

1                   **CHILD ABUSE AND NEGLECT REGISTRY -**  
2                               **MANAGEMENT AND LICENSING**  
3                               **INFORMATION SYSTEMS AMENDMENTS**

4   2008 GENERAL SESSION

5   STATE OF UTAH

6   **Chief Sponsor: Gene Davis**

7   House Sponsor: David Litvack

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9   **LONG TITLE**

10 **Committee Note:**

11           The Child Welfare Legislative Oversight Panel recommended this bill.

12 **General Description:**

13           This bill amends provisions of the Utah Human Services Code and the ~~§~~→ [Juvenile Court  
14 ~~Act of 1996]~~ **Government Records Access and Management Act** ←~~§~~ relating to the Management  
14a Information System maintained by the  
15 Department of Human Services.

16 **Highlighted Provisions:**

17           This bill:

18 ~~§~~→ [→ ~~provides that reports that are found to be without merit and false may not be~~  
19 ~~included in the Management Information System;~~

20 → ~~provides that contract providers for the Division of Child and Family Services and~~  
21 ~~designated court clerks may only have access to reports on the Management~~  
22 ~~Information System that are substantiated or supported;~~

23 → ~~places limitations on the use of certain reports on the Management Information~~  
24 ~~System as evidence in proceedings for child custody, a protection order, or divorce;~~

25 → ~~requires that, when the division or a court makes a finding that a report is without~~  
26 ~~merit, the division or the court must also determine whether the report is false;~~

27 → ~~describes how long a report remains on the Management Information System;]~~

27a       ▶ **modifies provisions related to access to records in the Management Information System;**



- 27b            ► establishes a procedure for providing an alleged perpetrator of child abuse, neglect,  
27c or dependency with notice and an opportunity to challenge:  
27d            • a finding of unsupported or without merit by the division; and  
27e            • the listing of the finding in the Management Information System; ←§

- 28           ▶ provides that proceedings for judicial review of a final agency action relating to a  
 29 report on the Management Information System are closed to the public;  
 30           ▶ grants rulemaking authority to the Judicial Council to ensure the confidentiality of  
 31 the proceedings described above; and  
 32           ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34           None

35 **Other Special Clauses:**

36           None

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **§→** [~~26-21-9.5, as last amended by Chapter 43, Laws of Utah 2007~~  
 40 ~~62A-2-121, as last amended by Chapter 152, Laws of Utah 2007]~~  
 40a **62A-4a-412, as last amended by Laws of Utah 2006, Chapters 77 and 281**  
 41 [~~62A-4a-1003, as last amended by Laws of Utah 2007, Chapter 152~~  
 42 ~~62A-4a-1008, as renumbered and amended by Laws of Utah 2006, Chapter 77]~~ **←§**  
 43 **62A-4a-1009, as renumbered and amended by Laws of Utah 2006, Chapter 77**  
 43a **§→ 63-2-202, as last amended by Laws of Utah 2005, Chapter 201**  
 43b **63-2-304, as last amended by Laws of Utah 2007, Chapters 66 and 352**  
 44 [~~78-3a-104, as last amended by Laws of Utah 2006, Chapters 55, 132, and 281]~~  
 44a **78-3a-314, as last amended by Laws of Utah 2007, Chapter 152**  
 45 [~~78-3a-320, as last amended by Laws of Utah 2006, Chapter 77~~

46 **ENACTS:**

47 ~~62A-4a-1003.5, Utah Code Annotated 1953]~~ **←§**

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

- 50 **§→** [~~Section 1. Section 26-21-9.5 is amended to read:~~  
 51 ~~26-21-9.5. Criminal background check and Licensing Information System check.~~  
 52 ~~(1) For purposes of this section:~~  
 53 ~~(a) "Covered health care facility" means:~~  
 54 ~~(i) home health care agencies;~~  
 55 ~~(ii) hospices;~~  
 56 ~~(iii) nursing care facilities;~~  
 57 ~~(iv) assisted-living facilities;~~  
 58 ~~(v) small health care facilities; and]~~ **←§**

59           ~~§→ [(vi) end stage renal disease facilities.~~

60           ~~———— (b) "Covered person" includes:~~

61           ~~———— (i) the following people who provide direct patient care:~~

62           ~~———— (A) employees;~~

63           ~~———— (B) volunteers; and~~

64           ~~———— (C) people under contract with the facility; and~~

65           ~~———— (ii) for residential settings, any individual residing in the home where the assisted~~

66 ~~living or small health care program is to be licensed who:~~

67           ~~———— (A) is 18 years of age or older; or~~

68           ~~———— (B) is a child between the age of 12 and 17 years of age; however, the identifying~~

69 ~~information required for a child between the age of 12 and 17 does not include fingerprints.~~

70           ~~———— (2) In addition to the licensing requirements of Sections 26-21-8 and 26-21-9, a~~

71 ~~covered health care facility at the time of initial application for a license and license renewal~~

72 ~~shall:~~

73           ~~———— (a) submit the name and other identifying information of each covered person at the~~

74 ~~covered facility who:~~

75           ~~———— (i) provides direct care to a patient; and~~

76           ~~———— (ii) has been the subject of a criminal background check within the preceding~~

77 ~~three-year period by a public or private entity recognized by the department; and~~

78           ~~———— (b) submit the name and other identifying information, which may include fingerprints;~~

79 ~~of each covered person at the covered facility who has not been the subject of a criminal~~

80 ~~background check in accordance with Subsection (1)(a)(ii):~~

81           ~~———— (3) (a) The department shall forward the information received under Subsection (2)(b)~~

82 ~~to the Criminal Investigations and Technical Services Division of the Department of Public~~

83 ~~Safety for processing to determine whether the covered individual has been convicted of any~~

84 ~~crime:~~

85           ~~———— (b) Except for individuals described in Subsection (1)(b)(ii)(B), if an individual has not~~

86 ~~had residency in Utah for the last five years, the individual shall submit fingerprints for an FBI~~

87 ~~national criminal history record check. The fingerprints shall be submitted to the FBI through~~

88 ~~the Criminal Investigations and Technical Services Division. The individual or licensee is~~

89 ~~responsible for the cost of the fingerprinting and national criminal history check.] ←§~~

90           ~~§→ [(4) The department may determine whether:~~

91           ~~———(a) an individual whose name and other identifying information has been submitted~~

92 ~~pursuant to Subsection (2) and who provides direct care to children is listed in the Licensing~~

93 ~~Information System described in Section 62A-4a-1006 or has a substantiated finding by a court~~

94 ~~of a severe type of child abuse or neglect under Section 78-3a-320, if identification as a~~

95 ~~possible perpetrator of child abuse or neglect is relevant to the employment activities of that~~

96 ~~individual;~~

97           ~~———(b) an individual whose name and other identifying information has been submitted~~

98 ~~pursuant to Subsection (2) and who provides direct care to disabled or elder adults, or who is~~

99 ~~residing in a residential home that is a facility licensed to provide direct care to disabled or~~

100 ~~elder adults has a substantiated finding of abuse, neglect, or exploitation of a disabled or elder~~

101 ~~adult by accessing in accordance with Subsection (5) the database created in Section~~

102 ~~62A-3-311.1 if identification as a possible perpetrator of disabled or elder adult abuse, neglect,~~

103 ~~or exploitation is relevant to the employment activities or residence of that person; or~~

104           ~~———(c) an individual whose name or other identifying information has been submitted~~

105 ~~pursuant to Subsection (2) has been adjudicated in a juvenile court of committing an act which~~

106 ~~if committed by an adult would be a felony or a misdemeanor if:~~

107           ~~———(i) the individual is under the age of 28 years; or~~

108           ~~———(ii) the individual is over the age of 28 and has been convicted, has pleaded no contest,~~

109 ~~or is currently subject to a plea in abeyance or diversion agreement for any felony or~~

110 ~~misdemeanor.~~

111           ~~———(5) (a) The department shall:~~

112           ~~———(i) designate two persons within the department to access:~~

113           ~~———(A) the Licensing Information System described in Section 62A-4a-1006;~~

114           ~~———(B) court records under Subsection 78-3a-320[(6)](7);~~

115           ~~———(C) the database described in Subsection (4)(b); and~~

116           ~~———(D) juvenile court records as permitted by Subsection (4)(c); and~~

117           ~~———(ii) adopt measures to:~~

118           ~~———(A) protect the security of the Licensing Information System, the court records, and the~~

119 ~~database; and~~

120           ~~———(B) strictly limit access to the Licensing Information System, the court records, and the] ←§~~

121 ~~§→ [database to those designated under Subsection (5)(a)(i):~~  
 122 ~~—— (b) Those designated under Subsection (5)(a)(i) shall receive training from the~~  
 123 ~~Department of Human Services with respect to:~~  
 124 ~~—— (i) accessing the Licensing Information System, the court records, and the database;~~  
 125 ~~—— (ii) maintaining strict security; and~~  
 126 ~~—— (iii) the criminal provisions in Section 62A-4a-412 for the improper release of~~  
 127 ~~information.~~  
 128 ~~—— (c) Those designated under Subsection (5)(a)(i):~~  
 129 ~~—— (i) are the only ones in the department with the authority to access the Licensing~~  
 130 ~~Information System, the court records, and database; and~~  
 131 ~~—— (ii) may only access the Licensing Information System, the court records, and the~~  
 132 ~~database for the purpose of licensing and in accordance with the provisions of Subsection (4):~~  
 133 ~~—— (6) Within ten days of initially hiring a covered individual, a covered health care~~  
 134 ~~facility shall submit the covered individual's information to the department in accordance with~~  
 135 ~~Subsection (2):~~  
 136 ~~—— (7) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative~~  
 137 ~~Rulemaking Act, consistent with this chapter, defining the circumstances under which a person~~  
 138 ~~who has been convicted of a criminal offense, or a person described in Subsection (4), may~~  
 139 ~~provide direct care to a patient in a covered health care facility, taking into account the nature~~  
 140 ~~of the criminal conviction or substantiated finding and its relation to patient care.~~  
 141 ~~—— (8) The department may, in accordance with Section 26-1-6, assess reasonable fees for~~  
 142 ~~a criminal background check processed pursuant to this section.~~  
 143 ~~—— (9) The department may inform the covered health care facility of information~~  
 144 ~~discovered under Subsection (4) with respect to a covered individual.~~  
 145 ~~—— (10) A covered health care facility is not civilly liable for submitting information to the~~  
 146 ~~department as required by this section.~~  
 147 ~~—— Section 2. Section 62A-2-121 is amended to read:~~  
 148 ~~—— 62A-2-121. Access to abuse and neglect information:~~  
 149 ~~—— (1) For purposes of this section:~~  
 150 ~~—— (a) "Direct service worker" is as defined in Section 62A-5-101.~~  
 151 ~~—— (b) "Personal care attendant" is as defined in Section 62A-3-101.] ←§~~

