

Representative David L. Gladwell proposes to substitute the following bill:

YOUTH COURT ACT

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

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

26 78-57-101. Title.

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

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

29 78-57-102. Definitions.

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

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

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

37 (a) class A misdemeanors;

38 (b) felonies of any degree;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

72 (3) Youth Courts have authority over youth:

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

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

77 (c) who admit having committed the referred offense;

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

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

82 (4) Except with permission granted under Subsection (5), Youth Courts may not exercise
83 authority over youth who are under the continuing jurisdiction of the juvenile court for law
84 violations, including any youth who may have a matter pending which has not yet been
85 adjudicated.

86 (5) Youth Courts may exercise authority over youth described in Subsection (4), and over
87 any other offense with the permission of the juvenile court and the prosecuting attorney in the

88 county or district that would have jurisdiction if the matter were referred to juvenile court.

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

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

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

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

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

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

101 **78-57-104. Parental involvement -- Victims -- Restitution.**

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

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

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

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

109 **78-57-105. Dispositions.**

110 (1) Youth Court dispositional options include:

111 (a) community service;

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

114 (c) providing periodic reports to the Youth Court;

115 (d) participating in mentoring programs;

116 (e) participation by the youth as a member of a Youth Court;

117 (f) letters of apology;

118 (g) essays; and

119 (h) any other disposition considered appropriate by the Youth Court and adult coordinator.

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

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

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

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

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

129 **78-57-106. Liability.**

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

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

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

137 **78-57-107. Fees.**

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

141 (2) Fees for classes, counseling, treatment, or other educational programs that are the
142 disposition of the Youth Court are the responsibility of the participant.

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

144 **78-57-108. Youth Court Board -- Membership -- Responsibilities.**

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

147 (a) the Utah attorney general or his designee;

148 (b) one member of the Utah Prosecution Council;

149 (c) one member from the Board of Juvenile Court Judges;

- 150 (d) the juvenile court administrator or his designee;
151 (e) one person from the Office of Juvenile Justice and Delinquency Prevention;
152 (f) the state superintendent of education or his designee;
153 (g) two representatives from Youth Courts based primarily in schools;
154 (h) two representatives from Youth Courts based primarily in communities;
155 (i) one member from the law enforcement community; and
156 (j) one member from the community at large.
157 (2) The members selected to fill the positions in Subsections (1)(a) through (f) shall jointly
158 select the members to fill the positions in Subsections (1)(g) through (j).
159 (3) Members shall serve two-year staggered terms beginning July 1, 1999, except the
160 initial terms of the members designated by Subsections (1)(a), (c), (e), and (i), and one of the
161 members from Subsections (1)(g) and (h) shall serve one-year terms, but may be reappointed for
162 a full two-year term upon the expiration of their initial term.
163 (4) The Youth Court Board shall meet at least quarterly to:
164 (a) set minimum standards for the establishment of Youth Courts, including an application
165 process, membership and training requirements, and the qualifications for the adult coordinator;
166 (b) review certification applications; and
167 (c) provide for a process to recertify each Youth Court every three years.
168 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
169 Youth Court Board shall make rules to accomplish the requirements of Subsection (3).
170 (6) The Youth Court Board may deny certification or recertification, or withdraw the
171 certification of any Youth Court for failure to comply with program requirements.
172 (7) (a) Members shall receive no compensation or benefits for their services, but may
173 receive per diem and expenses incurred in the performance of the member's official duties at the
174 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
175 (b) Members may decline to receive per diem and expenses for their service.
176 (8) The Youth Court Board shall provide a list of certified Youth Courts to the Board of
177 Juvenile Court Judges, all law enforcement agencies in the state, all school districts, and the Utah
178 Prosecution Council by December 31 of each year.
179 Section 9. Section **78-57-109** is enacted to read:
180 **78-57-109. Establishing a Youth Court -- Sponsoring entity responsibilities.**

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

183 (2) The sponsoring entity shall:

184 (a) oversee the formation of the Youth Court;

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

186 and

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

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

189 **78-57-110. School credit.**

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

191 Court.