

Representative Lorie D. Fowlke proposes the following substitute bill:

CHILD ABUSE DATABASE AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lorie D. Fowlke

Senate Sponsor: D. Chris Butters

LONG TITLE

General Description:

This bill provides a procedure for a person to be cleared for employment purposes if their name appears on the Licensing Information System.

Highlighted Provisions:

This bill:

- ▶ creates a procedure for a person to be cleared for employment if their name appears on the Licensing Information System;
- ▶ sets a time limit of five years for neglect and 10 years for abuse before a person may petition for review;
- ▶ requires that no new supported reports have been filed within the time limits;
- ▶ requires the division to provide a comprehensive review during a hearing on a petition;
- ▶ requires the juvenile court to hear evidence; and
- ▶ sets a filing fee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **78A-2-301**, as last amended by Laws of Utah 2009, Chapters 147 and 149

29 ENACTS:

30 **62A-4a-1011**, Utah Code Annotated 1953

31

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

33 Section 1. Section **62A-4a-1011** is enacted to read:

34 **62A-4a-1011. Process for clearing a person for employment if the person appears**
35 **on the Licensing Information System.**

36 (1) A petitioner who is the subject of a report entered in the Licensing Information
37 System and is denied employment based on the report may petition the juvenile court to have
38 the report cleared for purposes of employment if:

39 (a) (i) the report was for neglect and at least five years have passed since the report was
40 made; or

41 (ii) the report was for abuse and at least 10 years have passed since the report was
42 made;

43 (b) no other report of abuse or neglect has been made and supported regarding the
44 petitioner; and

45 (c) the report of abuse or neglect involved children who are no longer children as
46 defined in Section 62A-4a-101.

47 (2) The petitioner shall have a copy of the petition served upon the director of the
48 division in accordance with Utah Rules of Civil Procedure, Rule 4. The division shall file a
49 written response not later than 20 days after receipt of the petition.

50 (3) Upon receipt of the petition the court shall set a hearing on the matter, unless:

51 (a) the petitioner has been convicted of or entered a plea in abeyance or no contest plea
52 to:

53 (i) any felony offense against a child; or

54 (ii) any offense for which a certificate of eligibility for expungement may be denied
55 under Section 77-18-12;

56 (b) the report in the Licensing Information System, for which the petitioner is seeking

57 clearance, was supported by the division for sexual abuse, sexual exploitation, or severe
58 physical abuse amounting to serious physical injury as defined in Section 76-5-109(1)(f); or
59 (c) the juvenile court has, at any time, adjudicated the petitioner for sexual abuse,
60 sexual exploitation, or severe physical abuse amounting to serious physical injury as defined in
61 Section 76-5-109(1)(f).

62 (4) If Subsection (3) does not apply, the court shall set a hearing on the matter and
63 notify the petitioner and the division.

64 (5) At the hearing, the court shall review and consider the following information:

65 (a) the date of the offense or incident;

66 (b) the nature and seriousness of the offense or incident;

67 (c) the circumstances under which the offense or incident occurred;

68 (d) the age of the perpetrator when the offense or incident occurred;

69 (e) whether the offense or incident was an isolated or repeated occurrence;

70 (f) whether the offense or incident directly related to the abuse of a child or vulnerable
71 adult;

72 (g) whether the petitioner's parental rights were terminated;

73 (h) the overall history of abuse or neglect by the petitioner;

74 (i) any evidence of rehabilitation, counseling, or psychiatric treatment received, or
75 additional academic or vocational schooling completed by the person; and

76 (j) any other pertinent information.

77 (6) The court shall clear the petitioner for purposes of employment unless it determines
78 by a preponderance of the evidence that approval may create a risk of harm to a child or
79 vulnerable adult.

80 Section 2. Section **78A-2-301** is amended to read:

81 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

82 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
83 court of record not governed by another subsection is \$360.

84 (b) The fee for filing a complaint or petition is:

85 (i) \$75 if the claim for damages or amount in interpleader exclusive of court costs,
86 interest, and attorney fees is \$2,000 or less;

87 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,

88 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

89 (iii) \$360 if the claim for damages or amount in interpleader is \$10,000 or more;

90 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
91 4, Separate Maintenance; and

92 (v) \$35 for a motion for temporary separation order filed under Section 30-3-4.5.

93 (c) The fee for filing a small claims affidavit is:

94 (i) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
95 interest, and attorney fees is \$2,000 or less;

96 (ii) \$100 if the claim for damages or amount in interpleader exclusive of court costs,
97 interest, and attorney fees is greater than \$2,000, but less than \$7,500; and

98 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
99 interest, and attorney fees is \$7,500 or more.

100 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
101 complaint, or other claim for relief against an existing or joined party other than the original
102 complaint or petition is:

103 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
104 \$2,000 or less;

105 (ii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is
106 greater than \$2,000 and less than \$10,000;

107 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is
108 \$10,000 or more, or the party seeks relief other than monetary damages; and

109 (iv) \$115 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
110 Chapter 4, Separate Maintenance.

