

1 **JOINT RESOLUTION AMENDING RULES OF EVIDENCE**
2 **RELATING TO INFORMATION CONTAINED IN**
3 **THE MANAGEMENT INFORMATION SYSTEM**

4 2008 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Gene Davis**

7 House Sponsor: Wayne A. Harper

8
9 **LONG TITLE**

10 **General Description:**

11 This joint resolution amends the Utah Rules of Evidence to prohibit the use of a report
12 maintained in the Management Information System, operated by the Division of Child
13 and Family Services, within the Department of Human Services, as evidence or
14 testimony in certain proceedings, if the report has been found to be unsubstantiated,
15 unsupported, or without merit, unless the person accused in the report consents to the
16 use.

17 **Highlighted Provisions:**

18 This resolution:

19 ▶ defines terms;

20 ▶ provides that a report, and information from or relating to a report, maintained in
21 the Management Information System may not be disclosed or admitted as evidence ~~§~~ [;
22 ~~nor may testimony regarding the report or information be made or accepted,]~~ ~~←§~~ in a
23 proceeding ~~§~~, where the state is not a party, ~~←§~~ for divorce, child-custody, a protection order,
23a adoption, or termination
24 of parental rights, if the report has been found to be unsubstantiated, unsupported,
25 or without merit ~~§~~, unless a party who is not the alleged perpetrator in the report shows, by
25a clear and convincing evidence, that the probative value of the report or information outweighs
25b its prejudicial effect ~~←§~~ ; and

26 ▶ provides that the foregoing restriction may be waived by the person who is the
27 alleged perpetrator in the report.



28 **Special Clauses:**

29 This resolution provides an immediate effective date.

30 **Utah Rules of Evidence Affected:**

31 ENACTS:

32 **Rule 510**, Utah Rules of Evidence



34 *Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each*
35 *of the two houses voting in favor thereof:*

36 As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend
37 rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of
38 all members of both houses of the Legislature:

39 Section 1. **Rule 510**, Utah Rules of Evidence is enacted to read:

40 **Rule 510. Management Information System -- Reports found to be unsupported,**
41 **unsubstantiated, or without merit.**

42 (a) Definitions. As used in this rule:

43 (a) (1) "Division" means the Division of Child and Family Services within the
44 Department of Human Services.

45 (a) (2) "Finding of unreliability" means a finding made by:

46 (a) (2) (A) a court that a report maintained in the Management Information System is
47 unsubstantiated or without merit; or

48 (a) (2) (B) the division that a report maintained in the Management Information System
49 is unsupported or without merit.

50 (a) (3) "Management Information System" means the Management Information
51 System, created in Utah Code Section 62A-4a-1003, operated by the division.

52 (a) (4) "Restricted information" means a report, information ~~that~~ **contained in** ~~from~~ **a**
52a report, or a
53 finding of unreliability relating to a report, maintained in the Management Information System.

54 (a) (5) "Restricted proceeding" means a proceeding ~~in~~ **where the state is not a party,** ~~for~~
54a divorce, child-custody, a
55 protection order, adoption, or termination of parental rights.

56 (a) (6) "Unsubstantiated" is as defined in Utah Code Section 62A-4a-101.

57 (a) (7) "Unsupported" is as defined in Utah Code Section 62A-4a-101.

58 (a) (8) "Without merit" is as defined in Utah Code Section 62A-4a-101.

59 **(b) General rule of privilege.** Restricted information may not be disclosed or admitted
60 as evidence ~~§→ [; nor may testimony regarding restricted information be made or accepted;]~~ ←§ in a
61 restricted proceeding, if a finding of unreliability has been made in relation to the report ~~§→~~ , **unless**
61a **a party who is not the alleged perpetrator in the report shows, by clear and convincing**
61b **evidence, that the probative value of the restricted information outweighs the prejudicial effect**
61c **of the restricted information.** ←§

62 **(c) Waiver of privilege.** The privilege described in this rule is held by, and may only be
63 waived by, the person who is the alleged perpetrator in the report.

64 Section 2. **Effective date.**

65 **This resolution takes effect upon approval by a constitutional two-thirds vote of all**
66 **members elected to each house.**

Legislative Review Note
as of 1-29-08 12:32 PM

Office of Legislative Research and General Counsel

Fiscal Note**S.J.R. 9 - Joint Resolution Amending Rules of Evidence Relating to
Information Contained in the Management Information System**

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

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.
