, county of residence, and Social Security number on resident returns filed under
263 Chapter 10, Individual Income Tax Act.

264 (ii) The state court administrator may use the information described in Subsection
265 (3)(o)(i) only as a source list for the master jury list described in Section 78-46-10.

266 (4) (a) Reports and returns shall be preserved for at least three years.

267 (b) After the three-year period provided in Subsection (4)(a) the commission may
268 destroy a report or return.

269 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

270 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
271 the person shall be dismissed from office and be disqualified from holding public office in this
272 state for a period of five years thereafter.

273 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

274 Section 6. Section **59-10-540** is amended to read:

275 **59-10-540. Transferees.**

276 (1) The liability at law or in equity of a transferee of property of any person liable in
277 respect of any tax (including additions to tax, penalties or interest) imposed by this chapter,
278 shall be assessed, paid, and collected in the same manner and subject to the same provisions
279 and limitations as in the case of the tax to which the liability relates, except that the period of
280 limitations for assessment against the transferee shall be extended by one year for each
281 successive transfer, in order of transfer (from the person originally liable to the transferee

282 involved), but not by more than three years in the aggregate. As used in this section,
283 "transferee" includes donee, heir, legatee, devisee, and distributee.

284 (2) (a) If, before the expiration of the period of limitations for assessment of liability
285 of the transferee, a claim has been filed by the commission in any court against the person
286 originally liable or the last preceding transferee, based upon the liability of the person
287 originally liable, then the period of limitation for assessment of liability of the transferee shall
288 in no event expire prior to one year after such claim has been finally allowed, disallowed, or
289 otherwise disposed of.

290 (b) If, before expiration of the time prescribed in Subsection (1) or (2)(a) for the
291 assessment of the liability, the commission and the transferee have both consented in writing to
292 its assessment after such time, the liability may be assessed at any time prior to the expiration
293 of the period agreed upon. The period so agreed upon may be extended by subsequent
294 agreements in writing made before the expiration of the period previously agreed upon. For the
295 purpose of determining the period of limitation on credit or refund to the transferee of
296 overpayments of tax made by such transferee or overpayments of tax made by the transferor as
297 to which the transferee is legally entitled to credit or refund, such agreement and any extension
298 thereof are considered an agreement and extension thereof referred to in Section 59-10-516. If
299 the agreement is executed after the expiration of the period of limitation for assessment against
300 the original taxpayer, then in applying the limitations under Section 59-10-529 on the amount
301 of the credit or refund, the periods specified in Section 59-10-529 shall be increased by the
302 period from the date of such expiration to the date of the agreement.

303 (3) If any person is deceased, the period of limitation for assessment against him shall
304 be the period that would be in effect if he had lived.

305 (4) Notwithstanding the provisions of Section [~~59-10-545~~] 59-1-403 (relating to
306 confidentiality of return information) the commission shall use its powers to make available to
307 a transferee evidence necessary to enable the transferee to determine the liability of the original
308 taxpayer and of any preceding transferees, but without undue hardship to the original taxpayer
309 or preceding transferee.

310 Section 7. Section **62A-4a-116.6** is amended to read:

311 **62A-4a-116.6. Notice and opportunity for court hearing for persons listed in**
312 **Licensing Information System.**

313 (1) Persons whose names were listed on the Licensing Information System as of May
314 6, 2002 and who have not been the subject of a court determination with respect to the alleged
315 incident of abuse or neglect may at any time:

316 (a) request review by the division of their case and removal of their name from the
317 Licensing Information System pursuant to Subsection (3); or

318 (b) file a petition for an evidentiary hearing and a request for a finding of
319 unsubstantiated or without merit.

320 (2) Subsection (1) does not apply to an individual who has been the subject of any of
321 the following court determinations with respect to the alleged incident of abuse or neglect:

322 (a) conviction;

323 (b) adjudication under Title 78, Chapter 3a, Juvenile [~~Courts~~] Court Act of 1996;

324 (c) plea of guilty;

325 (d) plea of guilty and mentally ill; or

326 (e) no contest.

327 (3) If an alleged perpetrator listed on the Licensing Information System prior to May 6,
328 2002 requests removal of their name from the Licensing Information System, the division shall,
329 within 30 days:

330 (a) review the case to determine whether the incident of alleged abuse or neglect
331 qualifies as severe or chronic under Subsection 62A-4a-116.1(2) and if it does not, remove the
332 name from the Licensing Information System; or

333 (b) determine whether to file a petition for substantiation.