111 (e) The fee for filing a small claims counter affidavit is:

112 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
113 \$2,000 or less;

114 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
115 greater than \$2,000, but less than \$7,500; and

116 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
117 \$7,500 or more.

118 (f) The fee for depositing funds under Section 57-1-29 when not associated with an

119 action already before the court is determined under Subsection (1)(b) based on the amount
120 deposited.

121 (g) The fee for filing a petition is:

122 (i) \$225 for trial de novo of an adjudication of the justice court or of the small claims
123 department; and

124 (ii) \$65 for an appeal of a municipal administrative determination in accordance with
125 Section 10-3-703.7.

126 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
127 petition for writ of certiorari is \$225.

128 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a
129 petition for expungement or a petition under Section 62A-4a-1011 is \$135.

130 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

131 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
132 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
133 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
134 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
135 Act.

136 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
137 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
138 Defense Account, as provided in Section 51-9-408.

139 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
140 and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in
141 Section 78B-6-209.

142 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
143 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
144 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

145 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
146 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
147 Security Account, as provided in Section 78A-2-602.

148 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
149 United States is \$35.

- 150 (l) The fee for filing probate or child custody documents from another state is \$35.
- 151 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
152 Utah State Tax Commission is \$30.
- 153 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
154 or a judgment, order, or decree of an administrative agency, commission, board, council, or
155 hearing officer of this state or of its political subdivisions other than the Utah State Tax
156 Commission, is \$50.
- 157 (n) The fee for filing a judgment by confession without action under Section
158 78B-5-205 is \$35.
- 159 (o) The fee for filing an award of arbitration for confirmation, modification, or
160 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
161 action before the court is \$35.
- 162 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is
163 \$100.
- 164 (q) The fee for filing any accounting required by law is:
- 165 (i) \$15 for an estate valued at \$50,000 or less;
- 166 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
- 167 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
- 168 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 169 (v) \$175 for an estate valued at more than \$168,000.
- 170 (r) The fee for filing a demand for a civil jury is \$250.
- 171 (s) The fee for filing a notice of deposition in this state concerning an action pending in
172 another state under Utah Rule of Civil Procedure 26 is \$35.
- 173 (t) The fee for filing documents that require judicial approval but are not part of an
174 action before the court is \$35.
- 175 (u) The fee for a petition to open a sealed record is \$35.
- 176 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
177 addition to any fee for a complaint or petition.
- 178 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
179 30-1-9 is \$5.
- 180 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,

181 Part 8, Emancipation, is \$50.

182 (x) The fee for a certificate issued under Section 26-2-25 is \$8.

183 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
184 page.

185 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
186 per page.

187 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
188 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
189 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
190 credited to the court as a reimbursement of expenditures.

191 (bb) There is no fee for services or the filing of documents not listed in this section or
192 otherwise provided by law.

193 (cc) Except as provided in this section, all fees collected under this section are paid to
194 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
195 accepts the pleading for filing or performs the requested service.

196 (dd) The filing fees under this section may not be charged to the state, its agencies, or
197 political subdivisions filing or defending any action. In judgments awarded in favor of the
198 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
199 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
200 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,
201 order, fine, tax, lien, or other penalty and costs permitted by law.

202 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
203 shall transfer all revenues representing the difference between the fees in effect after May 2,
204 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
205 Facilities Construction and Management Capital Projects Fund.

206 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
207 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
208 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
209 initiate the development of a courts complex in Salt Lake City.

210 (B) If the Legislature approves funding for construction of a courts complex in Salt
211 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and

212 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
213 (2)(a)(ii) to construct a courts complex in Salt Lake City.

214 (C) After the courts complex is completed and all bills connected with its construction
215 have been paid, the Division of Facilities Construction and Management shall use any monies
216 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
217 District Court building.

218 (iii) The Division of Facilities Construction and Management may enter into
219 agreements and make expenditures related to this project before the receipt of revenues
220 provided for under this Subsection (2)(a)(iii).

221 (iv) The Division of Facilities Construction and Management shall:

222 (A) make those expenditures from unexpended and unencumbered building funds
223 already appropriated to the Capital Projects Fund; and

224 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
225 under this Subsection (2).

226 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
227 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
228 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
229 account.

230 (c) The Division of Finance shall deposit all revenues received from the court
231 administrator into the restricted account created by this section.

232 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
233 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
234 Vehicles, in a court of record to the Division of Facilities Construction and Management
235 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be
236 calculated on the balance of the fine or bail forfeiture paid.

237 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
238 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
239 a court of record to the Division of Finance for deposit in the restricted account created by this
240 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
241 balance of the fine or bail forfeiture paid.

242 (3) (a) There is created within the General Fund a restricted account known as the State

243 Courts Complex Account.

244 (b) The Legislature may appropriate monies from the restricted account to the
245 administrator of the courts for the following purposes only:

246 (i) to repay costs associated with the construction of the court complex that were
247 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

248 (ii) to cover operations and maintenance costs on the court complex.