152           **§→** ~~[(2) With respect to a licensee, a certified local inspector applicant, a direct service~~  
 153 ~~worker, or a personal care attendant, the department may access only the Licensing Information~~  
 154 ~~System of the Division of Child and Family Services created by Section 62A-4a-1006 and~~  
 155 ~~juvenile court records under Subsection 78-3a-320[(6)](7), for the purpose of:~~  
 156           ~~—— (a) (i) determining whether a person associated with a licensee, with direct access to~~  
 157 ~~children:~~  
 158           ~~—— (A) is listed in the Licensing Information System; or~~  
 159           ~~—— (B) has a substantiated finding by a juvenile court of a severe type of child abuse or~~  
 160 ~~neglect under Subsections 78-3a-320(1) and (2); and~~  
 161           ~~—— (ii) informing a licensee that a person associated with the licensee:~~  
 162           ~~—— (A) is listed in the Licensing Information System; or~~  
 163           ~~—— (B) has a substantiated finding by a juvenile court of a severe type of child abuse or~~  
 164 ~~neglect under Subsections 78-3a-320(1) and (2);~~  
 165           ~~—— (b) (i) determining whether a certified local inspector applicant:~~  
 166           ~~—— (A) is listed in the Licensing Information System; or~~  
 167           ~~—— (B) has a substantiated finding by a juvenile court of a severe type of child abuse or~~  
 168 ~~neglect under Subsections 78-3a-320(1) and (2); and~~  
 169           ~~—— (ii) informing a local government that a certified local inspector applicant:~~  
 170           ~~—— (A) is listed in the Licensing Information System; or~~  
 171           ~~—— (B) has a substantiated finding by a juvenile court of a severe type of child abuse or~~  
 172 ~~neglect under Subsections 78-3a-320(1) and (2);~~  
 173           ~~—— (c) (i) determining whether a direct service worker:~~  
 174           ~~—— (A) is listed in the Licensing Information System; or~~  
 175           ~~—— (B) has a substantiated finding by a juvenile court of a severe type of child abuse or~~  
 176 ~~neglect under Subsections 78-3a-320(1) and (2); and~~  
 177           ~~—— (ii) informing a direct service worker or the direct service worker's employer that the~~  
 178 ~~direct service worker:~~  
 179           ~~—— (A) is listed in the Licensing Information System; or~~  
 180           ~~—— (B) has a substantiated finding by a juvenile court of a severe type of child abuse or~~  
 181 ~~neglect under Subsections 78-3a-320(1) and (2); or~~  
 182           ~~—— (d) (i) determining whether a personal care attendant:] ←§~~

183           **§→ [(A) is listed in the Licensing Information System; or**  
184 ~~—— (B) has a substantiated finding by a juvenile court of a severe type of child abuse or~~  
185 ~~neglect under Subsections 78-3a-320(1) and (2); and~~  
186 ~~—— (ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a~~  
187 ~~personal care attendant:~~  
188 ~~—— (A) is listed in the Licensing Information System; or~~  
189 ~~—— (B) has a substantiated finding by a juvenile court of a severe type of child abuse or~~  
190 ~~neglect under Subsections 78-3a-320(1) and (2);~~  
191 ~~—— (3) Notwithstanding Subsection (2), the department may access the Division of Child~~  
192 ~~and Family Service's Management Information System under Section 62A-4a-1003:~~  
193 ~~—— (a) for the purpose of licensing and monitoring foster parents; and~~  
194 ~~—— (b) for the purposes described in Subsection 62A-4a-1003(1)(d);~~  
195 ~~—— (4) After receiving identifying information for a person under Subsection~~  
196 ~~62A-2-120(1), the department shall process the information for the purposes described in~~  
197 ~~Subsection (2);~~  
198 ~~—— (5) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative~~  
199 ~~Rulemaking Act, consistent with this chapter, defining the circumstances under which a person~~  
200 ~~may have direct access or provide services to children when:~~  
201 ~~—— (a) the person is listed in the Licensing Information System of the Division of Child~~  
202 ~~and Family Services created by Section 62A-4a-1006; or~~  
203 ~~—— (b) juvenile court records show that a court made a substantiated finding under Section~~  
204 ~~78-3a-320, that the person committed a severe type of child abuse or neglect.~~  
205 ~~Section 3. Section 62A-4a-1003 is amended to read:~~  
206 ~~62A-4a-1003. Management Information System -- Requirements -- Contents --~~  
207 ~~Purpose -- Access:~~  
208 ~~—— (1) (a) The division shall develop and implement a Management Information System~~  
209 ~~that meets the requirements of this section and the requirements of federal law and regulation.~~  
210 ~~—— (b) The information and records contained in the Management Information System:~~  
211 ~~—— (i) are protected records under Title 63, Chapter 2, Government Records Access and~~  
212 ~~Management Act; and~~  
213 ~~—— (ii) except as provided in Subsections (1)(c) and (d), are available only to a person with] ←§~~



214 ~~§→ [statutory authorization under Title 63, Chapter 2, Government Records Access and~~  
 215 ~~Management Act, to review the information and records described in this Subsection (1)(b):~~  
 216 ~~—— (c) Notwithstanding Subsection (1)(b)(ii), the information and records described in~~  
 217 ~~Subsection (1)(b) are available to a person:~~  
 218 ~~—— (i) as provided under Subsection [(6)] (7) or Section 62A-4a-1006; or~~  
 219 ~~—— (ii) who has specific statutory authorization to access the information or records for the~~  
 220 ~~purpose of assisting the state with state and federal requirements to maintain information solely~~  
 221 ~~for the purpose of protecting minors and providing services to families in need.~~  
 222 ~~—— (d) Notwithstanding Subsection (1)(b)(ii), the information and records described in~~  
 223 ~~Subsection (1)(b) may, to the extent required by Title IV-B or IV-E of the Social Security Act,~~  
 224 ~~be provided by the division:~~  
 225 ~~—— (i) to comply with child abuse and neglect registry checks requested by other states;~~  
 226 ~~and~~  
 227 ~~—— (ii) to the United States Department of Health and Human Services for purposes of~~  
 228 ~~maintaining an electronic national registry of substantiated cases of child abuse and neglect.~~  
 229 ~~—— (2) With regard to all child welfare cases, the Management Information System shall~~  
 230 ~~provide each caseworker and the department's office of licensing, exclusively for the purposes~~  
 231 ~~of foster parent licensure and monitoring, with a complete history of each child in that worker's~~  
 232 ~~caseload, including:~~  
 233 ~~—— (a) a record of all past action taken by the division with regard to that child and the~~  
 234 ~~child's siblings;~~  
 235 ~~—— (b) the complete case history and all reports and information in the control or keeping~~  
 236 ~~of the division regarding that child and the child's siblings;~~  
 237 ~~—— (c) the number of times the child has been in the custody of the division;~~  
 238 ~~—— (d) the cumulative period of time the child has been in the custody of the division;~~  
 239 ~~—— (e) except as provided in Subsection (3), a record of all reports of abuse or neglect~~  
 240 ~~received by the division with regard to that child's parent, parents, or guardian including:~~  
 241 ~~—— (i) for each report, documentation of the:~~  
 242 ~~—— (A) latest status; or~~  
 243 ~~—— (B) final outcome or determination; and~~  
 244 ~~—— (ii) information that indicates whether each report was found to be:] ←§~~

245           ~~§→ [(A) supported;~~  
 246           ~~—— (B) unsupported;~~  
 247           ~~—— (C) substantiated by a juvenile court;~~  
 248           ~~—— (D) unsubstantiated by a juvenile court; or~~  
 249           ~~—— (E) without merit;~~  
 250           ~~—— (f) the number of times the child's parent or parents failed any child and family plan;~~  
 251           **and**  
 252           ~~—— (g) the number of different caseworkers who have been assigned to that child in the~~  
 253           ~~past:~~  
 254           ~~—— (3) The Management Information System may not include a report, or any reference to~~  
 255           ~~a report, that is:~~  
 256           ~~—— (a) found by the division to be:~~  
 257           ~~—— (i) without merit; and~~  
 258           ~~—— (ii) false, under Section 62A-4a-1003.5; or~~  
 259           ~~—— (b) found by a court to be:~~  
 260           ~~—— (i) without merit; and~~  
 261           ~~—— (ii) false, under Subsection 78-3a-320(4).~~  
 262           ~~—— [(3)] (4) The [division's] Management Information System shall:~~  
 263           ~~—— (a) contain all key elements of each family's current child and family plan, including:~~  
 264           ~~—— (i) the dates and number of times the plan has been administratively or judicially~~  
 265           ~~reviewed;~~  
 266           ~~—— (ii) the number of times the parent or parents have failed that child and family plan;~~  
 267           ~~**and**~~  
 268           ~~—— (iii) the exact length of time the child and family plan has been in effect; and~~  
 269           ~~—— (b) alert caseworkers regarding deadlines for completion of and compliance with~~  
 270           ~~policy, including child and family plans.~~  
 271           ~~—— [(4)] (5) With regard to all child protective services cases, the Management~~  
 272           ~~Information System shall:~~  
 273           ~~—— (a) monitor the compliance of each case with:~~  
 274           ~~—— (i) division rule and policy;~~  
 275           ~~—— (ii) state law; and] ←§~~