334 (4) If the division decides to file a petition, that petition must be filed no more than 14
335 days after the decision.

336 (5) The juvenile court shall act on the petition as provided in Subsection 78-3a-320(3).

337 (6) If a person whose name appears on the Licensing Information System prior to May

338 6, 2002 files a petition pursuant to Section 78-3a-320 during the time that an alleged
339 perpetrator's application for clearance to work with children or vulnerable adults is pending, the
340 court shall hear the matter on an expedited basis.

341 Section 8. Section **62A-4a-202.2** is amended to read:

342 **62A-4a-202.2. Notice to parents upon removal of child -- Locating noncustodial**
343 **parent -- Written statement of procedural rights and preliminary proceedings.**

344 (1) (a) Any peace officer or caseworker who takes a minor into protective custody
345 pursuant to Section 62A-4a-202.1 shall immediately use reasonable efforts to locate and
346 inform, through the most efficient means available, the parents, including a noncustodial
347 parent, the guardian, or responsible relative:

- 348 (i) that the minor has been taken into protective custody;
- 349 (ii) the reasons for removal and placement in protective custody;
- 350 (iii) that a written statement is available that explains the parent's procedural rights and
351 the preliminary stages of the investigation and shelter hearing; and
- 352 (iv) of a telephone number where the parent may access further information.

353 (b) For purposes of locating and informing the noncustodial parent as required in
354 Subsection (1)(a), the division shall search for the noncustodial parent through the national
355 parent locator database if the division is unable to locate the noncustodial parent through other
356 reasonable efforts.

357 (2) The attorney general's office shall adopt, print, and distribute a form for the written
358 statement described in Subsection (1) (a)(iii). The statement shall be made available to the
359 division and for distribution in schools, health care facilities, local police and sheriff's offices,
360 the division, and any other appropriate office within the Department of Human Services. The
361 notice shall be in simple language and include at least the following information:

- 362 (a) the conditions under which a minor may be released, hearings that may be required,
363 and the means by which the parent may access further specific information about a minor's case
364 and conditions of protective and temporary custody; and
- 365 (b) the rights of a minor and of the parent or guardian to legal counsel and to appeal.

366 (3) If a good faith attempt was made by the peace officer or caseworker to notify the
367 parent or guardian in accordance with the requirements of Subsection (1), failure to notify shall
368 be considered to be due to circumstances beyond the control of the peace officer or caseworker
369 and may not be construed to permit a new defense to any juvenile or judicial proceeding or to
370 interfere with any rights, procedures, or investigations provided for by this chapter or Title 78,
371 Chapter 3a, Juvenile ~~Courts~~ Court Act of 1996.

372 Section 9. Section **62A-4a-202.6** is amended to read:

373 **62A-4a-202.6. Child protective services investigators within the Office of**
374 **Attorney General -- Authority.**

375 (1) (a) Pursuant to Section 67-5-16 the attorney general may employ, with the consent
376 of the division, child protective services investigators to investigate reports of abuse or neglect
377 of a child that occur while the child is in the custody of the division.

378 (b) (i) Under the direction of the Board of Child and Family Services, the division
379 shall, in accordance with Subsection 62A-4a-409(5), contract with an independent child
380 protective service investigator to investigate reports of abuse or neglect of a child that occur
381 while the child is in the custody of the division.

382 (ii) The executive director of the department shall designate an entity within the
383 department, other than the division, to monitor the contract for the investigators described in
384 Subsection (1)(b)(i).

385 (2) The investigators described in Subsection (1) may also investigate allegations of
386 abuse or neglect of a child by a department employee or a licensed substitute care provider.

387 (3) The investigators described in Subsection (1), if not peace officers, shall have the
388 same rights, duties, and authority of a child protective services investigator employed by the
389 division to:

390 (a) make a thorough investigation upon receiving either an oral or written report of
391 alleged abuse or neglect of a child, with the primary purpose of that investigation being the
392 protection of the child;

393 (b) make an inquiry into the child's home environment, emotional, or mental health, the

