

Senator Parley G. Hellewell proposes the following substitute bill:

YOUTH CORRECTIONS - DIVISION NAME

AMENDMENT

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Parley G. Hellewell

This act modifies the code by changing the name of the Division of Youth Corrections to the Division of Juvenile Justice Services. This act takes effect on July 1, 2004.

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

AMENDS:

23-19-14, as last amended by Chapter 55, Laws of Utah 2001

26-1-30, as last amended by Chapter 55, Laws of Utah 2002

26-6-30, as renumbered and amended by Chapter 201, Laws of Utah 1996

26A-1-114, as last amended by Chapter 249, Laws of Utah 2002

53-10-403, as last amended by Chapter 2, Laws of Utah 2002, Fifth Special Session

53-10-404, as last amended by Chapter 2, Laws of Utah 2002, Fifth Special Session

53-10-407, as enacted by Chapter 140, Laws of Utah 2002

53A-1-403, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

62A-1-105, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

62A-4a-105, as last amended by Chapter 281, Laws of Utah 2002

62A-4a-202.1, as last amended by Chapter 265, Laws of Utah 2002

62A-7-101, as last amended by Chapter 281, Laws of Utah 2002

62A-7-102, as last amended by Chapter 365, Laws of Utah 1997

62A-7-106, as last amended by Chapter 203, Laws of Utah 2000

62A-7-123, as enacted by Chapter 1, Laws of Utah 1988

62A-7-124, as enacted by Chapter 1, Laws of Utah 1988



- 26 **62A-7-201**, as last amended by Chapter 365, Laws of Utah 1997
- 27 **62A-7-401**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 28 **62A-15-605**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
- 29 Special Session
- 30 **62A-15-703**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth
- 31 Special Session
- 32 **63-25a-102**, as last amended by Chapter 220, Laws of Utah 2001
- 33 **63-25a-201**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 34 **63-25a-301**, as renumbered and amended by Chapter 242, Laws of Utah 1996
- 35 **63-38-2**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 36 **63-75-3**, as last amended by Chapter 104, Laws of Utah 1999
- 37 **63-75-5**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session
- 38 **63-92-3**, as last amended by Chapter 11, Laws of Utah 2001
- 39 **63B-3-102**, as enacted by Chapter 300, Laws of Utah 1994
- 40 **63B-3-301**, as last amended by Chapter 36, Laws of Utah 1996
- 41 **63B-4-102**, as enacted by Chapter 329, Laws of Utah 1995
- 42 **63B-7-501**, as last amended by Chapter 309, Laws of Utah 1999
- 43 **63B-11-702**, as enacted by Chapter 199, Laws of Utah 2002
- 44 **67-5b-101**, as last amended by Chapter 94, Laws of Utah 1998
- 45 **76-5-101**, as last amended by Chapter 36, Laws of Utah 1994
- 46 **76-5-413**, as enacted by Chapter 280, Laws of Utah 2002
- 47 **77-38-3**, as last amended by Chapter 97, Laws of Utah 2002
- 48 **78-3a-103**, as last amended by Chapter 283, Laws of Utah 2002
- 49 **78-3a-113**, as renumbered and amended by Chapter 365, Laws of Utah 1997
- 50 **78-3a-114**, as renumbered and amended by Chapter 365, Laws of Utah 1997
- 51 **78-3a-118**, as last amended by Chapters 2 and 8, Laws of Utah 2002, Fifth Special
- 52 Session
- 53 **78-3a-301**, as last amended by Chapter 265, Laws of Utah 2002
- 54 **78-3a-503**, as last amended by Chapter 240, Laws of Utah 1998
- 55 **78-3a-504**, as repealed and reenacted by Chapter 365, Laws of Utah 1997
- 56 **78-3a-601**, as last amended by Chapter 3, Laws of Utah 2002

- 57 **78-3a-602**, as last amended by Chapter 3, Laws of Utah 2002
- 58 **78-3a-603**, as last amended by Chapter 3, Laws of Utah 2002
- 59 **78-3a-904**, as last amended by Chapter 108, Laws of Utah 1998
- 60 **78-3a-905**, as last amended by Chapter 13, Laws of Utah 2002
- 61 **78-3a-914**, as renumbered and amended by Chapter 365, Laws of Utah 1997

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

63 Section 1. Section **23-19-14** is amended to read:

64 **23-19-14. Persons residing in certain institutions authorized to fish without**
65 **license.**

66 (1) The Division of Wildlife Resources shall permit a person to fish without a license
67 if:

68 (a) (i) the person resides in:

69 (A) the Utah State Developmental Center in American Fork;

70 (B) the state hospital;

71 (C) a veteran's hospital;

72 (D) a veteran's nursing home;

73 (E) a mental health center;

74 (F) an intermediate care facility for the mentally retarded;

75 (G) a group home licensed by the Department of Human Services and operated under
76 contract with the Division of Services for People with Disabilities;

77 (H) a group home or other community-based placement licensed by the Department of
78 Human Services and operated under contract with the [~~Division of Youth Corrections~~]

79 Division of Juvenile Justice Services;

80 (I) a private residential facility for at-risk youth licensed by the Department of Human
81 Services; or

82 (J) another similar institution approved by the division; or

83 (ii) the person is a youth who participates in a work camp operated by the [~~Division of~~
84 ~~Youth Corrections~~] Division of Juvenile Justice Services;

85 (b) the person is properly supervised by a representative of the institution; and

86 (c) the institution obtains from the division a certificate of registration that specifies:

87 (i) the date and place where the person will fish; and

88 (ii) the name of the institution's representative who will supervise the person fishing.

89 (2) The institution must apply for the certificate of registration at least ten days before
90 the fishing outing.

91 (3) (a) An institution that receives a certificate of registration authorizing at-risk youth
92 to fish shall provide instruction to the youth on fishing laws and regulations.

93 (b) The division shall provide educational materials to the institution to assist it in
94 complying with Subsection (3)(a).

95 Section 2. Section **26-1-30** is amended to read:

96 **26-1-30. Powers and duties of department.**

97 (1) The department shall:

98 (a) enter into cooperative agreements with the Department of Environmental Quality to
99 delineate specific responsibilities to assure that assessment and management of risk to human
100 health from the environment are properly administered; and

101 (b) consult with the Department of Environmental Quality and enter into cooperative
102 agreements, as needed, to ensure efficient use of resources and effective response to potential
103 health and safety threats from the environment, and to prevent gaps in protection from potential
104 risks from the environment to specific individuals or population groups.

105 (2) In addition to all other powers and duties of the department, it shall have and
106 exercise the following powers and duties:

107 (a) promote and protect the health and wellness of the people within the state;

108 (b) establish, maintain, and enforce rules necessary or desirable to carry out the
109 provisions and purposes of this title to promote and protect the public health or to prevent
110 disease and illness;

111 (c) investigate and control the causes of epidemic, infectious, communicable, and other
112 diseases affecting the public health;

113 (d) provide for the detection, reporting, prevention, and control of communicable,
114 infectious, acute, chronic, or any other disease or health hazard that the department considers to
115 be dangerous, important, or likely to affect the public health;

116 (e) collect and report information on causes of injury, sickness, death, and disability
117 and the risk factors that contribute to the causes of injury, sickness, death, and disability within
118 the state;

119 (f) collect, prepare, publish, and disseminate information to inform the public
120 concerning the health and wellness of the population, specific hazards, and risks that may affect
121 the health and wellness of the population and specific activities which may promote and protect
122 the health and wellness of the population;

123 (g) establish and operate programs necessary or desirable for the promotion or
124 protection of the public health and the control of disease or which may be necessary to
125 ameliorate the major causes of injury, sickness, death, and disability in the state, except that the
126 programs shall not be established if adequate programs exist in the private sector;

127 (h) establish, maintain, and enforce isolation and quarantine, and for this purpose only,
128 exercise physical control over property and individuals as the department finds necessary for
129 the protection of the public health;

130 (i) close theaters, schools, and other public places and forbid gatherings of people
131 when necessary to protect the public health;

132 (j) abate nuisances when necessary to eliminate sources of filth and infectious and
133 communicable diseases affecting the public health;

134 (k) make necessary sanitary and health investigations and inspections in cooperation
135 with local health departments as to any matters affecting the public health;

136 (l) establish laboratory services necessary to support public health programs and
137 medical services in the state;

138 (m) establish and enforce standards for laboratory services which are provided by any
139 laboratory in the state when the purpose of the services is to protect the public health;

140 (n) cooperate with the Labor Commission to conduct studies of occupational health
141 hazards and occupational diseases arising in and out of employment in industry, and make
142 recommendations for elimination or reduction of the hazards;

143 (o) cooperate with the local health departments, the Department of Corrections, the
144 Administrative Office of the Courts, the ~~[Division of Youth Corrections]~~ Division of Juvenile
145 Justice Services, and the Crime Victims Reparations Board to conduct testing for HIV infection
146 of convicted sexual offenders and any victims of a sexual offense;

147 (p) investigate the cause of maternal and infant mortality;

148 (q) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians
149 and drivers of motor vehicles killed in highway accidents be examined for the presence and

150 concentration of alcohol;

151 (r) provide the commissioner of public safety with monthly statistics reflecting the
152 results of the examinations provided for in Subsection (2)(q) and provide safeguards so that
153 information derived from the examinations is not used for a purpose other than the compilation
154 of statistics authorized in this Subsection (2)(r);

155 (s) establish qualifications for individuals permitted to draw blood pursuant to Section
156 41-6-44.10, and to issue permits to individuals it finds qualified, which permits may be
157 terminated or revoked by the department;

158 (t) establish a uniform public health program throughout the state which includes
159 continuous service, employment of qualified employees, and a basic program of disease
160 control, vital and health statistics, sanitation, public health nursing, and other preventive health
161 programs necessary or desirable for the protection of public health;

162 (u) adopt rules and enforce minimum sanitary standards for the operation and
163 maintenance of:

164 (i) orphanages;

165 (ii) boarding homes;

166 (iii) summer camps for children;

167 (iv) lodging houses;

168 (v) hotels;

169 (vi) restaurants and all other places where food is handled for commercial purposes,
170 sold, or served to the public;

171 (vii) tourist and trailer camps;

172 (viii) service stations;

173 (ix) public conveyances and stations;

174 (x) public and private schools;

175 (xi) factories;

176 (xii) private sanatoria;

177 (xiii) barber shops;

178 (xiv) beauty shops;

179 (xv) physicians' offices;

180 (xvi) dentists' offices;

- 181 (xvii) workshops;
- 182 (xviii) industrial, labor, or construction camps;
- 183 (xix) recreational resorts and camps;
- 184 (xx) swimming pools, public baths, and bathing beaches;
- 185 (xxi) state, county, or municipal institutions, including hospitals and other buildings,
- 186 centers, and places used for public gatherings; and
- 187 (xxii) of any other facilities in public buildings and on public grounds;
- 188 (v) conduct health planning for the state;
- 189 (w) monitor the costs of health care in the state and foster price competition in the
- 190 health care delivery system;
- 191 (x) adopt rules for the licensure of health facilities within the state pursuant to Title 26,
- 192 Chapter 21, Health Care Facility Licensing and Inspection Act;
- 193 (y) license the provision of child care; and
- 194 (z) accept contributions to and administer the funds contained in the Organ Donation
- 195 Contribution Fund created in Section 26-18b-101.