276           ~~§→ [(iii) federal law and regulation; and~~

277           ~~—— (b) include the age and date of birth of the alleged perpetrator at the time the abuse or~~

278           ~~neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of~~

279           ~~the alleged perpetrator.~~

280           ~~—— [(5)] (6) Except as provided in Subsection [(6)] (7) regarding contract providers and~~

281           ~~Section 62A-4a-1006 regarding limited access to the Licensing Information System, all~~

282           ~~information contained in the division's Management Information System is available to the~~

283           ~~department, upon the approval of the executive director, on a need-to-know basis.~~

284           ~~—— [(6)] (7) (a) Subject to this Subsection [(6)] (7), the division may allow its contract~~

285           ~~providers, court clerks designated by the Administrative Office of the Courts, and the Office of~~

286           ~~the Guardian Ad Litem to have limited access to the Management Information System.~~

287           ~~—— (b) A division contract provider has access only to information about a person who is~~

288           ~~currently receiving services from that specific contract provider.~~

289           ~~—— (c) (i) Designated court clerks may only have access to information necessary to~~

290           ~~comply with Subsection 78-3h-102(2).~~

291           ~~—— (ii) The Office of the Guardian Ad Litem may access only the information that:~~

292           ~~—— (A) relates to children and families where the Office of the Guardian Ad Litem is~~

293           ~~appointed by a court to represent the interests of the children; and~~

294           ~~—— (B) except as provided in Subsection [(6)] (7)(d), is entered into the Management~~

295           ~~Information System on or after July 1, 2004.~~

296           ~~—— (d) Notwithstanding Subsection [(6)] (7)(c)(ii)(B), the Office of the Guardian Ad Litem~~

297           ~~shall have access to all child abuse and neglect referrals about children and families where the~~

298           ~~office has been appointed by a court to represent the interests of the children, regardless of the~~

299           ~~date that the information is entered into the Management Information System.~~

300           ~~—— (e) Each contract provider and designated representative of the Office of the Guardian~~

301           ~~Ad Litem who requests access to information contained in the Management Information~~

302           ~~System shall:~~

303           ~~—— (i) take all necessary precautions to safeguard the security of the information contained~~

304           ~~in the Management Information System;~~

305           ~~—— (ii) train its employees regarding:~~

306           ~~—— (A) requirements for protecting the information contained in the Management] ←§~~

307 ~~§→ [Information System as required by this chapter and under Title 63, Chapter 2, Government~~  
 308 ~~Records Access and Management Act; and~~

309 ~~—— (B) the criminal penalties under Sections 62A-4a-412 and 63-2-801 for improper~~  
 310 ~~release of information; and~~

311 ~~—— (iii) monitor its employees to ensure that they protect the information contained in the~~  
 312 ~~Management Information System as required by law.~~

313 ~~—— (f) The division shall take reasonable precautions to ensure that its contract providers~~  
 314 ~~comply with the requirements of this Subsection [(6)] (7):~~

315 ~~—— (g) The contract providers and designated court clerks described in this Subsection (7)~~  
 316 ~~may not have access to reports, or references to reports, that are found to be unsubstantiated,~~  
 317 ~~unsupported, or without merit.~~

318 ~~—— [(7)] (8) The division shall take all necessary precautions, including password~~  
 319 ~~protection and other appropriate and available technological techniques, to prevent~~  
 320 ~~unauthorized access to or release of information contained in the Management Information~~  
 321 ~~System.~~

322 ~~—— (9) Reports that are unsubstantiated, unsupported, or without merit may not be~~  
 323 ~~admitted as evidence, or relied upon, in a trial or proceeding for child custody, a protection~~  
 324 ~~order, or divorce, for the purpose of establishing the truth of the incident asserted in the report.~~

325 ~~—— Section 4. Section 62A-4a-1003.5 is enacted to read:~~

326 ~~—— 62A-4a-1003.5. Report without merit -- Additional finding.~~

327 ~~—— If the division finds that a report is without merit, the division shall make an additional~~  
 328 ~~finding regarding whether the report is false.~~

329 ~~—— Section 5. Section 62A-4a-1008 is amended to read:~~

330 ~~—— 62A-4a-1008. Timeframes for deletion of specified information or reports.]~~

331 ~~[(1) Unless the executive director determines that there is good cause for keeping a~~  
 332 ~~report of abuse or neglect in the Management Information System, based on standards~~  
 333 ~~established by rule, the division shall delete any reference to:]~~

334 ~~[(a) a report that is without merit, if no subsequent report involving the same alleged~~  
 335 ~~perpetrator has occurred within one year; or]~~

336 ~~[(b) a report that is determined by a court of competent jurisdiction to be~~  
 337 ~~unsubstantiated or without merit, if no subsequent report involving the same alleged ←§~~

338 perpetrator has occurred within five years.]

339 ~~§→ [(1) Except as provided in Subsection (3) or (4), the division shall delete from the~~  
 340 ~~Management Information System a report that is unsubstantiated or unsupported:~~

341 ~~—— (a) after the report has been on the Management Information system for three years,~~  
 342 ~~unless the alleged perpetrator is listed on the Management Information System as the~~  
 343 ~~perpetrator in a previous substantiated or supported report; or~~

344 ~~—— (b) after the report has been on the Management Information System for five years, if~~  
 345 ~~the alleged perpetrator is listed on the Management Information System as the perpetrator in a~~  
 346 ~~previous substantiated or supported report.~~

347 ~~—— (2) Except as provided in Subsection (3), (4), or 62A-4a-1003(3), the division shall~~  
 348 ~~delete from the Management Information System a report that is without merit after the report~~  
 349 ~~has been on the Management Information System one year.~~

350 ~~—— (3) The time periods described in Subsections (1) and (2) shall start over, beginning on~~  
 351 ~~the day that a subsequent report is placed on the Management Information System, if:~~

352 ~~—— (a) the alleged perpetrator in the subsequent report is the same as the alleged~~  
 353 ~~perpetrator in the report described in Subsection (1) or (2); and~~

354 ~~—— (b) the subsequent report is found to be:~~

355 ~~—— (i) supported;~~

356 ~~—— (ii) unsupported;~~

357 ~~—— (iii) substantiated;~~

358 ~~—— (iv) unsubstantiated; or~~

359 ~~—— (v) without merit, unless the report is:~~

360 ~~—— (A) found by the division to be false, under Section 62A-4a-1003.5; or~~

361 ~~—— (B) found by a court to be false, under Subsection 78-3a-320(4).~~

362 ~~—— (4) (a) Except for a report described in Subsection 62A-4a-1003(3), a report described~~  
 363 ~~in this section may not be deleted, unless otherwise ordered by a court, if the executive director~~  
 364 ~~determines, based on standards established by rule, that there is good cause for keeping the~~  
 365 ~~report in the Management Information System.~~

366 ~~—— (b) A court may order the division to delete a report before the time periods described~~  
 367 ~~in this section, if the court finds, by clear and convincing evidence, that it is in the interests of~~  
 368 ~~justice to order deletion of the report at an earlier time.] ←§~~

369           **§→** ~~[(5) When the division deletes a report under this section, the division shall also delete~~  
 370 ~~all references to the report, and information contained in the report, from the Management~~  
 371 ~~Information System.~~

372 ~~—— [(2)] (6) (a) The division shall maintain a separation of reports as follows:~~

373 ~~—— (i) those that are supported;~~

374 ~~—— (ii) those that are unsupported;~~

375 ~~—— (iii) those that are without merit;~~

376 ~~—— (iv) those that are unsubstantiated under the law in effect prior to May 6, 2002;~~

377 ~~—— (v) those that are substantiated under the law in effect prior to May 6, 2002; and~~

378 ~~—— (vi) those that are consented-to supported findings under Subsection~~

379 ~~62A-4a-1005(3)(a)(iii).~~

380 ~~—— (b) Only persons with statutory authority [have] may access [to] the information~~  
 381 ~~contained in any of the reports identified in Subsection [(2)] (6)(a).]~~

381a           Section 1. Section 62A-4a-412 is amended to read:

381b           62A-4a-412. Reports and information confidential.

381c           (1) Except as otherwise provided in this chapter, reports made pursuant to this part, as  
 381d well as any other information in the possession of the division obtained as the result of a report  
 381e are private, protected, or controlled records under Title 63, Chapter 2, Government Records  
 381f Access and Management Act, and may only be made available to:

381g           (a) a police or law enforcement agency investigating a report of known or suspected  
 381h child abuse or neglect;

381i           (b) a physician who reasonably believes that a child may be the subject of abuse or  
 381j neglect;

381k           (c) an agency that has responsibility or authority to care for, treat, or supervise a  
 381l minor who is the subject of a report;

381m           (d) a contract provider that has a written contract with the division to render services  
 381n to a minor who is the subject of a report;

381o           (e) ~~[any]~~ except as provided in Subsection 63-2-202(10), a subject of the report, the  
 381p natural parents of the child, and the guardian ad litem;

381q           (f) a court, upon a finding that access to the records may be necessary for the  
 381r determination of an issue before the court, provided that in a divorce, custody, or related  
 381s proceeding between private parties, the record alone is:

381t           (i) limited to objective or undisputed facts that were verified at the time of the  
 381u investigation; and

381v           (ii) devoid of conclusions drawn by the division or any of the division's workers on ←**§**

381w **§→ the ultimate issue of whether or not a person's acts or omissions constituted any level of**  
381x **abuse or neglect of another person;**

381y **(g) an office of the public prosecutor or its deputies in performing an official duty;**  
381z **(h) a person authorized by a Children's Justice Center, for the purposes described in**  
381aa **Section 67-5b-102;**

381ab **(i) a person engaged in bona fide research, when approved by the director of the**  
381ac **division, if the information does not include names and addresses;**

381ad **(j) the State Office of Education, acting on behalf of itself or on behalf of a school**  
381ae **district, for the purpose of evaluating whether an individual should be permitted to obtain or**  
381af **retain a license as an educator or serve as an employee or volunteer in a school, limited to**  
381ag **information with substantiated findings involving an alleged sexual offense, an alleged felony**  
381ah **or class A misdemeanor drug offense, or any alleged offense against the person under Title 76,**  
381ai **Chapter 5, Offenses Against the Person, and with the understanding that the office must**  
381aj **provide the subject of a report received under Subsection (1)(k) with an opportunity to**  
381ak **respond to the report before making a decision concerning licensure or employment;**