- 394 nature and extent of the child's injuries, and the child's physical safety;
- 395 (c) make a written report of their investigation, including determination regarding
- 396 whether the alleged abuse or neglect was substantiated, unsubstantiated, or without merit, and
- 397 forward a copy of that report to the division within the time mandates for investigations
- 398 established by the division;
- 399 (d) immediately consult with school authorities to verify the child's status in
- 400 accordance with Sections 53A-11-101 through 53A-11-103 when a report is based upon or
- 401 includes an allegation of educational neglect;
- 402 (e) enter upon public or private premises, using appropriate legal processes, to
- 403 investigate reports of alleged child abuse or neglect; and
- 404 (f) take a child into protective custody, and deliver the child to a law enforcement
- 405 officer, or to the division. Control and jurisdiction over the child shall be determined by the
- 406 provisions of Title 62A, Chapter 4a, Part 2, Child Welfare Services, Title 78, Chapter 3a,
- 407 Juvenile ~~[Courts]~~ Court Act of 1996, and as otherwise provided by law.

408 Section 10. Section **62A-11-104** is amended to read:

409 **62A-11-104. Duties of office.**

410 The office has the following duties:

411 (1) to provide child support services if:

412 (a) the office has received an application for child support services;

413 (b) the state has provided public assistance; or

414 (c) a child lives out of the home in the protective custody, temporary custody, or

415 custody or care of the state;

416 (2) to carry out the obligations of the department contained in this chapter and in Title

417 78, Chapters 45, Uniform Civil Liability for Support Act, Chapter ~~[45a]~~ 45g, Utah Uniform

418 Parentage Act ~~[on Paternity]~~, and Chapter 45f, Uniform Interstate Family Support Act, for the

419 purpose of collecting child support;

420 (3) to collect money due the department which could act to offset expenditures by the

421 state;

422 (4) to cooperate with the federal government in programs designed to recover health
423 and social service funds;

424 (5) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution,
425 and reimbursable expenses owed to the state or any of its political subdivisions, if the office
426 has contracted to provide collection services;

427 (6) to implement income withholding for collection of child support in accordance with
428 Part 4, Income Withholding in IV-D Cases, of this chapter;

429 (7) to enter into agreements with financial institutions doing business in the state to
430 develop and operate, in coordination with such financial institutions, a data match system in the
431 manner provided for in Section 62A-11-304.5;

432 (8) to establish and maintain the state case registry in the manner required by the Social
433 Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

434 (a) the amount of monthly or other periodic support owed under the order, and other
435 amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under
436 the order;

437 (b) any amount described in Subsection (8)(a) that has been collected;

438 (c) the distribution of collected amounts;

439 (d) the birth date of any child for whom the order requires the provision of support; and

440 (e) the amount of any lien imposed with respect to the order pursuant to this part;

441 (9) to contract with the Department of Workforce Services to establish and maintain
442 the new hire registry created under Section 35A-7-103;

443 (10) to determine whether an individual who has applied for or is receiving cash
444 assistance or Medicaid is cooperating in good faith with the office as required by Section
445 62A-11-307.2;

446 (11) to finance any costs incurred from collections, fees, General Fund appropriation,
447 contracts, and federal financial participation; and

448 (12) to provide notice to a noncustodial parent in accordance with Section
449 62A-11-304.4 of the opportunity to contest the accuracy of allegations by a custodial parent of

450 nonpayment of past-due child support, prior to taking action against a noncustodial parent to
451 collect the alleged past-due support.

452 Section 11. Section **62A-11-328** is amended to read:

453 **62A-11-328. Information received from State Tax Commission provided to other**
454 **states' child support collection agencies.**

455 The office shall, upon request, provide to any other state's child support collection
456 agency the information which it receives from the State Tax Commission under Subsection
457 [~~59-10-545(2)~~] 59-1-403(3)(n), with regard to a support debt which that agency is involved in
458 enforcing.

459 Section 12. Section **63A-11-102** is amended to read:

460 **63A-11-102. Definitions.**

461 For purposes of this chapter:

462 (1) "Child welfare case" means a proceeding under Title 78, Chapter 3a, Juvenile
463 [~~Courts~~] Court Act of 1996, Part 3, Abuse, Neglect, and Dependency Proceedings, or 4,
464 Termination of Parental Rights Act.

465 (2) "Contracted parental defense attorney" means an attorney or law firm authorized to
466 practice law in Utah who is under contract with the office to provide parental defense in child
467 welfare cases.

468 (3) "Director" means the director of the office.

469 (4) "Fund" means the Child Welfare Parental Defense Fund established in Section
470 63A-11-203.