196 Section 3. Section **26-6-30** is amended to read:

197 **26-6-30. Exclusions from confidentiality requirements.**

198 (1) The provisions of this chapter do not apply to:

- 199 (a) information that relates to an individual who is in the custody of the Department of
- 200 Corrections, a county jail, or the [~~Division of Youth Corrections~~] Division of Juvenile Justice
- 201 Services within the Department of Human Services;
- 202 (b) information that relates to an individual who has been in the custody of the
- 203 Department of Corrections, a county jail, or the [~~Division of Youth Corrections~~] Division of
- 204 Juvenile Justice Services within the Department of Human Services, if liability of either of
- 205 those departments, a county, or a division, or of an employee of a department, division, or
- 206 county, is alleged by that individual in a lawsuit concerning transmission of an infectious or
- 207 communicable disease; or

208 (c) any information relating to an individual who willfully or maliciously or with

209 reckless disregard for the welfare of others transmits a communicable or infectious disease.

210 (2) Nothing in this chapter limits the right of the individual identified in the

211 information described in Subsection 26-6-27(1) to disclose that information.

212 Section 4. Section **26A-1-114** is amended to read:

213 **26A-1-114. Powers and duties of departments.**

214 (1) A local health department may:

215 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,
216 department rules, and local health department standards and regulations relating to public
217 health and sanitation, including the plumbing code adopted by the Division of Occupational
218 and Professional Licensing under Section 58-56-4 and under Title 26, Chapter 15a, Food
219 Safety Manager Certification Act, in all incorporated and unincorporated areas served by the
220 local health department;

221 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
222 control over property and over individuals as the local health department finds necessary for
223 the protection of the public health;

224 (c) establish and maintain medical, environmental, occupational, and other laboratory
225 services considered necessary or proper for the protection of the public health;

226 (d) establish and operate reasonable health programs or measures not in conflict with
227 state law that:

228 (i) are necessary or desirable for the promotion or protection of the public health and
229 the control of disease; or

230 (ii) may be necessary to ameliorate the major risk factors associated with the major
231 causes of injury, sickness, death, and disability in the state;

232 (e) close theaters, schools, and other public places and prohibit gatherings of people
233 when necessary to protect the public health;

234 (f) abate nuisances or eliminate sources of filth and infectious and communicable
235 diseases affecting the public health and bill the owner or other person in charge of the premises
236 upon which this nuisance occurs for the cost of abatement;

237 (g) make necessary sanitary and health investigations and inspections on its own
238 initiative or in cooperation with the Department of Health or Environmental Quality, or both,
239 as to any matters affecting the public health;

240 (h) pursuant to county ordinance or interlocal agreement:

241 (i) establish and collect appropriate fees for the performance of services and operation
242 of authorized or required programs and duties;

243 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,
244 property, services, or materials for public health purposes; and

245 (iii) make agreements not in conflict with state law that are conditional to receiving a
246 donation or grant;

247 (i) prepare, publish, and disseminate information necessary to inform and advise the
248 public concerning:

249 (i) the health and wellness of the population, specific hazards, and risk factors that may
250 adversely affect the health and wellness of the population; and

251 (ii) specific activities individuals and institutions can engage in to promote and protect
252 the health and wellness of the population;

253 (j) investigate the causes of morbidity and mortality;

254 (k) issue notices and orders necessary to carry out this part;

255 (l) conduct studies to identify injury problems, establish injury control systems,
256 develop standards for the correction and prevention of future occurrences, and provide public
257 information and instruction to special high risk groups;

258 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules
259 within the jurisdiction of the boards; and

260 (n) cooperate with the state health department, the Department of Corrections, the
261 Administrative Office of the Courts, the [~~Division of Youth Corrections~~] Division of Juvenile
262 Justice Services, and the Crime Victims Reparations Board to conduct testing for HIV infection
263 of convicted sexual offenders and any victims of a sexual offense.

264 (2) The local health department shall:

265 (a) establish programs or measures to promote and protect the health and general
266 wellness of the people within the boundaries of the local health department;

267 (b) investigate infectious and other diseases of public health importance and implement
268 measures to control the causes of epidemic and communicable diseases and other conditions
269 significantly affecting the public health which may include involuntary testing of convicted
270 sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of
271 victims of sexual offenses for HIV infection pursuant to Section 76-5-503;

272 (c) cooperate with the department in matters pertaining to the public health and in the
273 administration of state health laws; and

274 (d) coordinate implementation of environmental programs to maximize efficient use of
275 resources by developing with the Department of Environmental Quality a Comprehensive
276 Environmental Service Delivery Plan that:

277 (i) recognizes that the Department of Environmental Quality and local health
278 departments are the foundation for providing environmental health programs in the state;

279 (ii) delineates the responsibilities of the department and each local health department
280 for the efficient delivery of environmental programs using federal, state, and local authorities,
281 responsibilities, and resources;

282 (iii) provides for the delegation of authority and pass through of funding to local health
283 departments for environmental programs, to the extent allowed by applicable law, identified in
284 the plan, and requested by the local health department; and

285 (iv) is reviewed and updated annually.

286 (3) The local health department has the following duties regarding public and private
287 schools within its boundaries:

288 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
289 persons attending public and private schools;

290 (b) exclude from school attendance any person, including teachers, who is suffering
291 from any communicable or infectious disease, whether acute or chronic, if the person is likely
292 to convey the disease to those in attendance;

293 (c) (i) make regular inspections of the health-related condition of all school buildings
294 and premises;

295 (ii) report the inspections on forms furnished by the department to those responsible for
296 the condition and provide instructions for correction of any conditions that impair or endanger
297 the health or life of those attending the schools; and

298 (iii) provide a copy of the report to the department at the time the report is made.

299 (4) If those responsible for the health-related condition of the school buildings and
300 premises do not carry out any instructions for corrections provided in a report in Subsection
301 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
302 persons responsible.

303 (5) The local health department may exercise incidental authority as necessary to carry
304 out the provisions and purposes of this part.

305 Section 5. Section **53-10-403** is amended to read:

306 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

307 (1) Sections 53-10-404, 53-10-405, and 53-10-406 apply to any person who has pled
308 guilty to or has been convicted of any of the offenses under Subsection (2) and who is on
309 probation, parole, or incarcerated for any offense under Subsection (2) on or after July 1, 2002,
310 or who is a minor under Subsection (3).

311 (2) Offenses referred to in Subsection (1) are:

312 (a) any felony under the Utah Code, and any violation of Section 76-5-401.1, sexual
313 abuse of a minor;

314 (b) an attempt to commit a burglary, or any class A burglary offense; or

315 (c) any offense under Subsection (2)(a) or (b):

316 (i) for which the court enters a judgment for conviction to a lower degree of offense
317 under Section 76-3-402; or

318 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
319 defined in Section 77-2a-1.

320 (3) A minor under Subsection (1) is a minor 14 years of age or older whom the court
321 has adjudicated to be within the jurisdiction of the juvenile court due to the commission of any
322 offense described in Subsection (2), and who is:

323 (a) within the jurisdiction of the juvenile court on or after July 1, 2002 for an offense
324 under Subsection (2); or

325 (b) in the legal custody of the [~~Division of Youth Corrections~~] Division of Juvenile
326 Justice Services on or after July 1, 2002 for an offense under Subsection (2).

327 Section 6. Section **53-10-404** is amended to read:

328 **53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**

329 (1) As used in this section, "person" refers to any person described under Section
330 53-10-403.

331 (2) (a) A person under Section 53-10-403 or any person added to the sex offender
332 register as defined in Section 77-27-21.5 shall provide a DNA specimen and shall reimburse
333 the responsible agency \$75 for the cost of obtaining the DNA specimen unless the agency
334 determines the person lacks the ability to pay.

335 (b) The responsible agencies shall establish guidelines and procedures for determining

336 if the person is able to pay the fee.

337 (3) (a) All fees collected under Subsection (2) shall be deposited in the DNA Specimen
338 Restricted Account created in Section 53-10-407, except that sheriffs collecting the fee shall
339 deposit \$60 of the fee in the DNA Specimen Restricted Account and retain the balance of \$15
340 for the costs of obtaining the saliva DNA specimen.

341 (b) The responsible agency shall determine the method of collecting the DNA
342 specimen. Unless the responsible agency determines there are substantial reasons for using a
343 different method of collection or the person refuses to cooperate with the collection, the
344 preferred method of collection shall be obtaining a saliva specimen.

345 (c) The responsible agencies may use reasonable force, as established by their
346 individual guidelines and procedures, to collect the DNA sample if the person refuses to
347 cooperate with the collection.

348 (d) If the judgment places the person on probation, the person shall submit to the
349 obtaining of a DNA specimen as a condition of the probation.

350 (e) Under this section a person is required to provide one DNA specimen. The person
351 shall provide an additional DNA specimen only if the DNA specimen previously provided is
352 not adequate for analysis.

353 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as
354 possible after conviction, plea, or finding of jurisdiction by the juvenile court, and transmitted
355 to the Department of Public Safety.

356 (b) If notified by the Department of Public Safety that a DNA specimen is not adequate
357 for analysis, the agency shall obtain and transmit an additional DNA specimen.

358 (5) (a) The Department of Corrections is the responsible agency whenever the person is
359 committed to the custody of or is under the supervision of the Department of Corrections.

360 (b) The juvenile court is the responsible agency regarding a minor under Subsection
361 53-10-403(3), but if the minor has been committed to the legal custody of the [~~Division of~~
362 ~~Youth Corrections~~] Division of Juvenile Justice Services, that division is the responsible
363 agency if a DNA specimen of the minor has not previously been obtained by the juvenile court
364 under Section 78-3a-118.

365 (c) (i) The sheriff operating a county jail is the responsible agency regarding the
366 collection of DNA specimens from persons incarcerated in the county jail:

367 (A) as a condition of probation for a felony offense; or

368 (B) for a class A burglary offense.

369 (ii) The sheriff shall designate employees to obtain the saliva DNA specimens required
370 under Section 53-10-403. The sheriff shall ensure that employees designated to collect the
371 DNA specimens receive appropriate training and that the specimens are obtained in accordance
372 with accepted protocol.

373 (6) (a) As used in this Subsection (6), "department" means the Department of
374 Corrections.

375 (b) Priority of obtaining DNA specimens by the department is:

376 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody
377 of or under the supervision of the department before these persons are released from
378 incarceration, parole, or probation, if their release date is prior to that of persons under
379 Subsections (6)(b)(ii), but in no case later than July 1, 2004; and

380 (ii) second, the department shall obtain DNA specimens from persons who are
381 committed to the custody of the department or who are placed under the supervision of the
382 department after July 1, 2002, within 120 days after the commitment, if possible, but not later
383 than prior to release from incarceration if the person is imprisoned, or prior to the termination
384 of probation if the person is placed on probation.

