

1 **LIMIT ON CHILD WELFARE**
2 **RECOMMENDATIONS AND RULINGS**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Mike Thompson**

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Administrative Procedures Act and the Judicial Code.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ limits factors that may be considered when an agency or court recommends or rules
13 on the custody, placement, or other disposition alternative of a minor, or the
14 termination of parental rights.

15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 ENACTS:

21 **63-46b-2.1**, Utah Code Annotated 1953

22 **78-7-46**, Utah Code Annotated 1953

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

25 Section 1. Section **63-46b-2.1** is enacted to read:

26 **63-46b-2.1. Bases for certain recommendations and decisions limited.**

27 (1) Except as provided in Subsection (2), no agency may recommend or rule on the



28 custody, placement, including foster placement, or other disposition alternative for a minor, or
29 the termination of parental rights, based on the fact that a parent or guardian of the minor
30 lawfully does one or more of the following:

- 31 (a) legally possesses or uses a firearm or other weapon;
- 32 (b) espouses particular religious beliefs ~~h~~ [~~or engages in particular religious practices~~] ~~h~~ ; or
- 33 (c) schools the minor or other minors outside the public education system or is
34 otherwise sympathetic to schooling a minor outside the public education system.

35 (2) Subsection (1) does not prohibit a recommendation or ruling based on the
36 compatibility of a minor with a particular custody, placement, or other disposition alternative
37 as determined by the presence of any of the factors in Subsections (1)(a) through (1)(c).

38 Section 2. Section **78-7-46** is enacted to read:

39 **78-7-46. Bases for certain decisions limited.**

40 (1) Except as provided in Subsection (2), no court may rule on the custody, placement,
41 including foster placement, or other disposition alternative for a minor, or the termination of
42 parental rights, based on the fact that a parent or guardian of the minor lawfully does one or
43 more of the following:

- 44 (a) legally possesses or uses a firearm or other weapon;
- 45 (b) espouses particular religious beliefs ~~h~~ [~~or engages in particular religious practices~~] ~~h~~ ; or
- 46 (c) schools the minor or other minors outside the public education system or is
47 otherwise sympathetic to schooling a minor outside the public education system.

48 (2) Subsection (1) does not prohibit a ruling based on the compatibility of a minor with
49 a particular custody, placement, or other disposition alternative as determined by the presence
50 of any of the factors in Subsections (1)(a) through (1)(c).

Legislative Review Note
as of 12-5-03 9:10 AM

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

Office of Legislative Research and General Counsel

Fiscal Note**Limit on Child Welfare Recommendations and Rulings***15-Jan-04***Bill Number HB0197***1:24 PM*

State Impact

It is estimated that provisions of this bill can be implemented with existing resources.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst