

1 **CHILD ABUSE DATABASE AMENDMENTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lorie D. Fowlke**

5 Senate Sponsor: _____

6

LONG TITLE

7 **General Description:**

8 This bill provides a procedure for a person to have their name removed from the
9 Licensing Information System.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ creates a procedure for removal of names from the Licensing Information System;
- 13 ▶ sets a time limit of five years for neglect and 10 years for abuse before a person may
- 14 petition for removal;
- 15 ▶ requires that the child or children who were the subject of the report be adults;
- 16 ▶ requires that no new substantiated reports have been filed within the time limits;
- 17 ▶ allows the Division of Child and Family Services to object to a petition;
- 18 ▶ requires the juvenile court to hear evidence; and
- 19 ▶ sets a filing fee.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **78A-2-301**, as last amended by Laws of Utah 2009, Chapters 147 and 149



28 ENACTS:

29 **62A-4a-1011**, Utah Code Annotated 1953



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

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

33 **62A-4a-1011. Removal process for Licensing Information System.**

34 (1) A petitioner who is the subject of a report in the Licensing Information System may
35 petition the juvenile court to have the report removed if:

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

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

40 (b) no other report of abuse or neglect has been made and substantiated regarding the
41 petitioner;

42 (c) the report of abuse or neglect involved a child who is no longer a child as defined in
43 Section 62A-4a-101; and

44 (d) if counseling was required at the time of the report, all counseling was completed to
45 the satisfaction of the division.

46 (2) Upon receipt of a petition for removal from the Licensing Information System, the
47 court shall set a hearing on the matter.

48 (3) The petitioner shall have a copy of the petition and notice of hearing served upon
49 the director of the division in accordance with Utah Rules of Civil Procedure, Rule 4.

50 (4) The division shall, within 20 days of service, file a response with the court:

51 (a) stating there is no objection to the removal of the petitioner from the Licensing
52 Information System; or

53 (b) indicating the division's intent to appear and contest the petitioner's removal.

54 (5) The court shall proceed with the hearing whether or not the division files a
55 response.

56 (6) At the hearing, the court shall review the circumstances surrounding the petitioner
57 having been reported and investigated. Persons with knowledge of the petitioner may testify at
58 the hearing.

59 (a) If the petitioner was in the system for neglect, the court shall determine by a
60 preponderance of the evidence whether the petitioner continues to be a danger to society.

61 (b) If the petitioner was in the system for abuse, the court shall determine by clear and
62 convincing evidence whether the petitioner continues to be a danger to society.

63 (7) If the court determines the petitioner is no longer a danger to society, it shall order
64 the division to remove the petitioner's record from the Licensing Information System. The
65 court may, at its discretion, order the division to remove the petitioner's record from the
66 Management Information System.

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

68 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

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

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

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

74 (ii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
75 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

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

77 (iv) \$310 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
78 4, Separate Maintenance; and

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

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

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

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

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

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

90 (i) \$55 if the claim for relief exclusive of court costs, interest, and attorney fees is
91 \$2,000 or less;

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

94 (iii) \$155 if the original petition is filed under Subsection (1)(a), the claim for relief is
95 \$10,000 or more, or the party seeks relief other than monetary damages; and

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

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

99 (i) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
100 \$2,000 or less;

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

103 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
104 \$7,500 or more.

105 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
106 action already before the court is determined under Subsection (1)(b) based on the amount
107 deposited.

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

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

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

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

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

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

118 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
119 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
120 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'

121 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
122 Act.

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

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

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

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

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

137 (l) The fee for filing probate or child custody documents from another state is \$35.

138 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
139 Utah State Tax Commission is \$30.

140 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
141 or a judgment, order, or decree of an administrative agency, commission, board, council, or
142 hearing officer of this state or of its political subdivisions other than the Utah State Tax
143 Commission, is \$50.

144 (n) The fee for filing a judgment by confession without action under Section
145 78B-5-205 is \$35.

146 (o) The fee for filing an award of arbitration for confirmation, modification, or
147 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an
148 action before the court is \$35.

149 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is
150 \$100.

151 (q) The fee for filing any accounting required by law is:

- 152 (i) \$15 for an estate valued at \$50,000 or less;
- 153 (ii) \$30 for an estate valued at \$75,000 or less but more than \$50,000;
- 154 (iii) \$50 for an estate valued at \$112,000 or less but more than \$75,000;
- 155 (iv) \$90 for an estate valued at \$168,000 or less but more than \$112,000; and
- 156 (v) \$175 for an estate valued at more than \$168,000.
- 157 (r) The fee for filing a demand for a civil jury is \$250.
- 158 (s) The fee for filing a notice of deposition in this state concerning an action pending in
159 another state under Utah Rule of Civil Procedure 26 is \$35.
- 160 (t) The fee for filing documents that require judicial approval but are not part of an
161 action before the court is \$35.
- 162 (u) The fee for a petition to open a sealed record is \$35.
- 163 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$50 in
164 addition to any fee for a complaint or petition.
- 165 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
166 30-1-9 is \$5.
- 167 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,
168 Part 8, Emancipation, is \$50.
- 169 (x) The fee for a certificate issued under Section 26-2-25 is \$8.
- 170 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
171 page.
- 172 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
173 per page.
- 174 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
175 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,
176 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
177 credited to the court as a reimbursement of expenditures.
- 178 (bb) There is no fee for services or the filing of documents not listed in this section or
179 otherwise provided by law.
- 180 (cc) Except as provided in this section, all fees collected under this section are paid to
181 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
182 accepts the pleading for filing or performs the requested service.

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

189 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
190 shall transfer all revenues representing the difference between the fees in effect after May 2,
191 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
192 Facilities Construction and Management Capital Projects Fund.

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

197 (B) If the Legislature approves funding for construction of a courts complex in Salt
198 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
199 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
200 (2)(a)(ii) to construct a courts complex in Salt Lake City.

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

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

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

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

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

213 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues

214 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
215 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
216 account.

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

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

224 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
225 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
226 a court of record to the Division of Finance for deposit in the restricted account created by this
227 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
228 balance of the fine or bail forfeiture paid.

229 (3) (a) There is created within the General Fund a restricted account known as the State
230 Courts Complex Account.

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

- 233 (i) to repay costs associated with the construction of the court complex that were
234 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and
235 (ii) to cover operations and maintenance costs on the court complex.

Legislative Review Note
as of 1-26-10 11:15 AM

Office of Legislative Research and General Counsel