385 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
386 is:

387 (i) persons on probation;

388 (ii) persons on parole; and

389 (iii) incarcerated persons.

390 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
391 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA
392 specimens from persons in the custody of or under the supervision of the Department of
393 Corrections as of July 1, 2002, prior to their release.

394 (7) (a) As used in this Subsection (7), "court" means the juvenile court and "division"
395 means the [~~Division of Youth Corrections~~] Division of Juvenile Justice Services.

396 (b) Priority of obtaining DNA specimens by the court from minors under Section
397 53-10-403 who are under the jurisdiction of the court but who are not in the legal custody of

398 the division shall be:

399 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the court's
400 jurisdiction, prior to termination of the court's jurisdiction over these minors; and

401 (ii) second, to obtain specimens from minors who are found to be within the court's
402 jurisdiction after July 1, 2002, within 120 days of the minor's being found to be within the
403 court's jurisdiction, if possible, but not later than prior to termination of the court's jurisdiction
404 over the minor.

405 (c) Priority of obtaining DNA specimens by the division from minors under Section
406 53-10-403 who are committed to the legal custody of the division shall be:

407 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
408 division's legal custody and who have not previously provided a DNA specimen under this
409 section, prior to termination of the division's legal custody of these minors; and

410 (ii) second, to obtain specimens from minors who are placed in the legal custody of the
411 division after July 1, 2002, within 120 days of the minor's being placed in the custody of the
412 division, jurisdiction, if possible, but not later than prior to termination of the court's
413 jurisdiction over the minor.

414 (8) (a) The Department of Corrections, the juvenile court, and the [~~Division of Youth~~
415 ~~Corrections~~] Division of Juvenile Justice Services shall by policy establish procedures for
416 obtaining saliva DNA specimens, and shall provide training for employees designated to
417 collect saliva DNA specimens.

418 (b) The department may designate correctional officers, including those employed by
419 the adult probation and parole section of the Department of Corrections, to obtain the saliva
420 DNA specimens required under this section. The department shall ensure that the designated
421 employees receive appropriate training and that the specimens are obtained in accordance with
422 accepted protocol.

423 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

424 Section 7. Section **53-10-407** is amended to read:

425 **53-10-407. DNA Specimen Restricted Account.**

426 (1) There is created the DNA Specimen Restricted Account, which is referred to in this
427 section as "the account."

428 (2) The sources of monies for the account are:

429 (a) DNA collection fees paid under Section 53-10-404;
430 (b) any appropriations made to the account by the Legislature; and
431 (c) all federal monies provided to the state for the purpose of funding the collection or
432 analysis of DNA specimens collected under Section 53-10-403.

433 (3) The account shall earn interest, and this interest shall be deposited in the account.

434 (4) The Legislature may appropriate monies from the account solely for the following
435 purposes:

436 (a) to the Department of Corrections for the costs of collecting DNA specimens as
437 required under Section 53-10-403;

438 (b) to the juvenile court for the costs of collecting DNA specimens as required under
439 Sections 53-10-403 and 78-3a-118;

440 (c) to the [~~Division of Youth Corrections~~] Division of Juvenile Justice Services for the
441 costs of collecting DNA specimens as required under Sections 53-10-403 and 62A-7-104; and

442 (d) to the Department of Public Safety for the costs of storing and analyzing DNA
443 specimens in accordance with the requirements of this part.

444 (5) Appropriations from the account to the Department of Corrections, the juvenile
445 court, the [~~Division of Youth Corrections~~] Division of Juvenile Justice Services, and to the
446 Department of Public Safety are nonlapsing.

447 Section 8. Section **53A-1-403** is amended to read:

448 **53A-1-403. Education of persons under 21 in custody of state agency --**

449 **Establishment of coordinating council -- Advisory councils.**

450 (1) The State Board of Education is directly responsible for the education of all persons
451 under the age of 21 who are:

452 (a) in the custody of the Department of Human Services;

453 (b) in the custody of an equivalent agency of a Native American tribe recognized by the
454 United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides
455 within the state; or

456 (c) being held in a juvenile detention facility.

457 (2) Subsection (1)(b) does not apply to persons taken into custody for the primary
458 purpose of obtaining access to education programs provided for youth in custody.

459 (3) The board shall, where feasible, contract with school districts or other appropriate

460 agencies to provide educational, administrative, and supportive services, but the board shall
461 retain responsibility for the programs.

462 (4) The Legislature shall establish and maintain separate education budget categories
463 for youth in custody who are under the jurisdiction of the following state agencies:

464 (a) detention centers and the Divisions of [~~Youth Corrections~~] Juvenile Justice
465 Services and Child and Family Services;

466 (b) the Division of Substance Abuse and Mental Health; and

467 (c) the Division of Services for People with Disabilities.

468 (5) (a) The Department of Human Services and the State Board of Education shall
469 appoint a coordinating council to plan, coordinate, and recommend budget, policy, and
470 program guidelines for the education and treatment of persons in the custody of the [~~Division~~
471 ~~of Youth Corrections~~] Division of Juvenile Justice Services and the Division of Child and
472 Family Services.

473 (b) The department and board may appoint similar councils for those in the custody of
474 the Division of Substance Abuse and Mental Health or the Division of Services for People with
475 Disabilities.

476 (6) A school district contracting to provide services under Subsection (3) shall
477 establish an advisory council to plan, coordinate, and review education and treatment programs
478 for persons held in custody in the district.

479 Section 9. Section **62A-1-105** is amended to read:

480 **62A-1-105. Creation of boards, divisions, and offices.**

481 (1) The following policymaking boards are created within the Department of Human
482 Services:

483 (a) the Board of Aging and Adult Services;

484 (b) the Board of Child and Family Services;

485 (c) the Board of Public Guardian Services;

486 (d) the Board of Services for People with Disabilities;

487 (e) the Board of Substance Abuse and Mental Health; and

488 (f) the [~~Board of Youth Corrections~~] Board of Juvenile Justice Services.

489 (2) The following divisions are created within the Department of Human Services:

490 (a) the Division of Aging and Adult Services;

- 491 (b) the Division of Child and Family Services;
- 492 (c) the Division of Services for People with Disabilities;
- 493 (d) the Division of Substance Abuse and Mental Health; and
- 494 (e) the ~~[Division of Youth Corrections]~~ Division of Juvenile Justice Services.
- 495 (3) The following offices are created within the Department of Human Services:
- 496 (a) the Office of Licensing;
- 497 (b) the Office of Public Guardian; and
- 498 (c) the Office of Recovery Services.

499 Section 10. Section **62A-4a-105** is amended to read:

500 **62A-4a-105. Division responsibilities.**

501 The division shall:

- 502 (1) administer services to children and families, including child welfare services,
503 domestic violence services, and all other responsibilities that the Legislature or the executive
504 director may assign to the division;
- 505 (2) establish standards for all contract providers of out-of-home care for children and
506 families;
- 507 (3) cooperate with the federal government in the administration of child welfare and
508 domestic violence programs and other human service activities assigned by the department;
- 509 (4) provide for the compilation of relevant information, statistics, and reports on child
510 and family service matters in the state;
- 511 (5) prepare and submit to the department, the governor, and the Legislature reports of
512 the operation and administration of the division in accordance with the requirements of
513 Sections 62A-4a-117 and 62A-4a-118;
- 514 (6) promote and enforce state and federal laws enacted for the protection of abused,
515 neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in
516 accordance with the requirements of this chapter, unless administration is expressly vested in
517 another division or department of the state. In carrying out the provisions of this Subsection
518 (6), the division shall cooperate with the juvenile courts, the ~~[Division of Youth Corrections]~~
519 Division of Juvenile Justice Services, and with all public and private licensed child welfare
520 agencies and institutions to develop and administer a broad range of services and supports.
521 The division shall take the initiative in all matters involving the protection of abused or

522 neglected children if adequate provisions have not been made or are not likely to be made, and
523 shall make expenditures necessary for the care and protection of those children, within the
524 division's budget;

525 (7) provide substitute care for dependent, abused, neglected, and delinquent children,
526 establish standards for substitute care facilities, and approve those facilities;

527 (8) provide adoption assistance to persons adopting children with special needs under
528 Part 9, Adoption Assistance, of this chapter. The financial support provided under this
529 Subsection (8) may not exceed the amounts the division would provide for the child as a legal
530 ward of the state;

531 (9) cooperate with the Division of Employment Development in the Department of
532 Workforce Services in meeting social and economic needs of individuals eligible for public
533 assistance;

534 (10) conduct court-ordered home evaluations for the district and juvenile courts with
535 regard to child custody issues. The court shall order either or both parties to reimburse the
536 division for the cost of that evaluation, in accordance with the community rate for that service
537 or with the department's fee schedule rate;

538 (11) provide noncustodial and in-home preventive services, designed to prevent family
539 breakup, family preservation services, and reunification services to families whose children are
540 in substitute care in accordance with the requirements of this chapter and Title 78, Chapter 3a,
541 Juvenile Court Act of 1996;

542 (12) provide protective supervision of a family, upon court order, in an effort to
543 eliminate abuse or neglect of a child in that family;

544 (13) establish programs and provide services to minors who have been placed in the
545 custody of the division for reasons other than abuse or neglect, pursuant to Section
546 62A-4a-250;

547 (14) provide shelter care in accordance with the requirements of this chapter and Title
548 78, Chapter 3a, Juvenile Court Act of 1996;

549 (15) provide social studies and reports for the juvenile court in accordance with Section
550 78-3a-505;

551 (16) arrange for and provide training for staff and providers involved in the
552 administration and delivery of services offered by the division in accordance with this chapter;

553 (17) provide domestic violence services in accordance with the requirements of federal
554 law, and establish standards for all direct or contract providers of domestic violence services.
555 Within appropriations from the Legislature, the division shall provide or contract for a variety
556 of domestic violence services and treatment methods;

557 (18) ensure regular, periodic publication, including electronic publication, regarding
558 the number of children in the custody of the division who have a permanency goal of adoption,
559 or for whom a final plan of termination of parental rights has been approved, pursuant to
560 Section 78-3a-312, and promote adoption of those children;

561 (19) provide protective services to victims of domestic violence, as defined in Section
562 77-36-1, and their children, in accordance with the provisions of this chapter and of Title 78,
563 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings;

564 (20) have authority to contract with a private, nonprofit organization to recruit and train
565 foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

566 (21) perform such other duties and functions as required by law.