381al **(k) any person identified in the report as a perpetrator or possible perpetrator of child**  
381am **abuse or neglect, after being advised of the screening prohibition in Subsection (2);**

381an **(l) except as provided in Subsection 63-2-202(10), a person filing a petition for a child**  
381ao **protective order on behalf of a child who is the subject of the report; and**

381ap **(m) a licensed child-placing agency or person who is performing a preplacement**  
381aq **adoptive evaluation in accordance with the requirements of Section 78-30-3.5.**

381ar **(2) (a) A person, unless listed in Subsection (1), may not request another person to**  
381as **obtain or release a report or any other information in the possession of the division obtained as**  
381at **a result of the report that is available under Subsection (1)(k) to screen for potential**  
381au **perpetrators of child abuse or neglect.**

381av **(b) A person who requests information knowing that it is a violation of Subsection**  
381aw **(2)(a) to do so is subject to the criminal penalty in Subsection (4).**

381ax **(3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division**  
381ay **and law enforcement officials shall ensure the anonymity of the person or persons making the**  
381az **initial report and any others involved in its subsequent investigation.**

381ba **(b) Notwithstanding any other provision of law, excluding Section 78-3a-314, but**  
381bb **including this chapter and Title 63, Chapter 2, Government Records Access and Management**  
381bc **Act, when the division makes a report or other information in its possession available under**  
381bd **Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove ←§**

381be **§→ from the report or other information only the names, addresses, and telephone numbers of**  
 381bf **individuals or specific information that could:**

381bg (i) **identify the referent;**

381bh (ii) **impede a criminal investigation; or**

381bi (iii) **endanger a person's safety.**

381bj (4) **Any person who wilfully permits, or aides and abets the release of data or**

381bk **information obtained as a result of this part, in the possession of the division or contained on**

381bl **any part of the Management Information System, in violation of this part or Sections**

381bm **62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.**

381bn (5) **The physician-patient privilege is not a ground for excluding evidence regarding a**

381bo **child's injuries or the cause of those injuries, in any proceeding resulting from a report made**

381bp **in good faith pursuant to this part.**

381bq (6) **A child-placing agency or person who receives a report in connection with a**

381br **preplacement adoptive evaluation pursuant to Section 78-30-3.5:**

381bs (a) **may provide this report to the person who is the subject of the report; and**

381bt (b) **may provide this report to a person who is performing a preplacement adoptive**

381bu **evaluation in accordance with the requirement of Section 78-30-3.5, or to a licensed**

381bv **child-placing agency or to an attorney seeking to facilitate an adoption. ←§**

382 Section 6. Section **62A-4a-1009** is amended to read:

383 **62A-4a-1009. Notice and opportunity to challenge §→ [supported] ←§ finding §→ of**

383a **supported, unsupported, or without merit ←§ in**

384 **Management Information System -- Right of judicial review.**

385 (1) (a) Except as provided in Subsection (2), the division shall send a notice of agency

386 action to a person with respect to whom the division makes a **§→ [supported] ←§ finding §→ of**

386a **supported, unsupported, or without merit ←§ . In addition, if**

387 the alleged perpetrator is under the age of 18, the division shall:

388 (i) **make reasonable efforts to identify the alleged perpetrator's parent or guardian; and**

389 (ii) **send a notice to each parent or guardian identified under Subsection (1)(a)(i) that**

390 **lives at a different address, unless there is good cause, as defined by rule, for not sending a**

391 **notice to a parent or guardian.**

392 (b) **Nothing in this section may be construed as affecting:**

393 (i) **the manner in which the division conducts an investigation; or**

394 (ii) **the use or effect, in any other setting, of a supported finding by the division at the**

395 **completion of an investigation for any purpose other than for notification under Subsection (1)**



396 (a).

397 (2) Subsection (1) does not apply to a person who has been served with notice under  
398 Subsection 62A-4a-1005(1)(a).

399 (3) The notice described in Subsection (1) ~~§~~→ **, relating to a supported finding.** ←~~§~~ shall  
state:

400 (a) that the division has conducted an investigation regarding alleged child abuse,  
401 neglect, or dependency;

402 (b) that the division has made a supported finding of abuse, neglect, or dependency;

403 (c) that facts gathered by the division support the supported finding;

404 (d) that the person has the right to request:

405 (i) a copy of the report; and

406 (ii) an opportunity to challenge the supported finding by the division; and

407 (e) that failure to request an opportunity to challenge the supported finding within 30  
408 days of receiving the notice will result in an unappealable supported finding of child abuse,  
409 neglect, or dependency unless the person can show good cause for why compliance within the  
410 30-day requirement was virtually impossible or unreasonably burdensome.

411 (4) (a) A person may make a request to challenge a supported finding within 30 days of  
412 a notice being received under this section.

413 (b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative  
414 Hearings shall hold an adjudicative proceeding pursuant to Title 63, Chapter 46b,  
415 Administrative Procedures Act.

416 (5) (a) In an adjudicative proceeding held pursuant to this section, **§→ based on a**  
416a **challenge to a supported finding, ←§** the division shall  
417 have the burden of proving, by a preponderance of the evidence, that child abuse, neglect, or  
418 dependency occurred and that the alleged perpetrator was substantially responsible for the  
419 abuse or neglect that occurred.

420 (b) Any party shall have the right of judicial review of final agency action **§→ under this**  
420a **section, regardless of whether the finding is supported, unsupported, or without merit, ←§**, in  
421 accordance with Title 63, Chapter 46b, Administrative Procedures Act.

422 (c) Proceedings for judicial review of a final agency action under this section shall be  
423 closed to the public.

424 (d) The Judicial Council shall make rules that ensure the confidentiality of the  
425 proceedings described in Subsection (5)(c) and the records related to the proceedings.

425a **§→ (6) (a) If, after receiving a report of alleged child abuse, neglect, or dependency, the**  
425b **division makes a finding that the report is unsupported or without merit, the division shall**  
425c **serve notice of the finding, described in Subsection (6)(b), on the alleged perpetrator.**

425d **(b) The notice described in Subsection (6)(a):**

425e **(i) shall state that:**

425f **(A) the division has conducted an investigation regarding a report of alleged ←§**

- 425g **§→child abuse, neglect, or dependency;**
- 425h **(B) the division has made a finding that the report is unsupported or without merit;**
- 425i **(C) the alleged perpetrator's name, information, and the report have been entered into**
- 425j **the Management Information System, together with an indication that the report was found to**
- 425k **be unsupported or without merit;**
- 425l **(D) the information described in Subsection (6)(b)(i)(C):**
- 425m **(I) will not be included in the Licensing Information System; and**
- 425n **(II) may not be accessed and used to disqualify the alleged perpetrator from adopting a**
- 425o **child or being licensed by:**
- 425p **(Aa) the department;**
- 425q **(Bb) a human services licensee;**
- 425r **(Cc) a child care provider or program; or**
- 425s **(Dd) a covered health care facility;**
- 425t **(E) the alleged perpetrator has the rights described in Subsection (7); and**
- 425u **(F) failure to take the action described in Subsection (7)(a) within two years after**
- 425v **service of the notice will result in the action described in Subsection (7)(b);**
- 425w **(ii) shall include a general statement of the nature of the findings; and**
- 425x **(iii) may not include:**
- 425y **(A) the name of a victim or witness; or**
- 425z **(B) any privacy information related to the victim or a witness.**
- 425aa **(7) (a) Upon receipt of the notice described in Subsection (6), the alleged perpetrator**
- 425ab **shall have the right to:**
- 425ac **(i) except as provided in Subsection (7)(c), submit a request for agency review to the**
- 425ad **division, requesting one or both of the following:**
- 425ae **(A)if the finding described in Subsection (6)(a) is a finding of unsupported, that the**
- 425af **division reduce the finding to a finding of without merit; or**
- 425ag **(B) if the finding described in Subsection (6)(a) is a finding of unsupported or without**
- 425ah **merit, that the division remove the alleged perpetrator's name and information, the finding,**
- 425ai **and the report to which it relates, from the Management Information System; or**
- 425aj **(ii) sign a written consent to:**
- 425ak **(A) the finding made under Subsection (6)(a); and**
- 425al **(B) entry into the Management Information System of the alleged perpetrator's name**
- 425am **and information, the finding, and the report.**
- 425an **(b) The alleged perpetrator's name and information, the finding, and the report ←§**

- 425ao **§→shall remain in the Management Information System:**
- 425ap **(i) if the alleged perpetrator fails to submit a request for agency review under**
- 425aq **Subsection (7)(a)(i) within two years after service of the notice described in Subsection (6);**
- 425ar **(ii) during the time that the division awaits a request for agency review from the**
- 425as **alleged perpetrator pursuant to Subsection (7)(a); and**
- 425at **(iii) unless:**
- 425au **(A) in response to a request for agency review, the division determines, under**
- 425av **Subsection (7)(a)(i)(B), to remove the alleged perpetrator's name and information, including**
- 425aw **the finding and the report, from the Management Information System;**
- 425ax **(B) the division refuses to take the action described in Subsection (7)(b)(iii)(A) and the**
- 425ay **division's decision is overturned; or**
- 425az **(C) a court orders that the perpetrator's name and information, the finding, and the**
- 425ba **report be removed from the Management Information System.**
- 425bb **(c) The alleged perpetrator has no right to submit a request for agency review to the**
- 425bc **division under Subsection (7)(a)(i) if a court previously held a hearing on the same alleged**
- 425bd **incident of abuse, neglect, or dependency, pursuant to the filing of a petition under Section**
- 425be **78-3a-305, by some other party.**
- 425bf **(d) Consent under Subsection (7)(a)(ii) by a child shall be given by the child's parent or**
- 425bg **guardian.**
- 425bh **(e) In considering a request described in Subsection (7)(a)(i)(A), the agency shall have**
- 425bi **the burden of proving, by a preponderance of the evidence, that the finding should be**
- 425bj **unsupported, rather than without merit.**
- 425bk **(f) In considering a request described in Subsection (7)(a)(i)(B), the person who**
- 425bl **submitted the request for review shall have the burden of proving, by a preponderance of the**
- 425bm **evidence, that the person's interest in having the report and finding removed from the**
- 425bn **Management Information System outweighs the interest of the division or an alleged victim in**
- 425bo **maintaining the report and finding in the Management Information System.**
- 425bp **(g) If the division refuses to take the action requested under Subsection (7)(a)(i), the**
- 425bq **person who submitted the request for agency review may challenge the decision pursuant to**
- 425br **Title 63, Chapter 46b, Administrative Procedures Act. ←§**
- 426 **§→ [(6)] (8) ←§** Except as otherwise provided in this chapter, an alleged perpetrator who, after
- 427 receiving notice, fails to challenge a **§→ [supported] ←§** finding **§→ of supported, unsupported,**
- 427a **or without merit, ←§** in accordance with this section:
- 428 (a) may not further challenge the finding; and
- 429 (b) shall have no right to:
- 430 (i) agency review of the finding;

431 (ii) an adjudicative hearing on the finding; or

432 (iii) judicial review of the finding.

