

1 **SUSPENSION OF DRIVING PRIVILEGES**
2 **FOR HABITUAL TRUANTS**

3 2003 GENERAL SESSION
4 STATE OF UTAH

5 **Sponsor: Duane E. Bourdeaux**

6 **This act modifies provisions in the Juvenile Code relating to dispositions. It provides that**
7 **a minor found habitually truant by the juvenile court may have his driving privileges**
8 ~~h [suspended for a year or] h delayed h [in the case of a minor not yet eligible to drive]~~ **FOR UP TO A**
8a **YEAR h .**

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

10 **AMENDS:**

11 **53-3-219**, as last amended by Chapter 13, Laws of Utah 1998

12 **78-3a-118**, as last amended by Chapters 2 and 8, Laws of Utah 2002, Fifth Special
13 Session

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

15 Section 1. Section **53-3-219** is amended to read:

16 **53-3-219. Suspension of minor's driving privileges.**

17 (1) The division shall immediately suspend all driving privileges of any person upon
18 receipt of an order suspending driving privileges under Section 32A-12-209, Subsection
19 76-9-701(1), or Section 78-3a-506.

20 (a) Upon receipt of the first order suspending a person's driving privileges, the division
21 shall impose a suspension for 90 days or, if the person is under the age of eligibility for a driver
22 license, deny application for a driver license for the first 90 days following the date of
23 eligibility.

24 (b) Upon receipt of a second order suspending a person's driving privileges, the
25 division shall impose a suspension for six months or, if the person is under the age of eligibility
26 for a driver license, deny application for a driver license for the first six months following the
27 date of eligibility.



28 (c) Upon receipt of a third or subsequent order suspending a person's driving
29 privileges, the division shall impose a suspension for one year or, if the person is under the age
30 of eligibility for a driver license, deny application for a driver license for one year beginning on
31 the date of eligibility.

32 (2) After reinstatement of the license under Subsection (1)(a), a report authorized under
33 Section 53-3-104 may not contain evidence of the suspension of a minor's license under this
34 section if he has not been convicted of any other offense for which the suspension under
35 Subsection (1)(a) may be extended.

36 (3) Suspension of a minor's driving privileges under the provisions of Subsection
37 78-3a-118(3) shall be for the time period stated in the order of the court.

38 Section 2. Section **78-3a-118** is amended to read:

39 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
40 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**
41 **sample.**

42 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the
43 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
44 jurisdiction over the minor. However, in cases within the provisions of Subsection
45 78-3a-104(1), findings of fact are not necessary.

46 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
47 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
48 to the school superintendent of the district in which the minor resides or attends school. Notice
49 shall be made to the district superintendent within three days of the adjudication and shall
50 include the specific offenses for which the minor was adjudicated.

51 (2) Upon adjudication the court may make the following dispositions by court order:

52 (a) (i) The court may place the minor on probation or under protective supervision in
53 the minor's own home and upon conditions determined by the court, including compensatory
54 service as provided in Section 78-11-20.7.

55 (ii) The court may place the minor in state supervision with the probation department
56 of the court, under the legal custody of:

- 57 (A) his parent or guardian;
- 58 (B) the Division of Youth Corrections; or

59 (C) the Division of Child and Family Services.

60 (iii) If the court orders probation or state supervision, the court shall direct that notice
61 of its order be provided to designated persons in the local law enforcement agency and the
62 school or transferee school, if applicable, which the minor attends. The designated persons
63 may receive the information for purposes of the minor's supervision and student safety.

64 (iv) Any employee of the local law enforcement agency and the school which the
65 minor attends who discloses the court's order of probation is not:

66 (A) civilly liable except when the disclosure constitutes fraud or malice as provided in
67 Section 63-30-4; and

68 (B) civilly or criminally liable except when the disclosure constitutes a knowing
69 violation of Section 63-2-801.

70 (b) The court may place the minor in the legal custody of a relative or other suitable
71 person, with or without probation or protective supervision, but the juvenile court may not
72 assume the function of developing foster home services.