567 Section 11. Section **62A-4a-202.1** is amended to read:

568 **62A-4a-202.1. Taking a minor into protective custody without warrant -- Peace**
569 **officer -- Division of Child and Family Services caseworker -- Consent or specified**
570 **circumstances -- Shelter care or emergency kinship.**

571 (1) A state officer, peace officer, or child welfare worker may not, without a warrant or
572 court order issued under Section 78-3a-106, remove a minor from the minor's home or school,
573 or take a minor into protective custody unless:

574 (a) a parent or guardian consents; or

575 (b) the officer or worker has, at the time, probable cause to believe that one or more of
576 the following circumstances exist:

577 (i) there is imminent danger to the physical health or safety of the minor, and the
578 minor's physical health or safety may not be protected without removing the minor from the
579 custody of the minor's parent or guardian;

580 (ii) there is a substantial risk to the minor of being physically or sexually abused by a
581 parent or guardian, a member of the parent's or guardian's household, or another person known
582 to the parent or guardian;

583 (iii) the parent or guardian is unwilling to have physical custody of the minor;

584 (iv) the minor has been abandoned without any provision for the minor's support;

585 (v) a parent who has been incarcerated or institutionalized has not arranged or cannot
586 arrange for safe and appropriate care for the minor;

587 (vi) a relative or other adult custodian with whom the parent or guardian has left the
588 minor is unwilling or unable to provide care or support for the minor, the whereabouts of the
589 parent or guardian are unknown, and reasonable efforts to locate the parent or guardian have
590 been unsuccessful; or

591 (vii) an infant has been abandoned, as defined in Section 78-3a-313.5.

592 (2) A state officer, peace officer, or child welfare worker may not remove a minor from
593 the minor's home or school or take a minor into protective custody under Subsection (1) if
594 motivated solely by an intent to seize or obtain evidence unrelated to the potential abuse or
595 neglect allegation.

596 (3) In the absence of circumstances that demonstrate a substantial, immediate threat to
597 the health or safety of a minor, a state officer, peace officer, or child welfare worker may not
598 remove a minor from the minor's home or school or take a minor into protective custody under
599 Subsection (1) on the basis of:

600 (a) mental illness or poverty of the parent or guardian; or

601 (b) educational neglect.

602 (4) A child welfare worker within the division may take action under Subsection (1)
603 accompanied by a peace officer, or without a peace officer when a peace officer is not
604 reasonably available.

605 (5) If possible, consistent with the minor's safety and welfare, before taking a minor into
606 protective custody, the worker shall also determine whether there are services reasonably
607 available to the worker which, if provided to the minor's parent or to the minor, would
608 eliminate the need to remove the minor from the custody of the minor's parent or guardian. If
609 those services are reasonably available, they shall be utilized. In determining whether services
610 are reasonably available, and in making reasonable efforts to provide those services, the
611 minor's health, safety, and welfare shall be the worker's paramount concern.

612 (6) (a) A minor removed or taken into custody under this section may not be placed or
613 kept in a secure detention facility pending court proceedings unless the minor is detainable
614 based on guidelines promulgated by the [~~Division of Youth Corrections~~] Division of Juvenile

615 Justice Services.

616 (b) A minor removed from the custody of the minor's parent or guardian but who does
617 not require physical restriction shall be given temporary care in:

618 (i) a shelter facility; or

619 (ii) an emergency kinship placement in accordance with Section 62A-4a-209.

620 Section 12. Section **62A-7-101** is amended to read:

621 **62A-7-101. Definitions.**

622 As used in this chapter:

623 (1) "Alternatives to secure detention" means a nonsecure, nonresidential, or residential
624 program designated to provide intensive supervision in the community, rehabilitation services,
625 or work programs for youth who are diverted from detention. Designated alternatives include
626 home detention, day/night reporting centers, electronic monitoring, and contempt programs.

627 (2) "Authority" means the Youth Parole Authority, established in accordance with
628 Section 62A-7-109.

629 (3) "Board" means the [~~Board of Youth Corrections~~] Board of Juvenile Justice Services
630 established in accordance with Section 62A-1-105.

631 (4) "Community-based program" means a nonsecure residential or nonresidential
632 program designated to supervise and rehabilitate youth offenders in the least restrictive setting,
633 consistent with public safety, and designated or operated by or under contract with the division.

634 (5) "Control" means the authority to detain, restrict, and supervise a youth in a manner
635 consistent with public safety and the well being of the youth and division employees.

636 (6) "Court" means the juvenile court.

637 (7) "Day/Night Reporting Center" means a nonsecure, nonresidential or residential
638 program designated to provide supervision for youth who may otherwise be held in a more
639 restrictive setting.

640 (8) "Delinquent act" is an act which would constitute a felony or a misdemeanor if
641 committed by an adult.

642 (9) "Detention" means secure detention or home detention.

643 (10) "Detention center" means a facility established in accordance with Title 62A,
644 Chapter 7, Part 2, Detention Facilities.

645 (11) "Director" means the director of the [~~Division of Youth Corrections~~] Division of

646 Juvenile Justice Services.

647 (12) "Discharge" means a written order of the division that removes a youth offender
648 from its jurisdiction.

649 (13) "Division" means the [~~Division of Youth Corrections~~] Division of Juvenile Justice
650 Services.

651 (14) "Electronic monitoring" means a method of supervision of youth in the
652 community, in nonsecure placements, by way of electronic surveillance that provides 24-hour
653 information and immediate reports of violations.

654 (15) "Guidelines" means the written statewide rules for admission to secure detention
655 and home detention promulgated by the division in accordance with Sections 63-46a-4 and
656 63-46a-6.

657 (16) "Home detention" means predispositional placement of a child in the child's home
658 or a surrogate home with the consent of the child's parent, guardian, or custodian for conduct
659 by a child who is alleged to have committed a delinquent act or postdispositional placement
660 pursuant to Subsection 78-3a-118(2)(f) or 78-3a-901(3).

661 (17) "Juvenile Receiving Center" means a nonsecure, nonresidential program
662 established by the division that is responsible for juveniles taken into custody by law
663 enforcement for status offenses or delinquent acts, but who do not meet the criteria for
664 admission to secure detention or shelter.

665 (18) "Observation and assessment program" means a service program operated or
666 purchased by the division, that is responsible for temporary custody of youth offenders for
667 observation.

668 (19) "Parole" means a conditional release of a youth offender from residency in a
669 secure facility to live outside that facility under the supervision of the [~~Division of Youth~~
670 ~~Corrections~~] Division of Juvenile Justice Services or other person designated by the division.

671 (20) "Rescission" means a written order of the Youth Parole Authority that rescinds a
672 parole date.

673 (21) "Revocation of parole" means a written order of the Youth Parole Authority that
674 terminates parole supervision of a youth offender and directs return of the youth offender to the
675 custody of a secure facility because of a violation of the conditions of parole.

676 (22) "Runaway youth" means a youth who willfully leaves the residence of a parent or

677 guardian without the permission of the parent or guardian.

678 (23) "Secure detention" means predisposition placement in a facility operated by or
679 under contract with the division, for conduct by a child who is alleged to have committed a
680 delinquent act.

681 (24) "Secure facility" means any facility operated by or under contract with the
682 division, that provides 24-hour supervision and confinement for youth offenders committed to
683 the division for custody and rehabilitation.

684 (25) "Shelter" means the temporary care of children in physically unrestricted facilities
685 pending court disposition or transfer to another jurisdiction.

686 (26) "Temporary custody" means control and responsibility of nonadjudicated youth
687 until the youth can be released to the parent, guardian, a responsible adult, or to an appropriate
688 agency.

689 (27) "Termination" means a written order of the Youth Parole Authority that terminates
690 a youth offender from parole.

691 (28) "Ungovernable" means a youth in conflict with a parent or guardian, and the
692 conflict:

693 (a) results in behavior that is beyond the control or ability of the youth, or the parent or
694 guardian, to manage effectively;

695 (b) poses a threat to the safety or well-being of the youth, the family, or others; or

696 (c) results in the situations in both Subsections (28)(a) and (b).

697 (29) "Work program" means a public or private service work project established and
698 administered by the division for youth offenders for the purpose of rehabilitation, education,
699 and restitution to victims.

700 (30) "Youth offender" means a person 12 years of age or older, and who has not
701 reached 21 years of age, committed or admitted by the juvenile court to the custody, care, and
702 jurisdiction of the division, for confinement in a secure facility or supervision in the
703 community, following adjudication for a delinquent act which would constitute a felony or
704 misdemeanor if committed by an adult.

705 (31) (a) "Youth ~~h~~ **[Justice]** ~~h~~ services ~~h~~ " means services provided in an effort to
705a resolve family
706 conflict:

707 (i) for families in crisis when a minor is ungovernable or runaway; or

- 708 (ii) involving a minor and the minor's parent or guardian.
- 709 (b) These services include efforts to:
- 710 (i) resolve family conflict;
- 711 (ii) maintain or reunite minors with their families; and
- 712 (iii) divert minors from entering or escalating in the juvenile justice system;
- 713 (c) The services may provide:
- 714 (i) crisis intervention;
- 715 (ii) short-term shelter;
- 716 (iii) time out placement; and
- 717 (iv) family counseling.

718 Section 13. Section **62A-7-102** is amended to read:

719 **62A-7-102. Creation of division -- Jurisdiction.**

720 There is created the [~~Division of Youth Corrections~~] Division of Juvenile Justice
721 Services within the department, under the administration and supervision of the executive
722 director, and under the policy direction of the board. The division has jurisdiction over all
723 youth committed to it pursuant to Section 78-3a-118.

724 Section 14. Section **62A-7-106** is amended to read:

725 **62A-7-106. Aiding or concealing youth offender -- Trespass -- Criminal penalties.**

726 (1) A person who commits any of the following offenses is guilty of a class A
727 misdemeanor:

728 (a) entering, or attempting to enter, a building or enclosure appropriated to the use of
729 youth offenders, without permission;

730 (b) entering any premises belonging to a secure facility and committing or attempting
731 to commit a trespass or depredation on those premises; or

732 (c) willfully annoying or disturbing the peace and quiet of a secure facility or of a youth
733 offender in a secure facility.

734 (2) A person is guilty of a third degree felony who:

735 (a) knowingly harbors or conceals a youth offender who has:

736 (i) escaped from a secure facility; or

737 (ii) absconded from:

738 (A) a facility or supervision, as these offenses are defined in Subsections 76-8-309.5(1)

739 and (2); or

740 (B) supervision of the [~~Division of Youth Corrections~~] Division of Juvenile Justice
741 Services; or

742 (b) willfully aided or assisted a youth offender who has been lawfully committed to a
743 secure facility in escaping or attempting to escape from that facility.

744 Section 15. Section **62A-7-123** is amended to read:

745 **62A-7-123. Juvenile Justice Services Victim Restitution Account.**

746 (1) There is created within the General Fund a nonlapsing restricted account known as
747 the "[~~Youth Corrections~~] Juvenile Justice Services Victim Restitution Account," which shall be
748 administered by the division.

749 (2) The [~~Youth Corrections~~] Juvenile Justice Services Victim Restitution Account shall
750 be used exclusively for establishing work programs, as defined in Section 62A-7-101.

