

28 (i) one of the offender's parents, or the offender's guardian, to participate with the offender
29 in the court-approved tobacco education program; and

30 (ii) other reasonable actions that are in the interest of the minor and the community.

31 (3) Participation in a court-approved tobacco education program may be waived only if
32 the court finds that participation, including participation via telephone, the Internet, or other
33 electronic means, would cause undue hardship to the offender.

34 [~~3~~] (4) A compliance officer appointed by a board of education under Section 53A-3-402
35 may issue citations for violations of this section committed on school property. Cited violations
36 shall be reported to the appropriate juvenile court.

37 Section 2. Section **78-3a-502** is amended to read:

38 **78-3a-502. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal**
39 **referral -- Citation -- Failure to appear.**

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

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

47 (b) When the court is informed by a peace officer or other person that a minor is or appears
48 to be within the court's jurisdiction, the probation department shall make a preliminary inquiry to
49 determine whether the interests of the public or of the minor require that further action be taken.

50 (c) Based on the preliminary inquiry, the court may authorize the filing of or request that
51 the county attorney or district attorney as provided under Sections 17-18-1 and 17-18-1.7 file a
52 petition. In its discretion, the court may, through its probation department, enter into a written
53 consent agreement with the minor and the minor's parent, guardian, or custodian for the nonjudicial
54 adjustment of the case if the facts are admitted and establish prima facie jurisdiction. Efforts to
55 effect a nonjudicial adjustment may not extend for a period of more than two months without leave
56 of a judge of the court, who may extend the period for an additional two months. The probation
57 department may not in connection with any nonjudicial adjustment compel any person to appear
58 at any conference, produce any papers, or visit any place.

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

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

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

70 (f) A violation of Section 76-10-105 that is subject to the jurisdiction of the Juvenile Court
71 shall include a minimum fine or penalty of [~~\$50 or~~] \$60 and participation in a court-approved
72 tobacco education program, which may include a participation fee.

73 (3) Except as provided in Section 78-3a-602, in the case of a minor 14 years of age or
74 older, the county attorney, district attorney, or attorney general may commence an action by filing
75 a criminal information and a motion requesting the juvenile court to waive its jurisdiction and
76 certify the minor to the district court.

77 (4) (a) In cases of violations of fish and game laws, boating laws, class B and class C
78 misdemeanors, other infractions or misdemeanors as designated by general order of the Board of
79 Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the
80 Juvenile Court, a petition is not required and the issuance of a citation as provided in Section
81 78-3a-503 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is not required
82 unless requested by the court.

83 (b) Any failure to comply with the time deadline on a formal referral may not be the basis
84 of dismissing the formal referral.

Legislative Review Note
as of 11-14-01 1:54 PM

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

Office of Legislative Research and General Counsel

Committee Note

The Health and Human Services Interim Committee recommended this bill.