73 (c) (i) The court may:

74 (A) vest legal custody of the minor in the Division of Child and Family Services,
75 Division of Youth Corrections, or the Division of Substance Abuse and Mental Health; and

76 (B) order the Department of Human Services to provide dispositional
77 recommendations and services.

78 (ii) For minors who may qualify for services from two or more divisions within the
79 Department of Human Services, the court may vest legal custody with the department.

80 (iii) (A) Minors who are committed to the custody of the Division of Child and Family
81 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,
82 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title
83 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

84 (B) Prior to the court entering an order to place a minor in the custody of the Division
85 of Child and Family Services on grounds other than abuse or neglect, the court shall provide
86 the division with notice of the hearing no later than five days before the time specified for the
87 hearing so the division may attend the hearing.

88 (C) Prior to committing a minor to the custody of the Division of Child and Family
89 Services, the court shall make a finding as to what reasonable efforts have been attempted to

90 prevent the minor's removal from his home.

91 (d) (i) The court may commit the minor to the Division of Youth Corrections for secure
92 confinement.

93 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
94 or dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of
95 Youth Corrections.

96 (e) The court may commit the minor, subject to the court retaining continuing
97 jurisdiction over him, to the temporary custody of the Division of Youth Corrections for
98 observation and evaluation for a period not to exceed 45 days, which period may be extended
99 up to 15 days at the request of the director of the Division of Youth Corrections.

100 (f) (i) The court may commit the minor to a place of detention or an alternative to
101 detention for a period not to exceed 30 days subject to the court retaining continuing
102 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions
103 ordered by the court.

104 (ii) This Subsection (2)(f) applies only to those minors adjudicated for:

105 (A) an act which if committed by an adult would be a criminal offense; or

106 (B) contempt of court under Section 78-3a-901.

107 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
108 the Division of Child and Family Services or any other appropriate person in accordance with
109 the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and
110 Dependency Proceedings.

111 (h) The court may place the minor on a ranch or forestry camp, or similar facility for
112 care and also for work, if possible, if the person, agency, or association operating the facility
113 has been approved or has otherwise complied with all applicable state and local laws. A minor
114 placed in a forestry camp or similar facility may be required to work on fire prevention,
115 forestation and reforestation, recreational works, forest roads, and on other works on or off the
116 grounds of the facility and may be paid wages, subject to the approval of and under conditions
117 set by the court.

118 (i) The court may order the minor to repair, replace, or otherwise make restitution for
119 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in
120 Section 78-3a-318 and impose fines in limited amounts. If a minor has been returned to this

121 state under the Interstate Compact on Juveniles, the court may order the minor to make
122 restitution for costs expended by any governmental entity for the return.

123 (j) The court may issue orders necessary for the collection of restitution and fines
124 ordered by the court, including garnishments, wage withholdings, and executions.

125 (k) (i) The court may through its probation department encourage the development of
126 employment or work programs to enable minors to fulfill their obligations under Subsection
127 (2)(i) and for other purposes considered desirable by the court.

128 (ii) Consistent with the order of the court, the probation officer may permit the minor
129 found to be within the jurisdiction of the court to participate in a program of work restitution or
130 compensatory service in lieu of paying part or all of the fine imposed by the court.

131 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in
132 addition to any other disposition authorized by this section:

133 (A) restrain the minor from driving for periods of time the court considers necessary;
134 and

135 (B) take possession of the minor's driver license.

136 (ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the
137 suspension of driving privileges for an offense under Section 78-3a-506 are governed only by
138 Section 78-3a-506.

139 (m) (i) When a minor is found within the jurisdiction of the juvenile court under
140 Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug
141 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court
142 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a
143 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
144 completion of an approved substance abuse prevention or treatment program may be credited
145 by the court as compensatory service hours.

146 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
147 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court
148 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
149 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory
150 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
151 approved substance abuse prevention or treatment program may be credited by the court as

152 compensatory service hours.

153 (n) The court may order that the minor be examined or treated by a physician, surgeon,
154 psychiatrist, or psychologist or that he receive other special care. For these purposes the court
155 may place the minor in a hospital or other suitable facility.

156 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the
157 interest of the minor, and may appoint as guardian a public or private institution or agency in
158 which legal custody of the minor is vested.