751 Section 16. Section **62A-7-124** is amended to read:

752 **62A-7-124. Cost of support and maintenance of youth offender -- Responsibility.**

753 (1) On commitment of a youth offender to the division, and on recommendation of the
754 division to the juvenile court, the juvenile court may order the youth offender or his parent,
755 guardian, or custodian, to share in the costs of support and maintenance for the youth offender
756 during his term of commitment.

757 (2) After payment of collection expenses, any remaining balance collected under the
758 provisions of Subsection (1) may be deposited in the "[~~Youth Corrections~~] Juvenile Justice
759 Services Victim Restitution Account," at the discretion of the director.

760 Section 17. Section **62A-7-201** is amended to read:

761 **62A-7-201. Confinement -- Facilities -- Restrictions.**

762 (1) Children under 18 years of age, who are apprehended by any officer or brought
763 before any court for examination under any provision of state law, may not be confined in jails,
764 lockups, or cells used for ordinary criminals or persons charged with crime, or in secure
765 postadjudication correctional facilities operated by the division, except as provided by specific
766 statute and in conformance with approved standards.

767 (2) (a) Children charged by information or indictment with crimes as a serious youth
768 offender under Section 78-3a-602 or certified to stand trial as an adult pursuant to Section
769 78-3a-603 may be detained in a jail or other place of detention used for adults.

770 (b) Children detained in adult facilities under Section 78-3a-602 or 78-3a-603 prior to a
771 hearing before a magistrate, or under Subsection 78-3a-114(3), may only be held in certified
772 juvenile detention accommodations in accordance with rules promulgated by the division.
773 Those rules shall include standards for acceptable sight and sound separation from adult
774 inmates. The division certifies facilities that are in compliance with the division's standards.

775 (3) In areas of low density population, the division may, by rule, approve juvenile
776 holding accommodations within adult facilities that have acceptable sight and sound
777 separation. Those facilities shall be used only for short-term holding purposes, with a
778 maximum confinement of six hours, for children alleged to have committed an act which
779 would be a criminal offense if committed by an adult. Acceptable short-term holding purposes
780 are: identification, notification of juvenile court officials, processing, and allowance of
781 adequate time for evaluation of needs and circumstances regarding release or transfer to a
782 shelter or detention facility.

783 (4) Children who are alleged to have committed an act which would be a criminal
784 offense if committed by an adult, may be detained in holding rooms in local law enforcement
785 agency facilities for a maximum of two hours, for identification or interrogation, or while
786 awaiting release to a parent or other responsible adult. Those rooms shall be certified by the
787 division, according to the division's rules. Those rules shall include provisions for constant
788 supervision and for sight and sound separation from adult inmates.

789 (5) Willful failure to comply with any of the provisions of this section is a class B
790 misdemeanor.

791 (6) The division is responsible for the custody and detention of children under 18 years
792 of age who require detention care prior to trial or examination, or while awaiting assignment to
793 a home or facility, as a dispositional placement under Subsection 78-3a-118(2)(f)(i) or
794 78-3a-901(3)(a), and of youth offenders under Subsection 62A-7-112(8). The division shall
795 provide standards for custody or detention under Subsections (2)(b), (3), and (4), and shall
796 determine and set standards for conditions of care and confinement of children in detention
797 facilities. All other custody or detention shall be provided by the division, or by contract with a
798 public or private agency willing to undertake temporary custody or detention upon agreed
799 terms, or in suitable premises distinct and separate from the general jails, lockups, or cells used
800 in law enforcement and corrections systems.

801 (7) A child who willfully and intentionally damages a jail or other place of
802 confinement as provided in Section 76-8-418, including a detention, shelter, or secure
803 confinement facility, operated by the [~~Division of Youth Corrections~~] Division of Juvenile
804 Justice Services, commits an act which would be a third degree felony if committed by an
805 adult.

806 Section 18. Section **62A-7-401** is amended to read:

807 **62A-7-401. Juvenile Sex Offender Authority -- Purpose -- Duties -- Members --**
808 **Staff specialists.**

809 (1) There is established the Utah State Juvenile Sex Offender Authority within the
810 Department of Human Services, [~~Division of Youth Corrections~~] Division of Juvenile Justice
811 Services.

812 (2) The purpose of the authority is to supervise and coordinate the efforts of law
813 enforcement, the [~~Divisions of Youth Corrections~~] Divisions of Juvenile Justice Services,
814 Substance Abuse and Mental Health, Child and Family Services, and Services for People with
815 Disabilities, the State Office of Education, the Juvenile Court, prosecution, and juvenile sex
816 offender intervention and treatment specialists.

817 (3) The authority shall:

818 (a) coordinate and develop effective and cost-effective programs for the treatment of
819 juveniles who sexually offend;

820 (b) administer the development of a comprehensive continuum of juvenile sex offender
821 services;

822 (c) administer the development of programs to protect the communities from juvenile
823 sex offending and offenders; and

824 (d) by June 30, 2000, implement fully the comprehensive and detailed plan which shall
825 include provisions for the type of services by levels of intensity, agency responsibility for
826 services, and professional qualifications for persons delivering the services. The plan shall also
827 include detailed outcome measures to determine program effectiveness.

828 (4) The authority shall be comprised of:

829 (a) the director of the [~~Division of Youth Corrections~~] Division of Juvenile Justice
830 Services or a designee;

831 (b) the director of the Division of Substance Abuse and Mental Health or a designee;

- 832 (c) the director of the Division of Child and Family Services or a designee;
 - 833 (d) the director of the Division of Services for People with Disabilities or a designee;
 - 834 (e) the State Superintendent of Public Instruction;
 - 835 (f) the juvenile court administrator or a designee;
 - 836 (g) a representative of the Statewide Association of Public Attorneys as designated by
837 its director;
 - 838 (h) a representative of the Utah Sheriffs Association as designated by its president;
 - 839 (i) a representative of the Utah Police Chiefs Association as designated by its
840 president;
 - 841 (j) a citizen appointed by the governor;
 - 842 (k) a representative of the Utah Network on Juveniles Offending Sexually (NOJOS) as
843 designated by its director; and
 - 844 (l) the attorney general or a designee.
- 845 (5) Staff to the authority shall be the staff specialists of the statewide juvenile sex
846 offender supervision and treatment unit.

847 Section 19. Section **62A-15-605** is amended to read:

848 **62A-15-605. Forensic Mental Health Coordinating Council -- Establishment and**
849 **purpose.**

- 850 (1) There is established the Forensic Mental Health Coordinating Council composed of
851 the following members:
- 852 (a) the director or the director's appointee;
 - 853 (b) the superintendent of the state hospital or the superintendent's appointee;
 - 854 (c) the executive director of the Department of Corrections or the executive director's
855 appointee;
 - 856 (d) a member of the Board of Pardons and Parole or its appointee;
 - 857 (e) the attorney general or the attorney general's appointee;
 - 858 (f) the director of the Division of Services for People with Disabilities or the director's
859 appointee;
 - 860 (g) the director of the [~~Division of Youth Corrections~~] Division of Juvenile Justice
861 Services or the director's appointee;
 - 862 (h) the director of the Commission on Criminal and Juvenile Justice or the director's

863 appointee;

864 (i) the state court administrator or the administrator's appointee;

865 (j) the state juvenile court administrator or the administrator's appointee;

866 (k) a representative from a local mental health authority or an organization, excluding
867 the state hospital that provides mental health services under contract with the Division of
868 Substance Abuse and Mental Health or a local mental health authority, as appointed by the
869 director of the division;

870 (l) the executive director of the Governor's Council for People with Disabilities or the
871 director's appointee; and

872 (m) other persons as appointed by the members described in Subsections (1)(a) through
873 (l).

874 (2) (a) (i) Members who are not government employees shall receive no compensation
875 or benefits for their services, but may receive per diem and expenses incurred in the
876 performance of the member's official duties at the rates established by the Division of Finance
877 under Sections 63A-3-106 and 63A-3-107.

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

879 (b) (i) State government officer and employee members who do not receive salary, per
880 diem, or expenses from their agency for their service may receive per diem and expenses
881 incurred in the performance of their official duties from the council at the rates established by
882 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

883 (ii) State government officer and employee members may decline to receive per diem
884 and expenses for their service.

885 (3) The purpose of the Forensic Mental Health Coordinating Council is to:

886 (a) advise the director regarding admissions to the state hospital of persons in the
887 custody of the Department of Corrections;

888 (b) develop policies for coordination between the division and the Department of
889 Corrections;

890 (c) advise the executive director of the Department of Corrections regarding issues of
891 care for persons in the custody of the Department of Corrections who are mentally ill;

892 (d) promote communication between and coordination among all agencies dealing with
893 persons with mental retardation, as defined in Section 62A-5-101, or mental illness who

894 become involved in the civil commitment system or in the criminal or juvenile justice system;

895 (e) study, evaluate, and recommend changes to laws and procedures relating to persons
896 with mental retardation or mental illness who become involved in the civil commitment system
897 or in the criminal or juvenile justice system;

898 (f) identify and promote the implementation of specific policies and programs to deal
899 fairly and efficiently with persons with mental retardation or mental illness who become
900 involved in the civil commitment system or in the criminal or juvenile justice system; and

901 (g) promote judicial education relating to persons with mental retardation or mental
902 illness who become involved in the civil commitment system or in the criminal or juvenile
903 justice system.

904 Section 20. Section **62A-15-703** is amended to read:

905 **62A-15-703. Residential and inpatient settings -- Commitment proceeding --**
906 **Child in physical custody of local mental health authority.**

907 (1) A child may receive services from a local mental health authority in an inpatient or
908 residential setting only after a commitment proceeding, for the purpose of transferring physical
909 custody, has been conducted in accordance with the requirements of this section.

910 (2) That commitment proceeding shall be initiated by a petition for commitment, and
911 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant
912 to the procedures and requirements of this section. If the findings described in Subsection (4)
913 exist, the proceeding shall result in the transfer of physical custody to the appropriate local
914 mental health authority, and the child may be placed in an inpatient or residential setting.

915 (3) The neutral and detached fact finder who conducts the inquiry:

916 (a) shall be a designated examiner, as defined in Subsection 62A-15-602(3); and

917 (b) may not profit, financially or otherwise, from the commitment or physical
918 placement of the child in that setting.

919 (4) Upon determination by the fact finder that the following circumstances clearly
920 exist, he may order that the child be committed to the physical custody of a local mental health
921 authority:

922 (a) the child has a mental illness, as defined in Subsection 62A-15-602(8);

923 (b) the child demonstrates a risk of harm to himself or others;

924 (c) the child is experiencing significant impairment in his ability to perform socially;

925 (d) the child will benefit from care and treatment by the local mental health authority;
926 and

927 (e) there is no appropriate less-restrictive alternative.

928 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be
929 conducted in as informal manner as possible, and in a physical setting that is not likely to have
930 a harmful effect on the child.

931 (b) The child, the child's parent or legal guardian, the person who submitted the
932 petition for commitment, and a representative of the appropriate local mental health authority
933 shall all receive informal notice of the date and time of the proceeding. Those parties shall also
934 be afforded an opportunity to appear and to address the petition for commitment.