433 ~~§~~ [(7)] (9) ~~←§~~ (a) Except as provided in Subsection ~~§~~ [(7)] (9) ~~←§~~ (b), an alleged  
433a perpetrator may not make a

434 request under Subsection (4) ~~§~~ or (7)(a)(i) ~~←§~~ to challenge a ~~§~~ [supported] ~~←§~~ finding

434a ~~§~~ of supported, unsupported, or without merit, ~~←§~~ if a court of competent

435 jurisdiction entered a finding, in a proceeding in which the alleged perpetrator was a party, that ~~§~~ :

436 (i) ~~←§~~ the alleged perpetrator is substantially responsible for the abuse, neglect, or  
436a dependency which

437 was also the subject of the supported finding ~~§~~ ; or

437a (ii) the report was unsubstantiated or without merit ~~←§~~ .

438 (b) Subsection ~~§~~ [(7)] (9) ~~←§~~ (a) does not apply to pleas in abeyance or diversion  
438a agreements.

439 (c) An adjudicative proceeding under Subsection (5) ~~§~~ or (7) ~~←§~~ may be stayed during  
439a the time a

440 judicial action on the same matter is pending.

441 ~~§~~ [(8)] (10) ~~←§~~ Pursuant to Section 78-3a 320, an adjudicative proceeding on a supported  
441a finding of

442 a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may  
443 be joined in the juvenile court with an adjudicative proceeding on a supported finding of a  
444 severe type of child abuse or neglect.

444a ~~§~~ Section 8. Section 63-2-202

444b 63-2-202. Access to private, controlled, and protected documents.

444c (1) Upon request, a governmental entity shall disclose a private record to:

444d (a) the subject of the record;

444e (b) the parent or legal guardian of an unemancipated minor who is the subject of the  
444f record;

444g (c) the legal guardian of a legally incapacitated individual who is the subject of the  
444h record;

444i (d) any other individual who:

444j (i) has a power of attorney from the subject of the record;

444k (ii) submits a notarized release from the subject of the record or his legal  
444l representative dated no more than 90 days before the date the request is made; or

444m (iii) if the record is a medical record described in Subsection 63-2-302(1)(b), is a health  
444n care provider, as defined in Section 26-33a-102, if releasing the record or information in the  
444o record is consistent with normal professional practice and medical ethics; or

444p (e) any person to whom the record must be provided pursuant to:

444q (i) court order as provided in Subsection (7); or

444r (ii) a legislative subpoena as provided in Title 36, Chapter 14.

444s (2) (a) Upon request, a governmental entity shall disclose a controlled record to: ~~←§~~

444t **§→** (i) a physician, psychologist, certified social worker, insurance provider or producer, or  
 444u a government public health agency upon submission of:

444v (A) a release from the subject of the record that is dated no more than 90 days prior to  
 444w the date the request is made; and

444x (B) a signed acknowledgment of the terms of disclosure of controlled information as  
 444y provided by Subsection (2)(b); and

444z (ii) any person to whom the record must be disclosed pursuant to:

444aa (A) a court order as provided in Subsection (7); or

444ab (B) a legislative subpoena as provided in Title 36, Chapter 14.

444ac (b) A person who receives a record from a governmental entity in accordance with  
 444ad Subsection (2)(a)(i) may not disclose controlled information from that record to any person,  
 444ae including the subject of the record.

444af (3) If there is more than one subject of a private or controlled record, the portion of the  
 444ag record that pertains to another subject shall be segregated from the portion that the requester  
 444ah is entitled to inspect.

444ai (4) Upon request, and except as provided in Subsection (10), a governmental entity  
 444aj shall disclose a protected record to:

444ak (a) the person who submitted the record;

444al (b) any other individual who:

444am (i) has a power of attorney from all persons, governmental entities, or political  
 444an subdivisions whose interests were sought to be protected by the protected classification; or

444ao (ii) submits a notarized release from all persons, governmental entities, or political  
 444ap subdivisions whose interests were sought to be protected by the protected classification or from  
 444aq their legal representatives dated no more than 90 days prior to the date the request is made;

444ar (c) any person to whom the record must be provided pursuant to:

444as (i) a court order as provided in Subsection (7); or

444at (ii) a legislative subpoena as provided in Title 36, Chapter 14; or

444au (d) the owner of a mobile home park, subject to the conditions of Subsection  
 444av 41-1a-116(5).

444aw (5) A governmental entity may disclose a private, controlled, or protected record to  
 444ax another governmental entity, political subdivision, another state, the United States, or a  
 444ay foreign government only as provided by Section 63-2-206.

444az (6) Before releasing a private, controlled, or protected record, the governmental entity  
 444ba shall obtain evidence of the requester's identity.

444bb (7) A governmental entity shall disclose a record pursuant to the terms of a court order  
 444bc signed by a judge from a court of competent jurisdiction, provided that:

444bd (a) the record deals with a matter in controversy over which the court has jurisdiction;

444be (b) the court has considered the merits of the request for access to the record; and

444bf (c) the court has considered and, where appropriate, limited the requester's use ←§

- 444bg **§→ and further disclosure of the record in order to protect:**
- 444bh (i) **privacy interests in the case of private or controlled records;**
- 444bi (ii) **business confidentiality interests in the case of records protected under Subsection**
- 444bj **63-2-304(1), (2), (40)(a)(ii), or (40)(a)(vi); and**
- 444bk (iii) **privacy interests or the public interest in the case of other protected records;**
- 444bl (d) **to the extent the record is properly classified private, controlled, or protected, the**
- 444bm **interests favoring access, considering limitations thereon, outweigh the interests favoring**
- 444bn **restriction of access; and**
- 444bo (e) **where access is restricted by a rule, statute, or regulation referred to in Subsection**
- 444bp **63-2-201(3)(b), the court has authority independent of this chapter to order disclosure.**
- 444bq (8) (a) **A governmental entity may disclose or authorize disclosure of private or**
- 444br **controlled records for research purposes if the governmental entity:**
- 444bs (i) **determines that the research purpose cannot reasonably be accomplished without**
- 444bt **use or disclosure of the information to the researcher in individually identifiable form;**
- 444bu (ii) **determines that:**
- 444bv (A) **the proposed research is bona fide; and**
- 444bw (B) **the value of the research outweighs the infringement upon personal privacy;**
- 444bx (iii) (A) **requires the researcher to assure the integrity, confidentiality, and security of**
- 444by **the records; and**
- 444bz (B) **requires the removal or destruction of the individual identifiers associated with the**
- 444ca **records as soon as the purpose of the research project has been accomplished;**
- 444cb (iv) **prohibits the researcher from:**
- 444cc (A) **disclosing the record in individually identifiable form, except as provided in**
- 444cd **Subsection (8)(b); or**
- 444ce (B) **using the record for purposes other than the research approved by the**
- 444cf **governmental entity; and**
- 444cg (v) **secures from the researcher a written statement of the researcher's understanding**
- 444ch **of and agreement to the conditions of this Subsection (8) and the researcher's understanding**
- 444ci **that violation of the terms of this Subsection (8) may subject the researcher to criminal**
- 444cj **prosecution under Section 63-2-801.**
- 444ck (b) **A researcher may disclose a record in individually identifiable form if the record is**
- 444cl **disclosed for the purpose of auditing or evaluating the research program and no subsequent**
- 444cm **use or disclosure of the record in individually identifiable form will be made by the auditor or**
- 444cn **evaluator except as provided by this section.**
- 444co (c) **A governmental entity may require indemnification as a condition of permitting**
- 444cp **research under this Subsection (8).**
- 444cq (9) (a) **Under Subsections 63-2-201(5)(b) and 63-2-401(6), a governmental entity may**
- 444cr **disclose to persons other than those specified in this section records that are:**
- 444cs (i) **private under Section 63-2-302; or ←§**