159 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
160 private agency or institution, the court shall give primary consideration to the welfare of the
161 minor. When practicable, the court may take into consideration the religious preferences of the
162 minor and of the minor's parents.

163 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable
164 conditions to be complied with by the parents or guardian, the minor, the minor's custodian, or
165 any other person who has been made a party to the proceedings. Conditions may include:

- 166 (A) parent-time by the parents or one parent;
- 167 (B) restrictions on the minor's associates;
- 168 (C) restrictions on the minor's occupation and other activities; and
- 169 (D) requirements to be observed by the parents or custodian.

170 (ii) A minor whose parents or guardians successfully complete a family or other
171 counseling program may be credited by the court for detention, confinement, or probation time.

172 (q) The court may order the minor to be placed in the legal custody of the Division of
173 Substance Abuse and Mental Health or committed to the physical custody of a local mental
174 health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15,
175 Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental
176 Health.

177 (r) (i) The court may make an order committing a minor within its jurisdiction to the
178 Utah State Developmental Center if the minor has mental retardation in accordance with the
179 provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.

180 (ii) The court shall follow the procedure applicable in the district courts with respect to
181 judicial commitments to the Utah State Developmental Center when ordering a commitment
182 under Subsection (2)(r)(i).

183 (s) The court may terminate all parental rights upon a finding of compliance with the
184 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.

185 (t) The court may make any other reasonable orders for the best interest of the minor or
186 as required for the protection of the public, except that a person younger than 18 years of age
187 may not be committed to jail or prison.

188 (u) The court may combine the dispositions listed in this section if they are compatible.

189 (v) Before depriving any parent of custody, the court shall give due consideration to the
190 rights of parents concerning their minor. The court may transfer custody of a minor to another
191 person, agency, or institution in accordance with the requirements and procedures of Title 78,
192 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

193 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
194 probation or placement of a minor with an individual or an agency shall include a date certain
195 for a review of the case by the court. A new date shall be set upon each review.

196 (x) In reviewing foster home placements, special attention shall be given to making
197 adoptable minors available for adoption without delay.

198 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
199 with a relative or individual of a minor where the court has previously acquired jurisdiction as
200 a result of an adjudication of abuse, neglect, or dependency, excluding cases arising under
201 Subsection 78-3a-105(4).

202 (ii) Orders under Subsection (2)(y)(i):

203 (A) shall remain in effect until the minor reaches majority;

204 (B) are not subject to review under Section 78-3a-119; and

205 (C) may be modified by petition or motion as provided in Section 78-3a-903.

206 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
207 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
208 of the juvenile court.

209 ~~h [(3) (a) A minor who is adjudicated a habitual truant may have his or her driving
210 privilege suspended for one year by the court. If the minor does not yet have the privilege to
211 drive, the court may order the department to delay issuing the privilege to drive for one year
212 subsequent to the time the person becomes legally eligible to drive. However, if there is no
213 further truancy in the 12-month period, the court, upon petition of the person affected, may] h~~

214 ~~h [modify the order imposing the delay of the driving privilege. For each successive time the~~
 215 ~~minor is found to be a habitual truant, the court may suspend the minor's driving privilege for a~~
 216 ~~minor possessing a driver's license, or delay the eligibility for the driving privilege for those not~~
 217 ~~in possession of a driver's license, for one additional year.~~

218 ~~—— (b) Whenever the juvenile court suspends a minor's driving privilege pursuant to~~
 219 ~~Subsection (3)(a), the court may require all driver's licenses held by the minor to be~~
 220 ~~surrendered to the court. The court shall, within ten days following the surrender of the~~
 221 ~~license, transmit a copy of the order suspending the minor's driving privileges, which shall~~
 222 ~~include the duration of the suspension, together with any driver's licenses surrendered, to the~~
 223 ~~drivers license division.~~

224 ~~—— (c) When the juvenile court is considering suspending or delaying a minor's driving~~
 225 ~~privilege pursuant to Subsection (3)(a), the court shall consider whether a personal or family~~
 226 ~~hardship exists that requires the minor to have a driver's license for his or her own, or a~~
 227 ~~member of his or her family's, employment or for medically related purposes.~~