935 (c) The neutral and detached fact finder may, in his discretion, receive the testimony of
936 any other person.

937 (d) The fact finder may allow the child to waive his right to be present at the
938 commitment proceeding, for good cause shown. If that right is waived, the purpose of the
939 waiver shall be made a matter of record at the proceeding.

940 (e) At the time of the commitment proceeding, the appropriate local mental health
941 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the
942 commitment proceeding, shall provide the neutral and detached fact finder with the following
943 information, as it relates to the period of current admission:

944 (i) the petition for commitment;

945 (ii) the admission notes;

946 (iii) the child's diagnosis;

947 (iv) physicians' orders;

948 (v) progress notes;

949 (vi) nursing notes; and

950 (vii) medication records.

951 (f) The information described in Subsection (5)(e) shall also be provided to the child's
952 parent or legal guardian upon written request.

953 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
954 duration of the commitment. Any commitment to the physical custody of a local mental health
955 authority may not exceed 180 days. Prior to expiration of the commitment, and if further

956 commitment is sought, a hearing shall be conducted in the same manner as the initial
957 commitment proceeding, in accordance with the requirements of this section.

958 (ii) When a decision for commitment is made, the neutral and detached fact finder shall
959 inform the child and his parent or legal guardian of that decision, and of the reasons for
960 ordering commitment at the conclusion of the hearing, and also in writing.

961 (iii) The neutral and detached fact finder shall state in writing the basis of his decision,
962 with specific reference to each of the criteria described in Subsection (4), as a matter of record.

963 (6) Absent the procedures and findings required by this section, a child may be
964 temporarily committed to the physical custody of a local mental health authority only in
965 accordance with the emergency procedures described in Subsection 62A-15-629(1) or (2). A
966 child temporarily committed in accordance with those emergency procedures may be held for a
967 maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of
968 that time period, the child shall be released unless the procedures and findings required by this
969 section have been satisfied.

970 (7) A local mental health authority shall have physical custody of each child committed
971 to it under this section. The parent or legal guardian of a child committed to the physical
972 custody of a local mental health authority under this section, retains legal custody of the child,
973 unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases
974 when the Division of Child and Family Services or the [~~Division of Youth Corrections~~]
975 Division of Juvenile Justice Services has legal custody of a child, that division shall retain legal
976 custody for purposes of this part.

977 (8) The cost of caring for and maintaining a child in the physical custody of a local
978 mental health authority shall be assessed to and paid by the child's parents, according to their
979 ability to pay. For purposes of this section, the Division of Child and Family Services or the
980 [~~Division of Youth Corrections~~] Division of Juvenile Justice Services shall be financially
981 responsible, in addition to the child's parents, if the child is in the legal custody of either of
982 those divisions at the time the child is committed to the physical custody of a local mental
983 health authority under this section, unless Medicaid regulation or contract provisions specify
984 otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs
985 assessed pursuant to this section.

986 (9) Whenever application is made for commitment of a minor to a local mental health

987 authority under any provision of this section by a person other than the child's parent or
988 guardian, the local mental health authority or its designee shall notify the child's parent or
989 guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled
990 proceeding.

991 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30
992 days after any order for commitment. The appeal may be brought on the child's own petition,
993 or that of his parent or legal guardian, to the juvenile court in the district where the child
994 resides or is currently physically located. With regard to a child in the custody of the Division
995 of Child and Family Services or the [~~Division of Youth Corrections~~] Division of Juvenile
996 Justice Services, the attorney general's office shall handle the appeal, otherwise the appropriate
997 county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

998 (b) Upon receipt of the petition for appeal, the court shall appoint a designated
999 examiner previously unrelated to the case, to conduct an examination of the child in accordance
1000 with the criteria described in Subsection (4), and file a written report with the court. The court
1001 shall then conduct an appeal hearing to determine whether the findings described in Subsection
1002 (4) exist by clear and convincing evidence.

1003 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,
1004 its designee, or the mental health professional who has been in charge of the child's care prior
1005 to commitment, shall provide the court and the designated examiner for the appeal hearing with
1006 the following information, as it relates to the period of current admission:

- 1007 (i) the original petition for commitment;
1008 (ii) admission notes;
1009 (iii) diagnosis;
1010 (iv) physicians' orders;
1011 (v) progress notes;
1012 (vi) nursing notes; and
1013 (vii) medication records.

1014 (d) Both the neutral and detached fact finder and the designated examiner appointed for
1015 the appeal hearing shall be provided with an opportunity to review the most current
1016 information described in Subsection (10)(c) prior to the appeal hearing.

1017 (e) The child, his parent or legal guardian, the person who submitted the original

1018 petition for commitment, and a representative of the appropriate local mental health authority
1019 shall be notified by the court of the date and time of the appeal hearing. Those persons shall be
1020 afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review
1021 the record and findings of the neutral and detached fact finder, the report of the designated
1022 examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require
1023 the testimony of the neutral and detached fact finder, the designated examiner, the child, the
1024 child's parent or legal guardian, the person who brought the initial petition for commitment, or
1025 any other person whose testimony the court deems relevant. The court may allow the child to
1026 waive his right to appear at the appeal hearing, for good cause shown. If that waiver is granted,
1027 the purpose shall be made a part of the court's record.

1028 (11) Each local mental health authority has an affirmative duty to conduct periodic
1029 evaluations of the mental health and treatment progress of every child committed to its physical
1030 custody under this section, and to release any child who has sufficiently improved so that the
1031 criteria justifying commitment no longer exist.

1032 (12) (a) A local mental health authority or its designee, in conjunction with the child's
1033 current treating mental health professional may release an improved child to a less restrictive
1034 environment, as they determine appropriate. Whenever the local mental health authority or its
1035 designee, and the child's current treating mental health professional, determine that the
1036 conditions justifying commitment no longer exist, the child shall be discharged and released to
1037 his parent or legal guardian. With regard to a child who is in the physical custody of the State
1038 Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's
1039 current treating mental health professional.

1040 (b) A local mental health authority or its designee, in conjunction with the child's
1041 current treating mental health professional, is authorized to issue a written order for the
1042 immediate placement of a child not previously released from an order of commitment into a
1043 more restrictive environment, if the local authority or its designee and the child's current
1044 treating mental health professional has reason to believe that the less restrictive environment in
1045 which the child has been placed is exacerbating his mental illness, or increasing the risk of
1046 harm to himself or others.

1047 (c) The written order described in Subsection (12)(b) shall include the reasons for
1048 placement in a more restrictive environment and shall authorize any peace officer to take the

1049 child into physical custody and transport him to a facility designated by the appropriate local
1050 mental health authority in conjunction with the child's current treating mental health
1051 professional. Prior to admission to the more restrictive environment, copies of the order shall
1052 be personally delivered to the child, his parent or legal guardian, the administrator of the more
1053 restrictive environment, or his designee, and the child's former treatment provider or facility.

1054 (d) If the child has been in a less restrictive environment for more than 30 days and is
1055 aggrieved by the change to a more restrictive environment, the child or his representative may
1056 request a review within 30 days of the change, by a neutral and detached fact finder as
1057 described in Subsection (3). The fact finder shall determine whether:

1058 (i) the less restrictive environment in which the child has been placed is exacerbating
1059 his mental illness, or increasing the risk of harm to himself or others; or

1060 (ii) the less restrictive environment in which the child has been placed is not
1061 exacerbating his mental illness, or increasing the risk of harm to himself or others, in which
1062 case the fact finder shall designate that the child remain in the less restrictive environment.

1063 (e) Nothing in this section prevents a local mental health authority or its designee, in
1064 conjunction with the child's current mental health professional, from discharging a child from
1065 commitment or from placing a child in an environment that is less restrictive than that
1066 designated by the neutral and detached fact finder.

1067 (13) Each local mental health authority or its designee, in conjunction with the child's
1068 current treating mental health professional shall discharge any child who, in the opinion of that
1069 local authority, or its designee, and the child's current treating mental health professional, no
1070 longer meets the criteria specified in Subsection (4), except as provided by Section 78-3a-121.
1071 The local authority and the mental health professional shall assure that any further supportive
1072 services required to meet the child's needs upon release will be provided.

1073 (14) Even though a child has been committed to the physical custody of a local mental
1074 health authority pursuant to this section, the child is still entitled to additional due process
1075 proceedings, in accordance with Section 62A-15-704, before any treatment which may affect a
1076 constitutionally protected liberty or privacy interest is administered. Those treatments include,
1077 but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

1078 Section 21. Section **63-25a-102** is amended to read:

1079 **63-25a-102. Composition -- Ex officio members -- Appointees of governor --**

1080 **Terms -- U.S. Attorney as nonvoting member.**

1081 (1) The commission on criminal and juvenile justice shall be composed of 20 voting
1082 members as follows:

1083 (a) the chief justice of the supreme court, as the presiding officer of the judicial
1084 council, or a judge designated by the chief justice;

1085 (b) the state court administrator;

1086 (c) the executive director of the Department of Corrections;

1087 (d) the director of the [~~Division of Youth Corrections~~] Division of Juvenile Justice
1088 Services;

1089 (e) the commissioner of the Department of Public Safety;

1090 (f) the attorney general;

1091 (g) the president of the chiefs of police association or a chief of police designated by
1092 the association's president;

1093 (h) the president of the sheriffs' association or a sheriff designated by the association's
1094 president;

1095 (i) the chair of the Board of Pardons and Parole or a member designated by the chair;

1096 (j) the chair of the Utah Sentencing Commission;

1097 (k) the chair of the Utah Substance Abuse and Anti-Violence Coordinating Council;

1098 (l) the chair of the Utah Board of Juvenile Justice;

1099 (m) the chair of the Utah Council on Victims of Crime or the chair's designee; and

1100 (n) the following members designated to serve four-year terms:

1101 (i) a juvenile court judge, appointed by the chief justice, as presiding officer of the
1102 Judicial Council; and

1103 (ii) a representative of the statewide association of public attorneys designated by the
1104 association's officers.

1105 (2) The governor shall appoint the remaining five members to four-year staggered
1106 terms as follows:

1107 (a) one criminal defense attorney appointed from a list of three nominees submitted by
1108 the Utah State Bar Association;

1109 (b) one state senator;

1110 (c) one state representative;

1111 (d) one representative of public education; and

1112 (e) one citizen representative.

1113 (3) In addition to the members designated under Subsections (1) and (2), the United
1114 States Attorney for the district of Utah may serve as a nonvoting member.

1115 (4) In appointing the members under Subsection (2), the governor shall take into
1116 account the geographical makeup of the commission.

1117 Section 22. Section **63-25a-201** is amended to read:

1118 **63-25a-201. Creation of council -- Membership -- Terms.**

1119 (1) There is created within the governor's office the Utah Substance Abuse and
1120 Anti-Violence Coordinating Council.