- 444ct **§→** (ii) protected under Section 63-2-304 subject to Section 63-2-308 if a claim for business  
 444cu confidentiality has been made under Section 63-2-308.
- 444cv (b) Under Subsection 63-2-403(11)(b), the records committee may require the  
 444cw disclosure to persons other than those specified in this section of records that are:
- 444cx (i) private under Section 63-2-302;  
 444cy (ii) controlled under Section 63-2-303; or  
 444cz (iii) protected under Section 63-2-304 subject to Section 63-2-308 if a claim for business  
 444da confidentiality has been made under Section 63-2-308.
- 444db (c) Under Subsection 63-2-404(8), the court may require the disclosure of records that  
 444dc are private under Section 63-2-302, controlled under Section 63-2-303, or protected under  
 444dd Section 63-2-304 to persons other than those specified in this section.
- 444de (10) A record contained in the Management Information System, created in Section  
 444df 62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be  
 444dg disclosed to any person except the person who is alleged in the report to be a perpetrator of  
 444dh abuse, neglect, or dependency.
- 444di **Section 9. Section 63-2-304**  
 444dj **63-2-304. Protected records.**
- 444dk **The following records are protected if properly classified by a governmental entity:**
- 444dl (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret  
 444dm has provided the governmental entity with the information specified in Section 63-2-308;  
 444dn (2) commercial information or nonindividual financial information obtained from a  
 444do person if:
- 444dp (a) disclosure of the information could reasonably be expected to result in unfair  
 444dq competitive injury to the person submitting the information or would impair the ability of the  
 444dr governmental entity to obtain necessary information in the future;
- 444ds (b) the person submitting the information has a greater interest in prohibiting access  
 444dt than the public in obtaining access; and
- 444du (c) the person submitting the information has provided the governmental entity with  
 444dv the information specified in Section 63-2-308;
- 444dw (3) commercial or financial information acquired or prepared by a governmental entity  
 444dx to the extent that disclosure would lead to financial speculations in currencies, securities, or  
 444dy commodities that will interfere with a planned transaction by the governmental entity or cause  
 444dz substantial financial injury to the governmental entity or state economy;
- 444ea (4) records the disclosure of which could cause commercial injury to, or confer a  
 444eb competitive advantage upon a potential or actual competitor of, a commercial project entity as  
 444ec defined in Subsection 11-13-103(4);
- 444ed (5) test questions and answers to be used in future license, certification, registration,  
 444ee employment, or academic examinations;
- 444ef (6) records the disclosure of which would impair governmental ←§



444eg **§→ procurement proceedings or give an unfair advantage to any person proposing to enter into a**  
 444eh **contract or agreement with a governmental entity, except that this Subsection (6) does not**  
 444ei **restrict the right of a person to see bids submitted to or by a governmental entity after bidding**  
 444ej **has closed;**

444ek (7) **records that would identify real property or the appraisal or estimated value of real**  
 444el **or personal property, including intellectual property, under consideration for public**  
 444em **acquisition before any rights to the property are acquired unless:**

444en (a) **public interest in obtaining access to the information outweighs the governmental**  
 444eo **entity's need to acquire the property on the best terms possible;**

444ep (b) **the information has already been disclosed to persons not employed by or under a**  
 444eq **duty of confidentiality to the entity;**

444er (c) **in the case of records that would identify property, potential sellers of the described**  
 444es **property have already learned of the governmental entity's plans to acquire the property;**

444et (d) **in the case of records that would identify the appraisal or estimated value of**  
 444eu **property, the potential sellers have already learned of the governmental entity's estimated**  
 444ev **value of the property; or**

444ew (e) **the property under consideration for public acquisition is a single family residence**  
 444ex **and the governmental entity seeking to acquire the property has initiated negotiations to**  
 444ey **acquire the property as required under Section 78-34-4.5;**

444ez (8) **records prepared in contemplation of sale, exchange, lease, rental, or other**  
 444fa **compensated transaction of real or personal property including intellectual property, which, if**  
 444fb **disclosed prior to completion of the transaction, would reveal the appraisal or estimated value**  
 444fc **of the subject property, unless:**

444fd (a) **the public interest in access outweighs the interests in restricting access, including**  
 444fe **the governmental entity's interest in maximizing the financial benefit of the transaction; or**

444ff (b) **when prepared by or on behalf of a governmental entity, appraisals or estimates of**  
 444fg **the value of the subject property have already been disclosed to persons not employed by or**  
 444fh **under a duty of confidentiality to the entity;**

444fi (9) **records created or maintained for civil, criminal, or administrative enforcement**  
 444fj **purposes or audit purposes, or for discipline, licensing, certification, or registration purposes,**  
 444fk **if release of the records:**

444fl (a) **reasonably could be expected to interfere with investigations undertaken for**  
 444fm **enforcement, discipline, licensing, certification, or registration purposes;**

444fn (b) **reasonably could be expected to interfere with audits, disciplinary, or enforcement**  
 444fo **proceedings;**

444fp (c) **would create a danger of depriving a person of a right to a fair trial or impartial**  
 444fq **hearing;**

444fr (d) **reasonably could be expected to disclose the identity of a source who is not**  
 444fs **generally known outside of government and, in the case of a record compiled in the course ←§**

444ft **§→** of an investigation, disclose information furnished by a source not generally known outside of  
 444fu government if disclosure would compromise the source; or

444fv (e) reasonably could be expected to disclose investigative or audit techniques,  
 444fw procedures, policies, or orders not generally known outside of government if disclosure would  
 444fx interfere with enforcement or audit efforts;

444fy (10) records the disclosure of which would jeopardize the life or safety of an individual;

444fz (11) records the disclosure of which would jeopardize the security of governmental  
 444ga property, governmental programs, or governmental recordkeeping systems from damage,  
 444gb theft, or other appropriation or use contrary to law or public policy;

444gc (12) records that, if disclosed, would jeopardize the security or safety of a correctional  
 444gd facility, or records relating to incarceration, treatment, probation, or parole, that would  
 444ge interfere with the control and supervision of an offender's incarceration, treatment, probation,  
 444gf or parole;

444gg (13) records that, if disclosed, would reveal recommendations made to the Board of  
 444gh Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
 444gi Board of Pardons and Parole, or the Department of Human Services that are based on the  
 444gj employee's or contractor's supervision, diagnosis, or treatment of any person within the  
 444gk board's jurisdiction;

444gl (14) records and audit workpapers that identify audit, collection, and operational  
 444gm procedures and methods used by the State Tax Commission, if disclosure would interfere with  
 444gn audits or collections;

444go (15) records of a governmental audit agency relating to an ongoing or planned audit  
 444gp until the final audit is released;

444gq (16) records prepared by or on behalf of a governmental entity solely in anticipation of  
 444gr litigation that are not available under the rules of discovery;

444gs (17) records disclosing an attorney's work product, including the mental impressions  
 444gt or legal theories of an attorney or other representative of a governmental entity concerning  
 444gu litigation;

444gv (18) records of communications between a governmental entity and an attorney  
 444gw representing, retained, or employed by the governmental entity if the communications would  
 444gx be privileged as provided in Section 78-24-8;

444gy (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
 444gz from a member of the Legislature; and

444ha (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative  
 444hb action or policy may not be classified as protected under this section; and

444hc (b) (i) an internal communication that is part of the deliberative process in connection  
 444hd with the preparation of legislation between:

444he (A) members of a legislative body;

444hf (B) a member of a legislative body and a member of the legislative body's staff; or ←§

- 444hg **§→** (C) members of a legislative body's staff; and
- 444hh (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
- 444hi legislative action or policy may not be classified as protected under this section;
- 444hj (20) (a) records in the custody or control of the Office of Legislative Research and
- 444hk General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
- 444hl legislation or contemplated course of action before the legislator has elected to support the
- 444hm legislation or course of action, or made the legislation or course of action public; and
- 444hn (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
- 444ho Office of Legislative Research and General Counsel is a public document unless a legislator
- 444hp asks that the records requesting the legislation be maintained as protected records until such
- 444hq time as the legislator elects to make the legislation or course of action public;
- 444hr (21) research requests from legislators to the Office of Legislative Research and
- 444hs General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
- 444ht in response to these requests;
- 444hu (22) drafts, unless otherwise classified as public;
- 444hv (23) records concerning a governmental entity's strategy about collective bargaining or
- 444hw pending litigation;
- 444hx (24) records of investigations of loss occurrences and analyses of loss occurrences that
- 444hy may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
- 444hz Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 444ia (25) records, other than personnel evaluations, that contain a personal
- 444ib recommendation concerning an individual if disclosure would constitute a clearly
- 444ic unwarranted invasion of personal privacy, or disclosure is not in the public interest;
- 444id (26) records that reveal the location of historic, prehistoric, paleontological, or
- 444ie biological resources that if known would jeopardize the security of those resources or of
- 444if valuable historic, scientific, educational, or cultural information;
- 444ig (27) records of independent state agencies if the disclosure of the records would conflict
- 444ih with the fiduciary obligations of the agency;
- 444ii (28) records of an institution within the state system of higher education defined in
- 444ij Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
- 444ik retention decisions, and promotions, which could be properly discussed in a meeting closed in
- 444il accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
- 444im the final decisions about tenure, appointments, retention, promotions, or those students
- 444in admitted, may not be classified as protected under this section;
- 444io (29) records of the governor's office, including budget recommendations, legislative
- 444ip proposals, and policy statements, that if disclosed would reveal the governor's contemplated
- 444iq policies or contemplated courses of action before the governor has implemented or rejected
- 444ir those policies or courses of action or made them public;
- 444is (30) records of the Office of the Legislative Fiscal Analyst relating to budget ←§

- 444it **§→ analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final**  
 444iu **recommendations in these areas;**
- 444iv **(31) records provided by the United States or by a government entity outside the state**  
 444iw **that are given to the governmental entity with a requirement that they be managed as**  
 444ix **protected records if the providing entity certifies that the record would not be subject to public**  
 444iy **disclosure if retained by it;**
- 444iz **(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body**  
 444ja **except as provided in Section 52-4-206;**
- 444jb **(33) records that would reveal the contents of settlement negotiations but not including**  
 444jc **final settlements or empirical data to the extent that they are not otherwise exempt from**  
 444jd **disclosure;**
- 444je **(34) memoranda prepared by staff and used in the decision-making process by an**  
 444jf **administrative law judge, a member of the Board of Pardons and Parole, or a member of any**  
 444jg **other body charged by law with performing a quasi-judicial function;**
- 444jh **(35) records that would reveal negotiations regarding assistance or incentives offered**  
 444ji **by or requested from a governmental entity for the purpose of encouraging a person to expand**  
 444jj **or locate a business in Utah, but only if disclosure would result in actual economic harm to the**  
 444jk **person or place the governmental entity at a competitive disadvantage, but this section may not**  
 444jl **be used to restrict access to a record evidencing a final contract;**
- 444jm **(36) materials to which access must be limited for purposes of securing or maintaining**  
 444jn **the governmental entity's proprietary protection of intellectual property rights including**  
 444jo **patents, copyrights, and trade secrets;**
- 444jp **(37) the name of a donor or a prospective donor to a governmental entity, including an**  
 444jq **institution within the state system of higher education defined in Section 53B-1-102, and other**  
 444jr **information concerning the donation that could reasonably be expected to reveal the identity**  
 444js **of the donor, provided that:**
- 444jt **(a) the donor requests anonymity in writing;**
- 444ju **(b) any terms, conditions, restrictions, or privileges relating to the donation may not be**  
 444jv **classified protected by the governmental entity under this Subsection (37); and**
- 444jw **(c) except for an institution within the state system of higher education defined in**  
 444jx **Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged**  
 444jy **in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority**  
 444jz **over the donor, a member of the donor's immediate family, or any entity owned or controlled**  
 444ka **by the donor or the donor's immediate family;**
- 444kb **(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and**  
 444kc **73-18-13;**
- 444kd **(39) a notification of workers' compensation insurance coverage described in Section**  
 444ke **34A-2-205;**
- 444kf **(40) (a) the following records of an institution within the state system of ←§**

