

YOUTH COURT ACT

1999 GENERAL SESSION

STATE OF UTAH

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AN ACT RELATING TO THE JUDICIAL CODE; CREATING THE UTAH YOUTH COURT DIVERSION ACT; DEFINING TERMS; CREATING A REFERRAL AND DISPOSITION PROCESS; PROVIDING FOR CREATION OF YOUTH COURTS; ALLOWING FOR THE COLLECTION OF A FEE; REQUIRING THE VOLUNTARY PARTICIPATION OF THE YOUTH AND THE PARENTS OR GUARDIAN; AND ESTABLISHING A YOUTH COURT BOARD TO OVERSEE THE CREATION AND CERTIFICATION PROCESS.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

78-57-101, Utah Code Annotated 1953

78-57-102, Utah Code Annotated 1953

78-57-103, Utah Code Annotated 1953

78-57-104, Utah Code Annotated 1953

78-57-105, Utah Code Annotated 1953

78-57-106, Utah Code Annotated 1953

78-57-107, Utah Code Annotated 1953

78-57-108, Utah Code Annotated 1953

78-57-109, Utah Code Annotated 1953

78-57-110, Utah Code Annotated 1953

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

Section 1. Section **78-57-101** is enacted to read:

CHAPTER 57. UTAH YOUTH COURT DIVERSION ACT

78-57-101. Title.

This chapter is known as the "Utah Youth Court Diversion Act."

Section 2. Section **78-57-102** is enacted to read:

78-57-102. Definitions.

(1) "Adult" means a person 18 years of age or older.

(2) "Gang activity" means any criminal activity that is conducted as part of an organized youth gang. It includes any criminal activity that is done in concert with other gang members, or done alone if it is to fulfill gang purposes. "Gang activity" does not include graffiti.

(3) "Minor offense" means any unlawful act that is a status offense or would be a class B or C misdemeanor, infraction, or violation of a municipal or county ordinance if the youth were an adult. "Minor offense" does not include:

(a) class A misdemeanors;

(b) felonies of any degree;

(c) any offenses that are committed as part of gang activity;

(d) any of the following offenses which would carry mandatory dispositions if referred to the juvenile court under Section 78-3a-506:

(i) a violation of Section 32A-12-209, Unlawful Purchase, Possession or Consumption by Minors;

(ii) a violation of Section 41-6-44, Driving Under the Influence;

(iii) a violation of Section 58-37-8, Controlled Substances Act;

(iv) a violation of Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(v) a violation of Title 58, Chapter 37b, Imitation Controlled Substances; or

(vi) a violation of Section 76-9-701, Intoxication; or

(e) any offense where a dangerous weapon, as defined in Subsection 76-1-601(5), is used in the commission of the offense.

(4) "Sponsoring entity" means any political subdivision of the state, including a school or school district, juvenile court, law enforcement agency, prosecutor's office, county, city, or town.

(5) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(6) "Youth" means a person under the age of 18 years.

Section 3. Section **78-57-103** is enacted to read:

78-57-103. Youth Court -- Authorization -- Referral.

(1) Youth Court is a diversion program which provides an alternative disposition for cases involving juvenile offenders in which youth participants, under the supervision of an adult coordinator, may serve in various capacities within the courtroom, acting in the role of jurors, lawyers, bailiffs, clerks, and judges.

(a) Youth who appear before youth courts have been identified by law enforcement personnel, school officials, a prosecuting attorney, or the juvenile court as having committed acts which indicate a need for intervention to prevent further development toward juvenile delinquency, but which appear to be acts that can be appropriately addressed outside the juvenile court process.

(b) Youth Courts may only hear cases as provided for in this chapter.

(c) Youth Court is a diversion program and not a court established under the Utah Constitution, Article VIII.

(2) Any person may refer youth to a Youth Court for minor offenses. Once a referral is made, the case shall be screened by an adult coordinator to determine whether it qualifies as a Youth Court case.

(3) Youth Courts have authority over youth:

(a) referred for a minor offense or offenses, or who are granted permission for referral under this chapter;

(b) who, along with a parent, guardian, or legal custodian, voluntarily and in writing, request Youth Court involvement;

(c) who admit having committed the referred offense;

(d) who, along with a parent, guardian, or legal custodian, waive any privilege against self-incrimination and right to a speedy trial; and

(e) who, along with their parent, guardian, or legal custodian, agree to follow the Youth Court disposition of the case.

(4) Except with permission granted under Subsection (5), Youth Courts may not exercise authority over youth who are under the continuing jurisdiction of the juvenile court for law

violations, including any youth who may have a matter pending which has not yet been adjudicated.

(5) Youth Courts may exercise authority over youth described in Subsection (4), and over any other offense with the permission of the juvenile court and the prosecuting attorney in the county or district that would have jurisdiction if the matter were referred to juvenile court.

(6) Permission of the juvenile court may be granted by a probation officer of the court in the district that would have jurisdiction over the offense being referred to Youth Court.

(7) Youth Courts may decline to accept a youth for Youth Court disposition for any reason and may terminate a youth from Youth Court participation at any time.