1121 (2) The Utah Substance Abuse and Anti-Violence Coordinating Council comprises 25
1122 voting members as follows:

1123 (a) the attorney general or the attorney general's designee;

1124 (b) a county commissioner designated by the Utah Association of Counties;

1125 (c) the commissioner of public safety or the commissioner's designee;

1126 (d) the director of the Division of Substance Abuse and Mental Health or the director's
1127 designee;

1128 (e) the state superintendent of public instruction or the superintendent's designee;

1129 (f) the director of the Department of Health or the director's designee;

1130 (g) the executive director of the Commission on Criminal and Juvenile Justice or the
1131 executive director's designee;

1132 (h) the governor or the governor's designee;

1133 (i) the executive director of the Department of Corrections or the executive director's
1134 designee;

1135 (j) the director of the [~~Division of Youth Corrections~~] Division of Juvenile Justice
1136 Services or the director's designee;

1137 (k) the chair of the Domestic Violence Advisory Council or the chair's designee;

1138 (l) the following members designated to serve four-year terms:

1139 (i) a member of the House of Representatives designated by the speaker;

1140 (ii) a member of the Senate designated by the president;

1141 (iii) a member of the judiciary designated by the chief justice of the Utah Supreme

1142 Court;

1143 (iv) a representative designated by the Utah League of Cities and Towns; and

1144 (v) a representative from the offices of minority affairs designated by the directors of
1145 those offices or a designee;

1146 (m) the following members appointed by the governor to serve four-year terms:

1147 (i) a representative of the Utah National Guard, appointed by the governor;

1148 (ii) one resident of the state who has been personally affected by domestic violence;

1149 (iii) one resident of the state who has been personally affected by gang violence;

1150 (iv) one resident of the state who has been personally affected by alcohol or other drug
1151 abuse; and

1152 (v) one citizen representative; and

1153 (n) the following members appointed by the members in Subsections (2)(a) through
1154 (2)(m) to serve four-year terms:

1155 (i) a person knowledgeable in criminal justice issues;

1156 (ii) a person knowledgeable in substance abuse treatment issues;

1157 (iii) a person knowledgeable in substance abuse prevention issues; and

1158 (iv) a person knowledgeable in judiciary issues.

1159 Section 23. Section **63-25a-301** is amended to read:

1160 **63-25a-301. Creation -- Members -- Appointment -- Qualifications.**

1161 (1) There is created a state commission to be known as the Sentencing Commission
1162 composed of 27 members. The commission shall develop by-laws and rules in compliance
1163 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, and elect its officers.

1164 (2) The commission's members shall be:

1165 (a) two members of the House of Representatives, appointed by the speaker of the
1166 House and not of the same political party;

1167 (b) two members of the Senate, appointed by the president of the Senate and not of the
1168 same political party;

1169 (c) the executive director of the Department of Corrections or a designee appointed by
1170 the executive director;

1171 (d) the director of the [~~Division of Youth Corrections~~] Division of Juvenile Justice
1172 Services or a designee appointed by the director;

- 1173 (e) the executive director of the Commission on Criminal and Juvenile Justice or a
1174 designee appointed by the executive director;
- 1175 (f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;
- 1176 (g) the chair of the Youth Parole Authority or a designee appointed by the chair;
- 1177 (h) two trial judges and an appellate judge appointed by the chair of the Judicial
1178 Council;
- 1179 (i) two juvenile court judges designated by the chair of the Judicial Council;
- 1180 (j) an attorney in private practice who is a member of the Utah State Bar, experienced
1181 in criminal defense, and appointed by the Utah Bar Commission;
- 1182 (k) an attorney who is a member of the Utah State Bar, experienced in the defense of
1183 minors in juvenile court, and appointed by the Utah Bar Commission;
- 1184 (l) the director of Salt Lake Legal Defenders or a designee appointed by the director;
- 1185 (m) the attorney general or a designee appointed by the attorney general;
- 1186 (n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;
- 1187 (o) a juvenile court prosecutor appointed by the Statewide Association of Public
1188 Attorneys;
- 1189 (p) a representative of the Utah Sheriff's Association appointed by the governor;
- 1190 (q) a chief of police appointed by the governor;
- 1191 (r) a licensed professional appointed by the governor who assists in the rehabilitation
1192 of adult offenders;
- 1193 (s) a licensed professional appointed by the governor who assists in the rehabilitation
1194 of juvenile offenders;
- 1195 (t) two members from the public appointed by the governor who exhibit sensitivity to
1196 the concerns of victims of crime and the ethnic composition of the population; and
- 1197 (u) one member from the public at large appointed by the governor.

1198 Section 24. Section **63-38-2** is amended to read:

1199 **63-38-2. Governor to submit budget to Legislature -- Contents -- Preparation --**
1200 **Appropriations based on current tax laws and not to exceed estimated revenues.**

- 1201 (1) (a) The governor shall, within three days after the convening of the Legislature in
1202 the annual general session, submit a budget for the ensuing fiscal year by delivering it to the
1203 presiding officer of each house of the Legislature together with a schedule for all of the

1204 proposed appropriations of the budget, clearly itemized and classified.

1205 (b) The budget message shall include a projection of estimated revenues and
1206 expenditures for the next fiscal year.

1207 (2) At least 34 days before the submission of any budget, the governor shall deliver a
1208 confidential draft copy of his proposed budget recommendations to the Office of the
1209 Legislative Fiscal Analyst.

1210 (3) (a) The budget shall contain a complete plan of proposed expenditures and
1211 estimated revenues for the next fiscal year based upon the current fiscal year state tax laws and
1212 rates.

1213 (b) The budget may be accompanied by a separate document showing proposed
1214 expenditures and estimated revenues based on changes in state tax laws or rates.

1215 (4) The budget shall be accompanied by a statement showing:

1216 (a) the revenues and expenditures for the last fiscal year;

1217 (b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and
1218 funds of the state;

1219 (c) an estimate of the state's financial condition as of the beginning and the end of the
1220 period covered by the budget;

1221 (d) a complete analysis of lease with an option to purchase arrangements entered into
1222 by state agencies;

1223 (e) the recommendations for each state agency for new full-time employees for the next
1224 fiscal year; which recommendation should be provided also to the State Building Board under
1225 Subsection 63A-5-103(2);

1226 (f) any explanation the governor may desire to make as to the important features of the
1227 budget and any suggestion as to methods for the reduction of expenditures or increase of the
1228 state's revenue; and

1229 (g) the information detailing certain regulatory fee increases required by Section
1230 63-38-3.2.

1231 (5) The budget shall include an itemized estimate of the appropriations for:

1232 (a) the Legislative Department as certified to the governor by the president of the
1233 Senate and the speaker of the House;

1234 (b) the Executive Department;

- 1235 (c) the Judicial Department as certified to the governor by the state court administrator;
- 1236 (d) payment and discharge of the principal and interest of the indebtedness of the state;
- 1237 (e) the salaries payable by the state under the Utah Constitution or under law for the
- 1238 lease agreements planned for the next fiscal year;
- 1239 (f) other purposes that are set forth in the Utah Constitution or under law; and
- 1240 (g) all other appropriations.
- 1241 (6) Deficits or anticipated deficits shall be included in the budget.
- 1242 (7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall
- 1243 require from the proper state officials, including public and higher education officials, all heads
- 1244 of executive and administrative departments and state institutions, bureaus, boards,
- 1245 commissions, and agencies expending or supervising the expenditure of the state moneys, and
- 1246 all institutions applying for state moneys and appropriations, itemized estimates of revenues
- 1247 and expenditures. The entities required by this Subsection (7)(a)(i) to submit itemized
- 1248 estimates of revenues and expenditures to the governor, shall also report to the Utah
- 1249 Information Technology Commission created in Title 63D, Chapter 1, Information Technology
- 1250 Act, before October 30 of each year. The report to the Information Technology Commission
- 1251 shall include the proposed information technology expenditures and objectives, the proposed
- 1252 appropriation requests and other sources of revenue necessary to fund the proposed
- 1253 expenditures and an analysis of:
 - 1254 (A) the entity's need for appropriations for information technology;
 - 1255 (B) how the entity's development of information technology coordinates with other
 - 1256 state or local government entities;
 - 1257 (C) any performance measures used by the entity for implementing information
 - 1258 technology goals; and
 - 1259 (D) any efforts to develop public/private partnerships to accomplish information
 - 1260 technology goals.
- 1261 (ii) (A) The governor may also require other information under these guidelines and at
- 1262 times as the governor may direct.
 - 1263 (B) These guidelines may include a requirement for program productivity and
 - 1264 performance measures, where appropriate, with emphasis on outcome indicators.
- 1265 (b) The estimate for the Legislative Department as certified by the presiding officers of

1266 both houses shall be included in the budget without revision by the governor. Before preparing
1267 the estimates for the Legislative Department, the Legislature shall report to the Information
1268 Technology Commission the proposed information technology expenditures and objectives, the
1269 proposed appropriation requests and other sources of revenue necessary to fund the proposed
1270 expenditures, including an analysis of:

1271 (i) the Legislature's implementation of information technology goals;
1272 (ii) any coordination of information technology with other departments of state and
1273 local government;

1274 (iii) any efforts to develop public/private partnerships to accomplish information
1275 technology goals; and

1276 (iv) any performance measures used by the entity for implementing information
1277 technology goals.

1278 (c) The estimate for the Judicial Department, as certified by the state court
1279 administrator, shall also be included in the budget without revision, but the governor may make
1280 separate recommendations on it. Before preparing the estimates for the Judicial Department,
1281 the state court administrator shall report to the Information Technology Commission the
1282 proposed information technology expenditures and objectives, the proposed appropriation
1283 requests and other sources of revenue necessary to fund the proposed expenditures, including
1284 an analysis of:

1285 (i) the Judicial Department's information technology goals;

1286 (ii) coordination of information technology statewide between all courts;

1287 (iii) any efforts to develop public/private partnerships to accomplish information
1288 technology goals; and

1289 (iv) any performance measures used by the entity for implementing information
1290 technology goals.

1291 (d) Before preparing the estimates for the State Office of Education, the state
1292 superintendent shall report to the Information Technology Commission the proposed
1293 information technology expenditures and objectives, the proposed appropriation requests and
1294 other sources of revenue necessary to fund the proposed expenditures, including an analysis of:

1295 (i) the Office of Education's information technology goals;

1296 (ii) coordination of information technology statewide between all public schools;

1297 (iii) any efforts to develop public/private partnerships to accomplish information
1298 technology goals; and

1299 (iv) any performance measures used by the Office of Education for implementing
1300 information technology goals.

1301 (e) Before preparing the estimates for the state system of Higher Education, the
1302 commissioner shall report to the Information Technology Commission the proposed
1303 information technology expenditures and objectives, the proposed appropriation requests and
1304 other sources of revenue necessary to fund the proposed expenditures, including an analysis of:

1305 (i) Higher Education's information technology goals;

1306 (ii) coordination of information technology statewide within the state system of higher
1307 education;

1308 (iii) any efforts to develop public/private partnerships to accomplish information
1309 technology goals; and

1310 (iv) any performance measures used by the state system of higher education for
1311 implementing information technology goals.