444kg **§→ higher education defined in Section 53B-1-102, which have been developed, discovered,**  
444kh **disclosed to, or received by or on behalf of faculty, staff, employees, or students of the**  
444ki **institution:**

- 444kj (i) unpublished lecture notes;
- 444kk (ii) unpublished notes, data, and information:
  - 444kl (A) relating to research; and
  - 444km (B) of:
    - 444kn (I) the institution within the state system of higher education defined in Section
    - 444ko **53B-1-102; or**
    - 444kp (II) a sponsor of sponsored research;
  - 444kq (iii) unpublished manuscripts;
  - 444kr (iv) creative works in process;
  - 444ks (v) scholarly correspondence; and
  - 444kt (vi) confidential information contained in research proposals;
- 444ku (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
- 444kv **information required pursuant to Subsection 53B-16-302(2)(a) or (b); and**
- 444kw (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 444kx (41) (a) records in the custody or control of the Office of Legislative Auditor General
- 444ky **that would reveal the name of a particular legislator who requests a legislative audit prior to**
- 444kz **the date that audit is completed and made public; and**
- 444la (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 444lb **Office of the Legislative Auditor General is a public document unless the legislator asks that**
- 444lc **the records in the custody or control of the Office of Legislative Auditor General that would**
- 444ld **reveal the name of a particular legislator who requests a legislative audit be maintained as**
- 444le **protected records until the audit is completed and made public;**
- 444lf (42) records that provide detail as to the location of an explosive, including a map or
- 444lg **other document that indicates the location of:**
  - 444lh (a) a production facility; or
  - 444li (b) a magazine;
- 444lj (43) information contained in the database described in Section 62A-3-311.1;
- 444lk (44) information contained in the Management Information System and Licensing
- 444ll **Information System described in Title 62A, Chapter 4a, Child and Family Services;**
- 444lm (45) information regarding National Guard operations or activities in support of the
- 444ln **National Guard's federal mission;**
- 444lo (46) records provided by any pawn or secondhand business to a law enforcement
- 444lp **agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and**
- 444lq **Secondhand Merchandise Transaction Information Act;**
- 444lr (47) information regarding food security, risk, and vulnerability assessments
- 444ls **performed by the Department of Agriculture and Food; ←§**

444lt **§→ (48) except to the extent that the record is exempt from this chapter pursuant to**  
 444lu **Section 63-2-106, records related to an emergency plan or program prepared or maintained by**  
 444lv **the Division of Homeland Security the disclosure of which would jeopardize:**

444lw (a) the safety of the general public; or

444lx (b) the security of:

444ly (i) governmental property;

444lz (ii) governmental programs; or

444ma (iii) the property of a private person who provides the Division of Homeland Security  
 444mb information;

444mc (49) records of the Department of Agriculture and Food relating to the National  
 444md Animal Identification System or any other program that provides for the identification,  
 444me tracing, or control of livestock diseases, including any program established under Title 4,  
 444mf Chapter 24, Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock  
 444mg Inspection and Quarantine;

444mh (50) as provided in Section 26-39-109:

444mi (a) information or records held by the Department of Health related to a complaint  
 444mj regarding a child care program or residential child care which the department is unable to  
 444mk substantiate; and

444ml (b) information or records related to a complaint received by the Department of Health  
 444mm from an anonymous complainant regarding a child care program or residential child care;  
 444mn [and]

444mo (51) unless otherwise classified as public under Section 63-2-301 and except as provided  
 444mp under Section 41-1a-116, an individual's home address, home telephone number, or personal  
 444mq mobile phone number, if:

444mr (a) the individual is required to provide the information in order to comply with a law,  
 444ms ordinance, rule, or order of a government entity; and

444mt (b) the subject of the record has a reasonable expectation that this information will be  
 444mu kept confidential due to:

444mv (i) the nature of the law, ordinance, rule, or order; and

444mw (ii) the individual complying with the law, ordinance, rule, or order[.]; and

444mx (52) records contained in the Management Information System, created in Section  
 444my 62A-4a-1003. ←§

445 **§→ [Section 7. Section 78-3a-104 is amended to read:**

446 ~~———— 78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.~~

447 ~~———— (1) Except as otherwise provided by law, the juvenile court has exclusive original~~  
 448 ~~jurisdiction in proceedings concerning:~~

449 ~~———— (a) a child who has violated any federal, state, or local law or municipal ordinance or a~~  
 450 ~~person younger than 21 years of age who has violated any law or ordinance before becoming~~

451 ~~18 years of age, regardless of where the violation occurred, excluding traffic laws and boating]~~ ←§

452 ~~§→ [and ordinances;~~  
453 ~~—— (b) a person 21 years of age or older who has failed or refused to comply with an order~~  
454 ~~of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's~~  
455 ~~21st birthday; however, the continuing jurisdiction is limited to causing compliance with~~  
456 ~~existing orders;~~  
457 ~~—— (c) a child who is an abused child, neglected child, or dependent child, as those terms~~  
458 ~~are defined in Section 78-3a-103;~~  
459 ~~—— (d) a protective order for a child pursuant to the provisions of Title 78, Chapter 3h,~~  
460 ~~Child Protective Orders, which the juvenile court may transfer to the district court if the~~  
461 ~~juvenile court has entered an ex parte protective order and finds that:] ←§~~

462           ~~§→ [(i) the petitioner and the respondent are the natural parent, adoptive parent, or step~~  
463 ~~parent of the child who is the object of the petition;~~  
464           ~~—— (ii) the district court has a petition pending or an order related to custody or parent-time~~  
465 ~~entered under Title 30, Chapter 3, Divorce, Title 30, Chapter 6, Cohabitant Abuse Act, or Title~~  
466 ~~78, Chapter 45g, Utah Uniform Parentage Act, in which the petitioner and the respondent are~~  
467 ~~parties; and~~  
468           ~~—— (iii) the best interests of the child will be better served in the district court;~~  
469           ~~—— (e) appointment of a guardian of the person or other guardian of a minor who comes~~  
470 ~~within the court's jurisdiction under other provisions of this section;~~  
471           ~~—— (f) the emancipation of a minor in accordance with Part 10, Emancipation;~~  
472           ~~—— (g) the termination of the legal parent-child relationship in accordance with Part 4,~~  
473 ~~Termination of Parental Rights Act, including termination of residual parental rights and~~  
474 ~~duties;~~  
475           ~~—— (h) the treatment or commitment of a mentally retarded minor;~~  
476           ~~—— (i) a minor who is a habitual truant from school;~~  
477           ~~—— (j) the judicial consent to the marriage of a child under age 16 upon a determination of~~  
478 ~~voluntariness or where otherwise required by law, employment, or enlistment of a child when~~  
479 ~~consent is required by law;~~  
480           ~~—— (k) any parent or parents of a child committed to a secure youth corrections facility, to~~  
481 ~~order, at the discretion of the court and on the recommendation of a secure facility, the parent~~  
482 ~~or parents of a child committed to a secure facility for a custodial term, to undergo group~~  
483 ~~rehabilitation therapy under the direction of a secure facility therapist, who has supervision of~~  
484 ~~that parent's or parents' child, or any other therapist the court may direct, for a period directed~~  
485 ~~by the court as recommended by a secure facility;~~  
486           ~~—— (l) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;~~  
487           ~~—— (m) the treatment or commitment of a mentally ill child. The court may commit a child~~  
488 ~~to the physical custody of a local mental health authority in accordance with the procedures and~~  
489 ~~requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to~~  
490 ~~Division of Substance Abuse and Mental Health. The court may not commit a child directly to~~  
491 ~~the Utah State Hospital;~~  
492           ~~—— (n) the commitment of a child in accordance with Section 62A-15-301;] ←§~~



493           ~~§→ [(o) de novo review of final agency actions resulting from an informal adjudicative~~  
494 ~~proceeding as provided in Section 63-46b-15; and~~  
495 ~~—— (p) adoptions conducted in accordance with the procedures described in Title 78,~~  
496 ~~Chapter 30, Adoption, when the juvenile court has previously entered an order terminating the~~  
497 ~~rights of a parent and finds that adoption is in the best interest of the child.~~  
498 ~~—— (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive~~  
499 ~~jurisdiction over any traffic or boating offense committed by a person under 16 years of age~~  
500 ~~and concurrent jurisdiction over all other traffic or boating offenses committed by a person 16~~  
501 ~~years of age or older, except that the court shall have exclusive jurisdiction over the following~~  
502 ~~offenses committed by a child:~~  
503 ~~—— (a) Section 76-5-207, automobile homicide;~~  
504 ~~—— (b) Section 41-6a-502, operating a vehicle while under the influence of alcohol or~~  
505 ~~drugs;~~  
506 ~~—— (c) Section 41-6a-528, reckless driving or Section 73-18-12, reckless operation;~~  
507 ~~—— (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or~~  
508 ~~semitrailer for an extended period of time; and~~  
509 ~~—— (e) Section 41-6a-210 or 73-18-20, fleeing a peace officer.~~  
510 ~~—— (3) The court also has jurisdiction over traffic and boating offenses that are part of a~~  
511 ~~single criminal episode filed in a petition that contains an offense over which the court has~~  
512 ~~jurisdiction:~~  
513 ~~—— (4) The juvenile court has jurisdiction over an ungovernable or runaway child who is~~  
514 ~~referred to it by the Division of Child and Family Services or by public or private agencies that~~  
515 ~~contract with the division to provide services to that child where, despite earnest and persistent~~  
516 ~~efforts by the division or agency, the child has demonstrated that the child:~~  
517 ~~—— (a) is beyond the control of the child's parent, guardian, lawful custodian, or school~~  
518 ~~authorities to the extent that the child's behavior or condition endangers the child's own welfare~~  
519 ~~or the welfare of others; or~~  
520 ~~—— (b) has run away from home.~~  
521 ~~—— (5) This section does not restrict the right of access to the juvenile court by private~~  
522 ~~agencies or other persons.~~  
523 ~~—— (6) The juvenile court has jurisdiction of all magistrate functions relative to cases] ←§~~

524 ~~§→ [arising under Section 78-3a-602.~~

525 ~~—— (7) The juvenile court has jurisdiction to make a finding of substantiated,~~  
 526 ~~unsubstantiated, [or] without merit, or false in accordance with Section 78-3a-320.]~~

526a Section 8. Section 78-3a-314 is amended to read:

526b 78-3a-314. All proceedings -- Persons entitled to be present.