471 (5) "Office" means the Office of Child Welfare Parental Defense created in Section
472 63A-11-103.

473 Section 13. Section **77-20-4** is amended to read:

474 **77-20-4. Bail to be posted in cash, by credit or debit card, or written undertaking.**

475 (1) Bail may be posted:

476 (a) in cash;

477 (b) by written undertaking with or without sureties at the discretion of the magistrate;

478 or

479 (c) by credit or debit card, at the discretion of the judge or bail commissioner.

480 [~~(2)~~] A written undertaking shall substantially conform to any form approved by the
481 ~~Supreme Court.~~]

482 [~~(3)~~] (2) A bail bond may not be accepted without receiving in writing at the time the
483 bail is posted the current mailing address and telephone number of the surety.

484 [~~(4)~~] (3) Bail posted by debit or credit card, less the fee charged by the financial
485 institution, shall be tendered to the courts.

486 [~~(5)~~] (4) Bail refunded by the court may be refunded by credit to the debit or credit
487 card, or cash. The amount refunded shall be the full amount received by the court under
488 Subsection [~~(4)~~] (3), which may be less than the full amount of the bail set by the court.

489 Section 14. Section **78-3a-104** is amended to read:

490 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

491 (1) Except as otherwise provided by law, the juvenile court has exclusive original
492 jurisdiction in proceedings concerning:

493 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a
494 person younger than 21 years of age who has violated any law or ordinance before becoming
495 18 years of age, regardless of where the violation occurred, excluding traffic laws and boating
496 and ordinances;

497 (b) a person 21 years of age or older who has failed or refused to comply with an order
498 of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's
499 21st birthday; however, the continuing jurisdiction is limited to causing compliance with
500 existing orders;

501 (c) a minor who is an abused child, neglected child, or dependent child, as those terms
502 are defined in Section 78-3a-103;

503 (d) a protective order for a minor pursuant to the provisions of Title 78, Chapter 3h,
504 Child Protective Orders, which the juvenile court may transfer to the district court if the
505 juvenile court has entered an ex parte protective order and finds that:

- 506 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
507 parent of the child who is the object of the petition;
- 508 (ii) the district court has a petition pending or an order related to custody or parent-time
509 entered under Title 30, Chapter 3, Divorce, Title 30, Chapter 6, Cohabitant Abuse Act, or Title
510 78, Chapter ~~[45a]~~ 45g, Utah Uniform Parentage Act ~~[on Paternity]~~, in which the petitioner and
511 the respondent are parties; and
- 512 (iii) the best interests of the child will be better served in the district court;
- 513 (e) appointment of a guardian of the person or other guardian of a minor who comes
514 within the court's jurisdiction under other provisions of this section;
- 515 (f) the termination of the legal parent-child relationship in accordance with Part 4,
516 Termination of Parental Rights Act, including termination of residual parental rights and
517 duties;
- 518 (g) the treatment or commitment of a mentally retarded minor;
- 519 (h) a minor who is a habitual truant from school;
- 520 (i) the judicial consent to the marriage of a minor under age 16 upon a determination of
521 voluntariness or where otherwise required by law, employment, or enlistment of a minor when
522 consent is required by law;
- 523 (j) any parent or parents of a minor committed to a secure youth corrections facility, to
524 order, at the discretion of the court and on the recommendation of a secure youth corrections
525 facility, the parent or parents of a minor committed to a secure youth corrections facility for a
526 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth
527 corrections facility therapist, who has supervision of that parent's or parents' minor, or any
528 other therapist the court may direct, for a period directed by the court as recommended by a
529 secure youth corrections facility;
- 530 (k) a minor under Title 55, Chapter 12, Interstate Compact ~~[on]~~ for Juveniles;
- 531 (l) the treatment or commitment of a mentally ill child. The court may commit a child
532 to the physical custody of a local mental health authority in accordance with the procedures and
533 requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to

534 Division of Substance Abuse and Mental Health. The court may not commit a child directly to
535 the Utah State Hospital;

536 (m) the commitment of a minor in accordance with Section 62A-15-301;

537 (n) de novo review of final agency actions resulting from an informal adjudicative
538 proceeding as provided in Section 63-46b-15; and

539 (o) adoptions conducted in accordance with the procedures described in Title 78,
540 Chapter 30, Adoption, when the juvenile court has previously entered an order terminating the
541 rights of a parent and finds that adoption is in the best interest of the minor.

