

JUVENILE COURT HEARINGS AND RECORDS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Patrice Arent

AN ACT RELATING TO THE JUDICIAL CODE; LOWERING THE AGE AT WHICH JUVENILE RECORDS CAN BE ACCESSED; GIVING THE COURT DISCRETION NOT TO RELEASE JUVENILE RECORDS; CHANGING THE COURT'S DISCRETION ON WHO TO ADMIT TO JUVENILE HEARINGS; ADDING PROVISIONS TO ALLOW FOR ACCESSING JUVENILE RECORDS OF ADULTS CHARGED WITH FELONIES; AND MAKING TECHNICAL CORRECTIONS.

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

AMENDS:

78-3a-115, as last amended by Chapter 103 and renumbered and amended by Chapter 365, Laws of Utah 1997

78-3a-206, as enacted by Chapter 1, Laws of Utah 1996

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

Section 1. Section **78-3a-115** is amended to read:

78-3a-115. Hearings -- Public excluded, exceptions -- Victims admitted -- Minor's cases heard separately from adult cases -- Minor or parents or custodian heard separately -- Continuance of hearing -- Consolidation of proceedings involving more than one minor.

(1) [(a)] Hearings in minor's cases shall be held before the court without a jury and may be conducted in an informal manner. [The court shall exclude the general public and admit only those persons who have a direct interest in the case or in the work of the court or who have been requested by the parent or legal guardian to be present.]

(a) In abuse, neglect, and dependency cases, the court shall exclude all persons who do not have a direct interest in the proceedings.

(b) In delinquency cases, the court shall admit all persons who have a direct interest in the

1 case, and:

2 (i) if the minor is 14 years of age or older, the court shall admit any person unless the
3 hearing is closed by the court upon findings on the record for good cause;

4 (ii) if the minor is 13 years of age or younger, the court may admit persons requested by
5 the parent or legal guardian to be present.

6 [(b)] (c) The victim of any act charged in a petition or information involving an offense
7 committed by a minor which if committed by an adult would be a felony shall, upon request, be
8 afforded all rights afforded victims in Title 77, Chapter 36, Cohabitant Abuse Procedures Act,
9 Title 77, Chapter 37, Victims' Rights, and Title 77, Chapter 38, Rights of Crime Victims Act. The
10 notice provisions in Section 77-38-3 do not apply to important juvenile justice hearings as defined
11 in Section 77-38-2.

12 [(c)] (d) A victim, upon request to appropriate juvenile court personnel, shall have the right
13 to inspect and duplicate juvenile court legal records that have not been expunged concerning:

14 (i) the scheduling of any court hearings on the petition;

15 (ii) any findings made by the court; and

16 (iii) any sentence or decree imposed by the court.

17 ~~[(2) Notwithstanding Subsection (1), if a proceeding is conducted on a written petition~~
18 ~~charging a minor 16 years of age or older with an offense which if committed by an adult would~~
19 ~~be a felony or a misdemeanor as provided in Section 77-38-5, the court shall admit any person to~~
20 ~~the proceeding unless closed by the judge upon findings on the record of good cause.]~~

21 [(3)] (2) Minor's cases shall be heard separately from adult cases. The minor or his parents
22 or custodian may be heard separately when considered necessary by the court. The hearing may
23 be continued from time to time to a date specified by court order.

24 [(4)] (3) When more than one minor is involved in a home situation which may be found
25 to constitute neglect or dependency, or when more than one minor is alleged to be involved in the
26 same law violation, the proceedings may be consolidated, except that separate hearings may be
27 held with respect to disposition.

28 Section 2. Section **78-3a-206** is amended to read:

29 **78-3a-206. Court records - Inspection.**

30 (1) The court and the probation department shall keep records as required by the board and
31 the presiding judge.

1 (2) Court records shall be open to inspection by:

2 (a) the parents or guardian, other parties in the case, the attorneys, and agencies to which
3 custody of a minor has been transferred; and

4 (b) the Division of Law Enforcement and Technical Services for the purpose of
5 establishing good character for issuance of a concealed firearm permit as provided in Section
6 53-5-704.

7 (3) With the consent of the judge, court records may be inspected by the minor, by persons
8 having a legitimate interest in the proceedings, and by persons conducting pertinent research
9 studies.

10 (4) (a) If a petition is filed charging a minor 16 years of age or older with an offense that
11 would be a felony if committed by an adult, the court shall make available to any person upon
12 request the petition, any adjudication or disposition orders, and the delinquency history summary
13 of the minor charged.

14 (b) If a petition is filed charging a minor 14 or 15 years of age with an offense that would
15 be a felony if committed by an adult, the court shall make available to any person upon request the
16 petition, any adjudication or disposition orders, and the delinquency history summary of the minor
17 charged unless the records are closed by the court upon findings on the record for good cause.

18 (5) Probation officers' records and reports of social and clinical studies are not open to
19 inspection, except by consent of the court, given under rules adopted by the board.

20 (6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency
21 history summary of any person charged as an adult with a felony offense shall be made available
22 to any person upon request.

23 (b) This provision does not apply to records that have been destroyed or expunged in
24 accordance with court rules.

25 (c) Records that have been archived shall be made available, however the court may
26 charge a reasonable fee to cover the costs associated with retrieving archived records.

Legislative Review Note
as of 12-1-97 3:43 PM

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

Office of Legislative Research and General Counsel