526c (1) A child who is the subject of a juvenile court hearing, any person entitled to notice  
 526d pursuant to Section 78-3a-306 or 78-3a-309, preadoptive parents, foster parents, and any  
 526e relative providing care for the child, are:

526f (a) entitled to notice of, and to be present at, each hearing and proceeding held under  
 526g this part, including administrative and citizen reviews; and

526h (b) have a right to be heard at each hearing and proceeding described in Subsection  
 526i (1)(a).

526j (2) A child shall be represented at each hearing by the guardian ad litem appointed to  
 526k the child's case by the court. The child has a right to be present at each hearing, subject to the  
 526l discretion of the guardian ad litem or the court regarding any possible detriment to the child.

526m (3) (a) The parent or guardian of a child who is the subject of a petition under this part  
 526n has the right to be represented by counsel, and to present evidence, at each hearing.

526o (b) When it appears to the court that a parent or guardian of the child desires counsel  
 526p but is financially unable to afford and cannot for that reason employ counsel, and the child has  
 526q been placed in out-of-home care, or the petitioner is recommending that the child be placed in  
 526r out-of-home care, the court shall appoint counsel.

526s (4) In every abuse, neglect, or dependency proceeding under this chapter, the court  
 526t shall order that the child be represented by a guardian ad litem, in accordance with Section  
 526u 78-3a-912. The guardian ad litem shall represent the best interest of the child, in accordance  
 526v with the requirements of that section, at the shelter hearing and at all subsequent court and  
 526w administrative proceedings, including any proceeding for termination of parental rights in  
 526x accordance with Part 4, Termination of Parental Rights Act.

526y (5) ~~[Notwithstanding]~~ (a) Except as provided in Subsection (5)(b), and notwithstanding  
 526z any other provision of law[,];

526aa (i) counsel for all parties to the action shall be given access to all records, maintained  
 526ab by the division or any other state or local public agency, that are relevant to the abuse, neglect,  
 526ac or dependency proceeding under this chapter[.]; and

526ad (ii) if the natural parent of a child is representing himself, the natural parent shall have  
 526ae access to [those records. The above disclosures] the records described in Subsection (5)(a)(i).

526af (b) The disclosures described in Subsection (5)(a) are not required in the following  
 526ag circumstances:

526ah ~~[(a) The]~~ (i) Subject to Subsection (5)(c), the division or other state or local public  
 526ai agency did not originally create the record being requested[. In those circumstances, the  
 526aj person making the request under this section shall be informed of the following:]; ←§

526ak **§→** ~~[(i) the existence of all records in the possession of the division or any other state or~~  
526al ~~local public agency;]~~

526am ~~—— [(ii) the name and address of the person or agency that originally created the record;~~  
526an ~~and]~~

526ao ~~—— [(iii) that the person must seek access to the record from the person or agency that~~  
526ap ~~originally created the record.]~~

526aq ~~—— [(b) Disclosure] (ii) disclosure of the record would jeopardize the life or physical safety~~  
526ar ~~of a child who has been a victim of child abuse or neglect, or any person who provided~~  
526as ~~substitute care for the child[.];~~

526at ~~[(c) Disclosure] (iii) disclosure of the record would jeopardize the anonymity of the~~  
526au ~~person or persons making the initial report of abuse or neglect or any others involved in the~~  
526av ~~subsequent investigation[.];~~

526aw ~~[(d) Disclosure] (iv) disclosure of the record would jeopardize the life or physical~~  
526ax ~~safety of a person who has been a victim of domestic violence[-]; or~~

526ay ~~(v) the record is a report maintained in the Management Information System, for~~  
526az ~~which a finding of unsubstantiated, unsupported, or without merit has been made.~~

526ba ~~(c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the~~  
526bb ~~person making the request of the following:~~

526bc ~~(i) the existence of all records in the possession of the division or any other state or local~~  
526bd ~~public agency;~~

526be ~~(ii) the name and address of the person or agency that originally created the record;~~  
526bf ~~and~~

526bg ~~(iii) that the person must seek access to the record from the person or agency that~~  
526bh ~~originally created the record.~~

526bi ~~(6) (a) The appropriate foster care citizen review board shall be given access to all~~  
526bj ~~records, maintained by the division or any other state or local public agency, that are relevant~~  
526bk ~~to an abuse, neglect, or dependency proceeding under this chapter.~~

526bl ~~(b) Representatives of the appropriate foster care citizen review board are entitled to~~  
526bm ~~be present at each hearing held under this part, but notice is not required to be provided. ←§~~

527 **§→** ~~[Section 8. Section 78-3a-320 is amended to read:~~  
528 ~~—— 78-3a-320. Additional finding at adjudication hearing -- Petition -- Court records:~~  
529 ~~—— (1) Upon the filing with the court of a petition under Section 78-3a-305 by the Division~~  
530 ~~of Child and Family Services or any interested person informing the court, among other things,~~  
531 ~~that the division has made a supported finding that a person committed a severe type of child~~  
532 ~~abuse or neglect as defined in Section 62A-4a-1002, the court shall:~~

533 ~~—— (a) make a finding of substantiated, unsubstantiated, or without merit;~~  
534 ~~—— (b) include the finding described in Subsection (1)(a) in a written order; and~~  
535 ~~—— (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.~~

536 ~~—— (2) [The] A judicial finding under [Subsection] Subsections (1), (3), and (4) shall be~~  
537 ~~made:] ←§~~

538            ~~§→ [(a) as part of the adjudication hearing;~~  
539            ~~———— (b) at the conclusion of the adjudication hearing; or~~  
540            ~~———— (c) as part of a court order entered pursuant to a written stipulation of the parties.~~  
541            ~~———— (3) (a) Any person described in Subsection 62A-4a-1010(1) may at any time file with~~  
542            ~~the court a petition for removal of the person's name from the Licensing Information System.~~  
543            ~~———— (b) At the conclusion of the hearing on the petition, the court shall:~~  
544            ~~———— (i) make a finding of substantiated, unsubstantiated, or without merit;~~  
545            ~~———— (ii) include the finding described in Subsection (1)(a) in a written order; and~~  
546            ~~———— (iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.~~  
547            ~~———— (4) (a) If the court makes a finding of without merit under Subsection (1) or (3)(b), the~~  
548            ~~court shall:~~  
549            ~~———— (i) make an additional finding regarding whether the report is false; and~~  
550            ~~———— (ii) include the finding described in Subsection (4)(a)(i) in the orders described in~~  
551            ~~Subsections (1)(b) and (3)(b)(ii).~~  
552            ~~———— (b) The finding described in Subsection (4)(a)(i) shall be made solely for the purpose~~  
553            ~~of determining, under Subsection 62A-4a-1003(3), whether the report upon which the finding~~  
554            ~~is based, or any reference to the report, will be included in the Management Information] ←§~~

555 ~~§→ [System:~~  
 556 ~~——— [(4)] (5) A proceeding for adjudication of a supported finding under this section of a~~  
 557 ~~type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be~~  
 558 ~~joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.~~  
 559 ~~——— [(5)] (6) If a person whose name appears on the Licensing Information system prior to~~  
 560 ~~May 6, 2002 files a petition during the time that an alleged perpetrator's application for~~  
 561 ~~clearance to work with children or vulnerable adults is pending, the court shall hear the matter~~  
 562 ~~and enter a final decision no later than 60 days after the filing of the petition.~~  
 563 ~~——— [(6)] (7) For the purposes of licensing under Sections 26-21-9.5, 26-39-105.5,~~  
 564 ~~62A-1-118, and for the purposes described in Section 62A-2-121:~~  
 565 ~~——— (a) the court shall make available records of its findings under Subsections (1) and (2)~~  
 566 ~~for licensing purposes, only to those with statutory authority to access also the Licensing~~  
 567 ~~Information System created under Section 62A-4a-1006, and~~  
 568 ~~——— (b) any appellate court shall make available court records of appeals from juvenile~~  
 569 ~~court decisions under Subsections (1)[, (2), (3), and (4)] through (5) for licensing purposes;~~  
 570 ~~only to those with statutory authority to access also the Licensing Information System.] ←§~~

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Legislative Review Note  
 as of 11-6-07 11:33 AM

Office of Legislative Research and General Counsel

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**Fiscal Note****S.B. 17 - Child Abuse and Neglect Registry - Management and Licensing  
Information Systems Amendments**

2008 General Session

State of Utah

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**State Impact**

It is estimated that the Division of Child and Family Services will require a one-time General Fund appropriation of \$9,200 and a one-time federal funds appropriation of \$2,800 to implement provisions of this bill in FY 2009.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund, One-Time	\$0	\$9,200	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$2,800	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$12,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.