542 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive
543 jurisdiction over any traffic or boating offense committed by a minor under 16 years of age and
544 concurrent jurisdiction over all other traffic or boating offenses committed by a minor 16 years
545 of age or older, except that the court shall have exclusive jurisdiction over the following
546 offenses committed by a minor under 18 years of age:

547 (a) Section 76-5-207, automobile homicide;

548 (b) Section 41-6a-502, operating a vehicle while under the influence of alcohol or
549 drugs;

550 (c) Section 41-6a-528, reckless driving or Section 73-18-12, reckless operation;

551 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or
552 semitrailer for an extended period of time; and

553 (e) Section ~~[41-6a-206]~~ 41-6a-210 or 73-18-20, fleeing a peace officer.

554 (3) The court also has jurisdiction over traffic and boating offenses that are part of a
555 single criminal episode filed in a petition that contains an offense over which the court has
556 jurisdiction.

557 (4) The juvenile court has jurisdiction over an ungovernable or runaway minor who is
558 referred to it by the Division of Child and Family Services or by public or private agencies that
559 contract with the division to provide services to that minor where, despite earnest and
560 persistent efforts by the division or agency, the minor has demonstrated that he:

561 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities

562 to the extent that his behavior or condition endangers his own welfare or the welfare of others;
563 or

564 (b) has run away from home.

565 (5) This section does not restrict the right of access to the juvenile court by private
566 agencies or other persons.

567 (6) The juvenile court has jurisdiction of all magistrate functions relative to cases
568 arising under Section 78-3a-602.

569 (7) The juvenile court has jurisdiction to make a finding of substantiated,
570 unsubstantiated, or without merit, in accordance with Section 78-3a-320.

571 Section 15. Section **78-3a-105** is amended to read:

572 **78-3a-105. Concurrent jurisdiction -- District court and juvenile court.**

573 (1) The district court or other court has concurrent jurisdiction with the juvenile court
574 as follows:

575 (a) when a person who is 18 years of age or older and who is under the continuing
576 jurisdiction of the juvenile court under Section 78-3a-118 violates any federal, state, or local
577 law or municipal ordinance; and

578 (b) in establishing paternity and ordering testing for the purposes of establishing
579 paternity, in accordance with Title 78, Chapter [45a] 45g, Utah Uniform Parentage Act [on
580 Paternity], with regard to proceedings initiated under Part 3, Abuse, Neglect, and Dependency
581 Proceedings, or Part 4, Termination of Parental Rights Act.

582 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth
583 certificate if the court otherwise has jurisdiction over the minor.

584 (3) This section does not deprive the district court of jurisdiction to appoint a guardian
585 for a minor, or to determine the support, custody, and parent-time of a minor upon writ of
586 habeas corpus or when the question of support, custody, and parent-time is incidental to the
587 determination of a cause in the district court.

588 (4) (a) Where a support, custody, or parent-time award has been made by a district
589 court in a divorce action or other proceeding, and the jurisdiction of the district court in the

590 case is continuing, the juvenile court may acquire jurisdiction in a case involving the same
591 minor if the minor is dependent, abused, neglected, or otherwise comes within the jurisdiction
592 of the juvenile court under Section 78-3a-104.

593 (b) The juvenile court may, by order, change the custody, subject to Subsection
594 30-3-10(4), support, parent-time, and visitation rights previously ordered in the district court as
595 necessary to implement the order of the juvenile court for the safety and welfare of the minor.
596 The juvenile court order remains in effect so long as the jurisdiction of the juvenile court
597 continues.

598 (c) When a copy of the findings and order of the juvenile court has been filed with the
599 district court, the findings and order of the juvenile court are binding on the parties to the
600 divorce action as though entered in the district court.

601 (5) The juvenile court has jurisdiction over questions of custody, support, and
602 parent-time, of a minor who comes within the court's jurisdiction under this section or Section
603 78-3a-104.

604 Section 16. Section **78-3a-116** is amended to read:

605 **78-3a-116. Hearings -- Record -- County attorney or district attorney**
606 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**
607 **evidence.**

608 (1) (a) A verbatim record of the proceedings shall be taken by an official court reporter
609 or by means of a mechanical recording device in all cases that might result in deprivation of
610 custody as defined in this chapter. In all other cases a verbatim record shall also be made
611 unless dispensed with by the court.

