

**JUVENILE REFERRALS AND PETITIONS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Parley Hellewell**

AN ACT RELATING TO THE JUDICIAL CODE; PROVIDING FOR THE OPTION OF SCREENING BY PROSECUTORS OF REFERRALS IN CRIMINAL PROCEEDINGS INVOLVING MINORS; AND MAKING TECHNICAL CHANGES.

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

AMENDS:

**78-3a-502**, as last amended by Chapters 94 and 240, Laws of Utah 1998

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

Section 1. Section **78-3a-502** is amended to read:

**78-3a-502. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal referral -- Citation -- Failure to appear.**

(1) Proceedings in minor's cases are commenced by petition.

~~[(2) (a) A peace officer or any public official of the state, any county, city, or town charged with the enforcement of the laws of the state or local jurisdiction shall file a formal referral with the juvenile court within ten days of the minor's arrest. If the arrested minor is taken to a detention facility, the formal referral shall be filed with the juvenile court within 72 hours, excluding weekends and holidays. There shall be no requirement to file a formal referral with the juvenile court on an offense that would be a class B misdemeanor or less if committed by an adult.]~~

(2) In counties where referrals are screened within the court:

(a) If the minor is in custody, the arresting person or person having custody of the minor shall, using forms specified by the juvenile court, immediately file a referral with the juvenile court together with all the reports prepared or gathered by the arresting or custodial agency. If the minor is not in custody and the offense would, if committed by an adult, be:

(i) a class A misdemeanor or greater, the referral procedure set forth above shall be

28 utilized;

29 (ii) a class B misdemeanor or lower, the referral may be accomplished by filing a copy of  
30 a citation with the court.

31 (b) When the court [~~is informed by a peace officer or other person that a minor is or~~  
32 ~~appears to be within the court's jurisdiction~~] receives a referral as set forth under Subsection (2)(a),  
33 the probation department shall make a preliminary inquiry to determine whether the interests of  
34 the public or of the minor require that further action be taken.

35 (c) Based on the preliminary inquiry, the court may authorize the filing of or request that  
36 the county attorney under Section 17-18-1 or within a prosecution district, the district attorney [as  
37 provided] under [~~Sections 17-18-1 and~~] Section 17-18-1.7, file a petition. In its discretion, the  
38 court may, through its probation department, enter into a written consent agreement with the minor  
39 and the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case if the facts  
40 are admitted and establish prima facie jurisdiction. Efforts to effect a nonjudicial adjustment may  
41 not extend for a period of more than two months without leave of a judge of the court, who may  
42 extend the period for an additional two months. The probation department may not in connection  
43 with any nonjudicial adjustment compel any person to appear at any conference, produce any  
44 papers, or visit any place.

45 (d) The nonjudicial adjustment of a case may include conditions agreed upon as part of  
46 the nonjudicial closure:

- 47 (i) payment of a financial penalty of not more than \$100 to the Juvenile Court;
- 48 (ii) payment of victim restitution;
- 49 (iii) satisfactory completion of compensatory service;
- 50 (iv) referral to an appropriate provider for counseling or treatment;
- 51 (v) attendance at substance abuse programs or counseling programs;
- 52 (vi) compliance with specified restrictions on activities and associations; and
- 53 (vii) other reasonable actions that are in the interest of the minor and the community.

54 (e) Proceedings involving offenses under Section 78-3a-506 are governed by that section  
55 regarding suspension of driving privileges.

56 (f) A violation of Section 76-10-105 that is subject to the jurisdiction of the Juvenile Court  
57 shall include a minimum fine or penalty of \$50 or participation in a court-approved tobacco  
58 education program, which may include a participation fee.

59           (3) In counties where referrals are screened by the county attorney or district attorney:  
 60           (a) If the minor is in custody, the arresting officer or custodial officer shall immediately  
 61 provide the prosecuting attorney with all reports generated or obtained by the arresting or custodial  
 62 agency or additional information requested by the prosecuting attorney, and shall request that the  
 63 prosecutor file a petition.

64           (b) With the permission of the prosecuting agency, the arresting or custodial agency may  
 65 satisfy the requirement that a petition be filed in an offense that would be a class B misdemeanor  
 66 or lower if committed by an adult by filing a citation directly with the court.

67           ~~[(3)]~~ (4) Except as provided in Section 78-3a-602, in the case of a minor 14 years of age  
 68 or older, the county attorney, district attorney, or attorney general may commence an action by  
 69 filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction  
 70 and certify the minor to the district court.

71           ~~[(4)(a)]~~ (5) In cases of violations of fish and game laws, boating laws, class B and class  
 72 C misdemeanors, other infractions or misdemeanors as designated by general order of the Board  
 73 of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the  
 74 Juvenile Court, a petition is not required and the issuance of a citation as provided in Section  
 75 78-3a-503 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is not required  
 76 unless requested by the court.

77           ~~[(b)]~~ (6) Any failure to comply with the time deadline on a formal referral may not be the  
 78 basis of dismissing the formal referral.

**Legislative Review Note**  
**as of 1-11-99 12:17 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**