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**RELEASE OF COURT DOCUMENTS AND
CHILD INTERVIEWS**
2010 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Lorie D. Fowlke

Senate Sponsor: _____

LONG TITLE

General Description:

This bill limits the release of court documents and child interviews.

Highlighted Provisions:

This bill:

- ▶ limits who can receive and view interviews with child victims;
- ▶ creates a new provision in the Judiciary and Judicial Administration code;
- ▶ provides that documents received by pro se litigants are confidential;
- ▶ requires the court to advise pro se litigants of the confidentiality of documents received during litigation;
- ▶ requires the court to specify who may receive child interviews; and
- ▶ provides that violations by pro se litigants may be punished by contempt or a class

B misdemeanor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-37-4, as enacted by Laws of Utah 1987, Chapter 194



28 ENACTS:

29 **78A-2-229**, Utah Code Annotated 1953



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

32 Section 1. Section **77-37-4** is amended to read:

33 **77-37-4. Additional rights -- Children.**

34 In addition to all rights afforded to victims and witnesses under this chapter, child
35 victims and witnesses shall be afforded these rights:

36 (1) Children have the right to protection from physical and emotional abuse during
37 their involvement with the criminal justice process.

38 (2) Children are not responsible for inappropriate behavior adults commit against them
39 and have the right not to be questioned, in any manner, nor to have allegations made, implying
40 this responsibility. Those who interview children have the responsibility to consider the
41 interests of the child in this regard.

42 (3) Child victims and witnesses have the right to have interviews relating to a criminal
43 prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they
44 are conducted by persons sensitive to the needs of children.

45 (4) Child victims have the right to be informed of available community resources that
46 might assist them and how to gain access to those resources. Law enforcement and prosecutors
47 have the duty to ensure that child victims are informed of community resources, including
48 counseling prior to the court proceeding, and have those services available throughout the
49 criminal justice process.

50 (5) Child victims have the right, once an investigation has been initiated by law
51 enforcement or the Division of Child and Family Services, to have their investigative
52 interviews, including video and audio recordings, protected. Except as provided in Subsection
53 (5)(b) and (c), interviews may not be distributed, released, or displayed to anyone without a
54 court order.

55 (a) The court order:

56 (i) shall describe with particularity to whom the interview may be released and prohibit
57 further distribution or viewing by anyone not named in the order;

58 (ii) may impose restrictions on access to the materials considered reasonable to protect

59 the privacy of the child victim; and

60 (iii) shall order the recordings and transcripts sealed and preserved following the
61 conclusion of any legal proceedings in which the recordings or transcripts are used.

62 (b) The Division of Child and Family Services or law enforcement may distribute a
63 copy of the interview to the prosecutor's office, the Attorney General's child protection
64 division, and to the attorney for the child who is the subject of the interview. Any further
65 distribution, release, or display is subject to this Subsection (5).

66 (c) In a criminal case, the prosecutor may distribute a copy of the interview to the
67 attorney for the defendant or a pro se defendant pursuant to a valid request for discovery. The
68 attorney for the defendant in a criminal case may permit the defendant to view the interview,
69 but may not distribute or release the interview to their client. Any further distribution, release,
70 or display is subject to this Subsection (5).

71 (d) Pro se defendants shall be advised by the court that an interview received as part of
72 discovery is confidential and may not be distributed, released, or displayed without prior
73 authorization from the court.

74 (e) Multidisciplinary teams or other state agencies that provide services to children and
75 families may view interviews of children, and families for whom they are providing services,
76 but may not receive copies.

77 (f) Violation of this section is:

78 (i) punishable by contempt if distribution, release, or display occurs before the
79 resolution of the case and the court still has jurisdiction over the defendant; or

80 (ii) a class B misdemeanor if the case has been resolved and the court no longer has
81 jurisdiction over the defendant.

82 Section 2. Section **78A-2-229** is enacted to read:

83 **78A-2-229. Documents provided to pro se litigants.**

84 (1) Documents provided to a pro se litigant in the course of an action or in accordance
85 with Subsection 63G-2-202(7) may not be distributed, released, or displayed to any other
86 person except the court, the other party and their counsel, or any other person who may be
87 authorized by the court to inspect the documents.

88 (2) Pro se litigants shall be advised by the court that any documents received by the
89 party that the party would not have received but for the litigation and pro se representation are

90 confidential and may not be distributed outside the parties or the court without prior
91 authorization by the court.

92 (3) Violation of this section is:

93 (a) punishable by contempt if distribution or release occurs before a final determination
94 is made by the court and the court still has jurisdiction over the parties; or

95 (b) a class B misdemeanor if the litigation has been concluded and the court no longer
96 has jurisdiction over the parties.

Legislative Review Note
as of 1-27-10 2:57 PM

Office of Legislative Research and General Counsel