612 (b) (i) Notwithstanding any other provision, including Title 63, Chapter 2, Government
613 Records Access and Management Act, a record of a proceeding made under Subsection (1)(a)
614 shall be released by the court to any person upon a finding on the record for good cause.

615 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the
616 court shall:

617 (A) provide notice to all subjects of the record that a request for release of the record

618 has been made; and

619 (B) allow sufficient time for the subjects of the record to respond before making a
620 finding on the petition.

621 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the
622 court's jurisdiction over the subjects of the proceeding ended more than 12 months prior to the
623 request.

624 (iv) For purposes of this Subsection (1)(b):

625 (A) "record of a proceeding" does not include documentary materials of any type
626 submitted to the court as part of the proceeding, including items submitted under Subsection
627 (4)(a); and

628 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal
629 guardian, the Division of Child and Family Services, and any other party to the proceeding.

630 (v) This Subsection (1)(b) applies:

631 (A) to records of proceedings made on or after November 1, 2003 in districts selected
632 by the Judicial Council as pilot districts under Subsection 78-3-21(15)(a); and

633 (B) to records of proceedings made on or after July 1, 2004 in all other districts.

634 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a
635 prosecution district, the district attorney shall represent the state in any proceeding in a minor's
636 case.

637 (b) The attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child
638 and Family Services, and Title 78, Chapter 3a, Juvenile ~~Courts~~ Court Act of 1996, relating to:

639 (i) protection or custody of an abused, neglected, or dependent child; and

640 (ii) petitions for termination of parental rights.

641 (c) The attorney general shall represent the Division of Child and Family Services in
642 actions involving minors who have not been adjudicated as abused or neglected, but who are
643 otherwise committed to the custody of that division by the juvenile court, and who are
644 classified in the division's management information system as having been placed in custody
645 primarily on the basis of delinquent behavior or a status offense. Nothing in this Subsection

646 (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to
647 represent the state in those matters, in accordance with the provisions of Subsection (2)(a).

648 (3) The board may adopt special rules of procedure to govern proceedings involving
649 violations of traffic laws or ordinances, fish and game laws, and boating laws. However,
650 proceedings involving offenses under Section 78-3a-506 are governed by that section regarding
651 suspension of driving privileges.

652 (4) (a) For the purposes of determining proper disposition of the minor in dispositional
653 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and
654 in hearings upon petitions for termination of parental rights, written reports and other material
655 relating to the minor's mental, physical, and social history and condition may be received in
656 evidence and may be considered by the court along with other evidence. The court may require
657 that the person who wrote the report or prepared the material appear as a witness if the person
658 is reasonably available.

659 (b) For the purpose of determining proper disposition of a minor alleged to be or
660 adjudicated as abused, neglected, or dependent, dispositional reports prepared by Foster Care
661 Citizen Review Boards pursuant to Section 78-3g-103 may be received in evidence and may be
662 considered by the court along with other evidence. The court may require any person who
663 participated in preparing the dispositional report to appear as a witness, if the person is
664 reasonably available.

665 (5) (a) In an abuse, neglect, or dependency proceeding occurring after the
666 commencement of a shelter hearing under Section 78-3a-306 or the filing of a petition under
667 Section 78-3a-305, each party to the proceeding shall provide in writing to the other parties or
668 their counsel any information which the party:

669 (i) plans to report to the court at the proceeding; or

670 (ii) could reasonably expect would be requested of the party by the court at the
671 proceeding.

672 (b) The disclosure required under Subsection (5)(a) shall be made:

673 (i) for dispositional hearings under Sections 78-3a-310 and 78-3a-311, no less than five

674 days before the proceeding;

675 (ii) for proceedings under Title 78, Chapter 3a, Part 4, Termination of Parental Rights
676 Act, in accordance with Utah Rules of Civil Procedure; and

677 (iii) for all other proceedings, no less than five days before the proceeding.

678 (c) If a party to a proceeding obtains information after the deadline in Subsection
679 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the
680 party certifies to the court that the information was obtained after the deadline.

681 (d) Subsection (5)(a) does not apply to:

682 (i) pretrial hearings; and

683 (ii) the frequent, periodic review hearings held in a dependency drug court case to
684 assess and promote the parent's progress in substance abuse treatment.

685 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court
686 may, in its discretion, consider evidence of statements made by a minor under eight years of
687 age to a person in a trust relationship.