228 ~~—— (d) The suspension, restriction, or delay of a minor's driving privilege pursuant to this~~
 229 ~~section shall be in addition to any other penalty imposed by law on the minor.]~~

229a (3)(a) IF A MINOR ADJUDICATED A HABITUAL TRUANT BY THE COURT OR A
 229b COMMISSIONER HAS NOT YET RECEIVED A DRIVER'S LICENSE, THE COURT OR COMMISSIONER
 229c MAY ORDER THE DRIVERS LICENSE DIVISION TO DELAY ISSUING A DRIVER'S LICENSE TO THE
 229d MINOR WITH THE CONSENT OF THE MINORS PARENTS OR GUARDIAN. THE DELAY MAY BE FOR
 229e UP TO ONE YEAR FROM THE DATE THE MINOR BECOMES LEGALLY ELIGIBLE TO DRIVE. THE
 229f COURT OR COMMISSIONER SHALL, WITHIN TEN DAYS OF ENTERING ITS ORDER, TRANSMIT A
 229g COPY OF THE ORDER TO THE DRIVERS LICENSE DIVISION.

229h (b) IF THERE IS NO FURTHER TRUANCY h [IN THE 12-MONTH PERIOD FOLLOWING THE
 229h1 ORDER,
 229i THE PERSON AFFECTED MAY PETITION THE COURT OR COMMISSIONER FOR A MODIFICATION OF
 229j THE ORDER IMPOSING THE DELAY] THE ORDER EXPIRES AT THE END OF 12 MONTHS h . THE
 229j1 COURT OR COMMISSIONER MAY, BEFORE THE 12-MONTH
 229k PERIOD IS UP, CONSIDER WHETHER A PERSONAL OR FAMILY HARDSHIP EXISTS THAT REQUIRES
 229l THE MINOR TO HAVE A DRIVER'S LICENSE FOR HIS OR HER OWN, OR A MEMBER OF HIS OR HER
 229m FAMILY'S, EMPLOYMENT, OR FOR MEDICALLY RELATED PURPOSES.

229n (c) THE DELAY OF A MINOR'S DRIVING PRIVILEGE PURSUANT TO THIS SECTION SHALL BE
 229o IN ADDITION TO ANY OTHER PENALTY OR SANCTION IMPOSED BY LAW ON THE MINOR. h

230 ~~[(3)] (4) In addition to the dispositions described in Subsection (2), when a minor~~
 231 ~~comes within the court's jurisdiction he may be given a choice by the court to serve in the~~
 232 ~~National Guard in lieu of other sanctions, provided:~~

233 (a) the minor meets the current entrance qualifications for service in the National
 234 Guard as determined by a recruiter, whose determination is final;

235 (b) the minor is not under the jurisdiction of the court for any act that:

- 236 (i) would be a felony if committed by an adult;
- 237 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
- 238 (iii) was committed with a weapon; and
- 239 (c) the court retains jurisdiction over the minor under conditions set by the court and
- 240 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

241 [~~4~~] 5 (a) A DNA specimen shall be obtained from a minor who is under the
242 jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be
243 obtained by designated employees of the court or, if the minor is in the legal custody of the
244 Division of Youth Corrections, then by designated employees of the division under Subsection

245 53-10-404(5)(b).

246 (b) The responsible agency shall ensure that employees designated to collect the saliva
247 DNA specimens receive appropriate training and that the specimens are obtained in accordance
248 with accepted protocol.

249 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
250 Specimen Restricted Account created in Section 53-10-407.

251 (d) Payment of the reimbursement is second in priority to payments the minor is
252 ordered to make for restitution under this section and treatment under Section 78-3a-318.

Legislative Review Note
as of 1-9-03 8:05 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0093

Suspension of Driving Privileges for Habitual Truants

29-Jan-03

10:55 AM

State Impact

Any additional effort required by this bill can be handled within existing budgets.

Individual and Business Impact

Those who have their licenses suspended will have to pay a reinstatement fee of \$25.
Individuals whose licenses are suspended, may be impacted if they are employed in jobs that require a driver's license or they use a vehicle for transportation to work.

Office of the Legislative Fiscal Analyst