(8) A youth or the youth's parent, guardian, or custodian may withdraw from the Youth Court process at any time. The Youth Court shall immediately notify the referring source of the withdrawal.

(9) The Youth Court may transfer a case back to the referring source for alternative handling at any time.

(10) Referral of a case of Youth Court may not prohibit the subsequent referral of the case to any court.

Section 4. Section **78-57-104** is enacted to read:

78-57-104. Parental involvement -- Victims -- Restitution.

(1) Every youth appearing before the Youth Court shall be accompanied by a parent, guardian, or legal custodian.

(2) Victims shall have the right to attend hearings and be heard.

(3) Any restitution due a victim of an offense shall be made in full prior to the time the case is completed by the Youth Court. Restitution shall be agreed upon between the youth and victim.

Section 5. Section **78-57-105** is enacted to read:

78-57-105. Dispositions.

(1) Youth Court dispositional options include:

(a) community service;

(b) participation in law-related educational classes, appropriate counseling, treatment, or other educational programs;

- (c) providing periodic reports to the Youth Court;
- (d) participating in mentoring programs;
- (e) participation by the youth as a member of a Youth Court;
- (f) letters of apology;
- (g) essays; and
- (h) any other disposition considered appropriate by the Youth Court and adult coordinator.

(2) Youth Courts may not impose a term of imprisonment or detention and may not impose fines.

(3) Youth Court dispositions shall be completed within 180 days from the date of referral.

(4) Youth Court dispositions shall be reduced to writing and signed by the youth and a parent, guardian, or legal custodian indicating their acceptance of the disposition terms.

(5) Youth Court shall notify the referring source if a participant fails to successfully complete the Youth Court disposition. The referring source may then take any action it considers appropriate.

Section 6. Section **78-57-106** is enacted to read:

78-57-106. Liability.

(1) A person or entity associated with the referral, evaluation, adjudication, disposition, or supervision of matters under this chapter may not be held civilly liable for any injury occurring to any person performing community service or any other activity associated with a certified Youth Court unless the person causing the injury acted in a willful or wanton manner.

(2) Persons participating in a certified Youth Court shall be considered to be volunteers for purposes of Workers' Compensation and other risk-related issues.

Section 7. Section **78-57-107** is enacted to read:

78-57-107. Fees.

(1) Youth Courts may require that the youth pay a reasonable fee, not to exceed \$30, to participate in Youth Court. This fee may be reduced or waived by the Youth Court in exigent circumstances. This fee shall be paid to and accounted for by the sponsoring entity.

(2) Fees for classes, counseling, treatment, or other educational programs that are the

disposition of the Youth Court are the responsibility of the participant.

Section 8. Section **78-57-108** is enacted to read:

78-57-108. Youth Court Board -- Membership -- Responsibilities.

(1) The Utah attorney general's office shall provide staff support and assistance to a Youth Court Board comprised of the following:

- (a) the Utah attorney general or his designee;
- (b) one member of the Utah Prosecution Council;
- (c) one member from the Board of Juvenile Court Judges;
- (d) the juvenile court administrator or his designee;
- (e) one person from the Office of Juvenile Justice and Delinquency Prevention;
- (f) the state superintendent of education or his designee;
- (g) two representatives from Youth Courts based primarily in schools;
- (h) two representatives from Youth Courts based primarily in communities;
- (i) one member from the law enforcement community; and
- (j) one member from the community at large.

(2) The members selected to fill the positions in Subsections (1)(a) through (f) shall jointly select the members to fill the positions in Subsections (1)(g) through (j).

(3) Members shall serve two-year staggered terms beginning July 1, 1999, except the initial terms of the members designated by Subsections (1)(a), (c), (e), and (i), and one of the members from Subsections (1)(g) and (h) shall serve one-year terms, but may be reappointed for a full two-year term upon the expiration of their initial term.

(4) The Youth Court Board shall meet at least quarterly to:

- (a) set minimum standards for the establishment of Youth Courts, including an application process, membership and training requirements, and the qualifications for the adult coordinator;
- (b) review certification applications; and
- (c) provide for a process to recertify each Youth Court every three years.

(5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the Youth Court Board shall make rules to accomplish the requirements of Subsection (3).

(6) The Youth Court Board may deny certification or recertification, or withdraw the certification of any Youth Court for failure to comply with program requirements.

(7) (a) Members shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) Members may decline to receive per diem and expenses for their service.

(8) The Youth Court Board shall provide a list of certified Youth Courts to the Board of Juvenile Court Judges, all law enforcement agencies in the state, all school districts, and the Utah Prosecution Council by December 31 of each year.

Section 9. Section **78-57-109** is enacted to read:

78-57-109. Establishing a Youth Court -- Sponsoring entity responsibilities.

(1) Youth Courts may be established by a sponsoring entity or by a private nonprofit entity which contracts with a sponsoring entity.

(2) The sponsoring entity shall:

(a) oversee the formation of the Youth Court;

(b) provide assistance with the application for certification from the Youth Court Board; and

(c) provide assistance for the training of Youth Court members.

Section 10. Section **78-57-110** is enacted to read:

78-57-110. School credit.

Local school boards may provide school credit for participation as a member of a Youth Court.