

S.B. 17

CHILD ABUSE AND NEGLECT REGISTRY - MANAGEMENT AND LICENSING
INFORMATION SYSTEMS AMENDMENTS

Senator **Gene Davis** proposes the following amendments:

1. *Page 15i, Line 445 through Page 18, Line 526*

Senate 2nd Reading Amendments

2-5-2008:

{ ~~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. }~~

2. Page 18a, Line 527 through Page 19, Line 570
Senate 2nd Reading Amendments
2-5-2008:

{ ~~527~~ ~~—— 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. }~~

Renumber remaining sections accordingly.