688 Section 17. Section **78-3a-502** is amended to read:

689 **78-3a-502. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal**
690 **referral -- Citation -- Failure to appear.**

691 (1) Proceedings in minor's cases are commenced by petition.

692 (2) (a) A peace officer or any public official of the state, any county, city, or town
693 charged with the enforcement of the laws of the state or local jurisdiction shall file a formal
694 referral with the juvenile court within ten days of the minor's arrest. If the arrested minor is
695 taken to a detention facility, the formal referral shall be filed with the juvenile court within 72
696 hours, excluding weekends and holidays. There shall be no requirement to file a formal
697 referral with the juvenile court on an offense that would be a class B misdemeanor or less if
698 committed by an adult.

699 (b) When the court is informed by a peace officer or other person that a minor is or
700 appears to be within the court's jurisdiction, the probation department shall make a preliminary
701 inquiry to determine whether the interests of the public or of the minor require that further

702 action be taken.

703 (c) Based on the preliminary inquiry, the court may authorize the filing of or request
704 that the county attorney or district attorney as provided under Sections 17-18-1 and 17-18-1.7
705 file a petition. In its discretion, the court may, through its probation department, enter into a
706 written consent agreement with the minor and the minor's parent, guardian, or custodian for the
707 nonjudicial adjustment of the case if the facts are admitted and establish prima facie
708 jurisdiction. Efforts to effect a nonjudicial adjustment may not extend for a period of more
709 than ~~[two months]~~ 90 days without leave of a judge of the court, who may extend the period for
710 an additional ~~[two months]~~ 90 days. ~~[The probation department may not in connection with~~
711 ~~any nonjudicial adjustment compel any person to appear at any conference, produce any papers,~~
712 ~~or visit any place.]~~

713 (d) The nonjudicial adjustment of a case may include conditions agreed upon as part of
714 the nonjudicial closure:

- 715 (i) payment of a financial penalty of not more than ~~[\$100]~~ \$250 to the Juvenile Court;
- 716 (ii) payment of victim restitution;
- 717 (iii) satisfactory completion of compensatory service;
- 718 (iv) referral to an appropriate provider for counseling or treatment;
- 719 (v) attendance at substance abuse programs or counseling programs;
- 720 (vi) compliance with specified restrictions on activities and associations; and
- 721 (vii) other reasonable actions that are in the interest of the minor and the community.

722 (e) Proceedings involving offenses under Section 78-3a-506 are governed by that
723 section regarding suspension of driving privileges.

724 (f) A violation of Section 76-10-105 that is subject to the jurisdiction of the Juvenile
725 Court shall include a minimum fine or penalty of \$60 and participation in a court-approved
726 tobacco education program, which may include a participation fee.

727 (3) Except as provided in Section 78-3a-602, in the case of a minor 14 years of age or
728 older, the county attorney, district attorney, or attorney general may commence an action by
729 filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction

730 and certify the minor to the district court.

731 (4) (a) In cases of violations of fish and game laws, boating laws, class B and class C
732 misdemeanors, other infractions or misdemeanors as designated by general order of the Board
733 of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the
734 Juvenile Court, a petition is not required and the issuance of a citation as provided in Section
735 78-3a-503 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is not
736 required unless requested by the court.

737 (b) Any failure to comply with the time deadline on a formal referral may not be the
738 basis of dismissing the formal referral.

739 Section 18. Section **78-30-4.14** is amended to read:

740 **78-30-4.14. Necessary consent to adoption or relinquishment for adoption.**

741 (1) Either relinquishment of a child for adoption or consent to adoption of a child is
742 required from:

743 (a) the adoptee, if he is more than 12 years of age, unless he does not have the mental
744 capacity to consent;

745 (b) both parents or the surviving parent of an adoptee who was conceived or born
746 within a marriage, unless the adoptee is 18 years of age or older;

747 (c) the mother of an adoptee born outside of marriage;

748 (d) any biological parent who has been adjudicated to be the child's biological father by
749 a court of competent jurisdiction prior to the mother's execution of consent to adoption or her
750 relinquishment of the child for adoption;

751 (e) any biological parent who has executed and filed a voluntary declaration of
752 paternity with the state registrar of vital statistics within the Department of Health in
753 accordance with Title 78, Chapter 45e, Voluntary Declaration of Paternity Act, prior to the
754 mother's execution of consent to adoption or her relinquishment of the child for adoption,
755 which voluntary declaration of paternity is considered filed when entered into a database that
756 can be accessed by the Department of Health;

757 (f) an unmarried biological father of an adoptee, only if the requirements and

758 conditions of Subsection (2)(a) or (b) have been proven; and

759 (g) the person or agency to whom an adoptee has been relinquished and that is placing
760 the child for adoption.

761 (2) In accordance with Subsection (1), the consent of an unmarried, biological father is
762 necessary only if the father has strictly complied with the requirements of this section.

763 (a) (i) With regard to a child who is placed with adoptive parents more than six months
764 after birth, an unmarried biological father shall have developed a substantial relationship with
765 the child, taken some measure of responsibility for the child and the child's future, and
766 demonstrated a full commitment to the responsibilities of parenthood by financial support of
767 the child, of a fair and reasonable sum and in accordance with the father's ability, when not
768 prevented from doing so by the person or authorized agency having lawful custody of the child,
769 and either:

770 (A) visiting the child at least monthly when physically and financially able to do so,
771 and when not prevented from doing so by the person or authorized agency having lawful
772 custody of the child; or

773 (B) regular communication with the child or with the person or agency having the care
774 or custody of the child, when physically and financially unable to visit the child, and when not
775 prevented from doing so by the person or authorized agency having lawful custody of the child.

776 (ii) The subjective intent of an unmarried biological father, whether expressed or
777 otherwise, unsupported by evidence of acts specified in this Subsection (2) shall not preclude a
778 determination that the father failed to meet the requirements of Subsection (2)(a)(i).

779 (iii) An unmarried biological father who openly lived with the child for a period of six
780 months within the one-year period after the birth of the child and immediately preceding
781 placement of the child with adoptive parents, and openly held himself out to be the father of the
782 child during that period, shall be considered to have developed a substantial relationship with
783 the child and to have otherwise met the requirements of Subsection (2)(a)(i).

784 (b) With regard to a child who is under six months of age at the time he is placed with
785 adoptive parents, an unmarried biological father shall have manifested a full commitment to his

786 parental responsibilities by performing all of the acts described in this Subsection (2) prior to
787 the time the mother executes her consent for adoption or relinquishes the child for adoption.

788 The father shall:

789 (i) initiate proceedings to establish paternity under Title 78, Chapter ~~[45a]~~ 45g, Utah
790 Uniform Parentage Act ~~[on Paternity]~~, and file with that court a sworn affidavit stating that he
791 is fully able and willing to have full custody of the child, setting forth his plans for care of the
792 child, and agreeing to a court order of child support and the payment of expenses incurred in
793 connection with the mother's pregnancy and the child's birth;

794 (ii) file notice of the commencement of paternity proceedings with the state registrar of
795 vital statistics within the Department of Health, in a confidential registry established by the
796 department for that purpose, which notice is considered filed when the notice is entered in the
797 registry of notices from unmarried biological fathers; and

798 (iii) if he had actual knowledge of the pregnancy, paid a fair and reasonable amount of
799 the expenses incurred in connection with the mother's pregnancy and the child's birth, in
800 accordance with his means, and when not prevented from doing so by the person or authorized
801 agency having lawful custody of the child.

802 (3) An unmarried biological father whose consent is required under Subsection (1) or
803 (2) may nevertheless lose his right to consent if the court determines, in accordance with the
804 requirements and procedures of Title 78, Chapter 3a, Part 4, Termination of Parental Rights
805 Act, that his rights should be terminated, based on the petition of any interested party.

806 (4) If there is no showing that an unmarried biological father has consented to or
807 waived his rights regarding a proposed adoption, the petitioner shall file with the court a
808 certificate from the state registrar of vital statistics within the Department of Health, stating
809 that a diligent search has been made of the registry of notices from unmarried biological fathers
810 described in Subsection (2)(b)(ii), and that no filing has been found pertaining to the father of
811 the child in question, or if a filing is found, stating the name of the putative father and the time
812 and date of filing. That certificate shall be filed with the court prior to entrance of a final
813 decree of adoption.

814 (5) An unmarried biological father who does not fully and strictly comply with each of
815 the conditions provided in this section, is considered to have waived and surrendered any right
816 in relation to the child, including the right to notice of any judicial proceeding in connection
817 with the adoption of the child, and his consent to the adoption of the child is not required.

818 Section 19. **Repealer.**

819 This bill repeals:

820 Section **59-10-545, Confidentiality of information.**