1312 (f) The governor may require the attendance at budget meetings of representatives of
1313 public and higher education, state departments and institutions, and other institutions or
1314 individuals applying for state appropriations.

1315 (g) The governor may revise all estimates, except those relating to the Legislative
1316 Department, the Judicial Department, and those providing for the payment of principal and
1317 interest to the state debt and for the salaries and expenditures specified by the Utah
1318 Constitution or under the laws of the state.

1319 (8) The total appropriations requested for expenditures authorized by the budget may
1320 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing
1321 fiscal year.

1322 (9) If any item of the budget as enacted is held invalid upon any ground, the invalidity
1323 does not affect the budget itself or any other item in it.

1324 (10) (a) In submitting the budgets for the Departments of Health and Human Services
1325 and the Office of the Attorney General, the governor shall consider a separate recommendation
1326 in his budget for funds to be contracted to:

1327 (i) local mental health authorities under Section 62A-15-110;

1328 (ii) local substance abuse authorities under Section 62A-15-110;
1329 (iii) area agencies under Section 62A-3-104.2;
1330 (iv) programs administered directly by and for operation of the Divisions of Substance
1331 Abuse and Mental Health and Aging and Adult Services;
1332 (v) local health departments under Title 26A, Chapter 1, Local Health Departments;
1333 and
1334 (vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.
1335 (b) In his budget recommendations under Subsections (10)(a)(i), (ii), and (iii), the
1336 governor shall consider an amount sufficient to grant local health departments, local mental
1337 health authorities, local substance abuse authorities, and area agencies the same percentage
1338 increase for wages and benefits that he includes in his budget for persons employed by the
1339 state.
1340 (c) If the governor does not include in his budget an amount sufficient to grant the
1341 increase described in Subsection (10)(b), he shall include a message to the Legislature
1342 regarding his reason for not including that amount.
1343 (11) (a) In submitting the budget for the Division of Services for People with
1344 Disabilities, the Division of Child and Family Services, and the [~~Division of Youth~~
1345 ~~Corrections~~] Division of Juvenile Justice Services within the Department of Human Services,
1346 the governor shall consider an amount sufficient to grant employees of corporations that
1347 provide direct services under contract with those divisions, the same percentage increase for
1348 cost-of-living that he includes in his budget for persons employed by the state.
1349 (b) If the governor does not include in his budget an amount sufficient to grant the
1350 increase described in Subsection (11)(a), he shall include a message to the Legislature
1351 regarding his reason for not including that amount.
1352 (12) (a) The Families, Agencies, and Communities Together Council may propose to
1353 the governor under Subsection 63-75-4(4)(e) a budget recommendation for collaborative
1354 service delivery systems operated under Section 63-75-6.5.
1355 (b) The Legislature may, through a specific program schedule, designate funds
1356 appropriated for collaborative service delivery systems operated under Section 63-75-6.5.
1357 (13) The governor shall include in his budget the state's portion of the budget for the
1358 Utah Communications Agency Network established in Title 63C, Chapter 7, Utah

1359 Communications Agency Network Act.

1360 Section 25. Section **63-75-3** is amended to read:

1361 **63-75-3. Definitions.**

1362 As used in this chapter:

1363 (1) "Children and youth at risk" means:

1364 (a) disabled persons age 18 to 22; or

1365 (b) persons in the custody of the [~~Division of Youth Corrections~~] Division of Juvenile
1366 Justice Services within the Department of Human Services age 18 to 21; and

1367 (c) minors who may at times require appropriate and uniquely designed intervention to:

1368 (i) achieve literacy;

1369 (ii) advance through the schools;

1370 (iii) achieve commensurate with their ability; and

1371 (iv) participate in society in a meaningful way as competent, productive, caring, and
1372 responsible citizens.

1373 (2) "Council" means the Families, Agencies, and Communities Together Council
1374 established under Section 63-75-4.

1375 (3) "Local interagency council" means a council established under Section 63-75-5.7.

1376 (4) "Steering committee" means the Families, Agencies, and Communities Together
1377 Steering Committee established under Section 63-75-5.

1378 (5) (a) "Child and family centered service delivery system" means services provided to
1379 children and youth at risk and their families that may be delivered by teams and within a
1380 supportive community environment.

1381 (b) "Community" includes, when available, parents of children and youth at risk;
1382 directors of geographical service delivery areas designated by state agencies; local government
1383 elected officials; appointed county officials who are responsible for providing substance abuse,
1384 mental health, or public health services; educators; school districts; parent-teacher
1385 organizations; child and family advocacy groups; religious and community-based service
1386 organizations; individuals; and private sector entities who come together to develop, adopt, and
1387 administer a plan for a collaborative service delivery system for children and youth at risk.

1388 (c) "Community resources" means time, money, services, and other contributions
1389 provided by individuals, private sector entities, religious organizations, community-based

1390 service organizations, school districts, municipal governments, and county governments.

1391 (d) "Individualized and coordinated service plan" means a plan for services and
1392 supports that is comprehensive in its scope, is the product of a collaborative process between
1393 public and private service providers, and is specifically tailored to the unique needs of each
1394 child or youth served under this chapter.

1395 (e) "Performance monitoring system" means a process to regularly collect and analyze
1396 performance information including performance indicators and performance goals:

1397 (i) "performance indicators" means actual performance information regarding a
1398 program or activity; and

1399 (ii) "performance goals" means a target level of performance or an expected level of
1400 performance against which actual performance is measured.

1401 (f) "Plan for a collaborative service delivery system," "plan," or "plans" means a
1402 written document describing how a community proposes to deliver services and supports to
1403 children and youth at risk that effectively bring to bear all needed resources, including
1404 community resources, to enable them to achieve the outcomes described in [~~Subsections~~
1405 ~~63-75-3(1)(a) through (d)~~] Subsection (1)(c).

1406 Section 26. Section **63-75-5** is amended to read:

1407 **63-75-5. Steering committee -- Membership -- Duties.**

1408 (1) As used in this section, "Council of Mental Health Programs" means a council
1409 consisting of all of the directors of Utah public mental health centers.

1410 (2) There is established a Families, Agencies, and Communities Together Steering
1411 Committee.

1412 (3) The steering committee shall include at least 18 voting members as follows:

1413 (a) the director of the Division of Health Care Financing within the Department of
1414 Health;

1415 (b) a representative annually designated by the Council of Mental Health Programs;

1416 (c) the director of the Division of Substance Abuse and Mental Health within the
1417 Department of Human Services;

1418 (d) the director of the [~~Division of Youth Corrections~~] Division of Juvenile Justice
1419 Services within the Department of Human Services;

1420 (e) the state director of special education;

1421 (f) the person responsible for programs for at risk students within the Utah State Office
1422 of Education, if that person is not the state director of special education;

1423 (g) the Juvenile Court Administrator;

1424 (h) a representative annually designated by substance abuse directors;

1425 (i) the director of the Division of Child and Family Services within the Department of
1426 Human Services;

1427 (j) the director of family health services programs;

1428 (k) a representative annually designated by the Utah School Superintendents
1429 Association;

1430 (l) a juvenile court judge designated by the presiding officer of the state Judicial
1431 Council;

1432 (m) a representative annually designated by the local health officers;

1433 (n) a representative annually designated by the executive director of the Department of
1434 Workforce Services;

1435 (o) three at-large members appointed by a majority of the committee to four-year
1436 terms, who represent a statewide perspective on children and youth issues; and

1437 (p) parent representatives appointed by members specified in Subsections (3)(a)
1438 through (o).

1439 (4) Additional members may be selected by a majority of the committee to serve as
1440 voting members for four-year terms.

1441 (5) (a) Except as required by Subsection (5)(b), as terms of current at-large committee
1442 members expire, the committee shall appoint each new member or reappointed member to a
1443 four-year term.

1444 (b) Notwithstanding the requirements of Subsection (5)(a), the committee shall, at the
1445 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
1446 at-large committee members are staggered so that approximately half of the at-large committee
1447 members are appointed every two years.

1448 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
1449 appointed for the unexpired term.

1450 (7) The members shall annually elect a chair and vice chair.

1451 (8) A majority of committee members are necessary to constitute a quorum and to

1452 transact the business of the committee.

1453 (9) (a) (i) Members who are not government employees may not receive compensation
1454 or benefits for their services, but may receive per diem and expenses incurred in the
1455 performance of the member's official duties at the rates established by the Division of Finance
1456 under Sections 63A-3-106 and 63A-3-107.

1457 (ii) Members may decline to receive per diem and expenses for their service.

1458 (b) (i) State government officer and employee members who do not receive salary, per
1459 diem, or expenses from their agency for their service may receive per diem and expenses
1460 incurred in the performance of their official duties from the committee at the rates established
1461 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1462 (ii) State government officer and employee members may decline to receive per diem
1463 and expenses for their service.

1464 (c) (i) Local government members who do not receive salary, per diem, or expenses
1465 from the entity that they represent for their service may receive per diem and expenses incurred
1466 in the performance of their official duties at the rates established by the Division of Finance
1467 under Sections 63A-3-106 and 63A-3-107.

1468 (ii) Local government members may decline to receive per diem and expenses for their
1469 service.

1470 (10) The committee shall:

1471 (a) assist the council in fulfilling its duties set out in Section 63-75-4;

1472 (b) monitor, solicit input for policy changes, and provide technical assistance to local
1473 collaborative programs; and

1474 (c) report any formal recommendations to the council.

1475 Section 27. Section **63-92-3** is amended to read:

1476 **63-92-3. Establishment of local oversight committees -- Interagency information**
1477 **sharing.**

1478 (1) The Commission on Criminal and Juvenile Justice shall administer the statewide
1479 SHOCAP oversight committee and provide periodic review of the programs.

1480 (2) Counties or municipalities implementing SHOCAP shall form a local oversight
1481 committee composed of the following persons, or their designees:

1482 (a) the district juvenile court administrator;

- 1483 (b) the superintendent of the local school district;
- 1484 (c) the local county attorney;
- 1485 (d) a member of the local county or municipal legislative body;
- 1486 (e) the local county sheriff;
- 1487 (f) a local chief of police;
- 1488 (g) the local chief of probation for the Juvenile Court;
- 1489 (h) the regional director of the [~~Division of Youth Corrections~~] Division of Juvenile
- 1490 Justice Services;
- 1491 (i) the regional director of the Division of Child and Family Services;
- 1492 (j) a representative of a local public mental health provider; and
- 1493 (k) any additional members considered appropriate by the local oversight committee.
- 1494 (3) The local oversight committee shall develop, implement, and periodically review
- 1495 the following:
- 1496 (a) standardized criteria as developed by the statewide SHOCAP oversight committee
- 1497 for determining who is a serious habitual offender (SHO);
- 1498 (b) what information is needed on each offender for inclusion in the program;
- 1499 (c) who will have access to the database;
- 1500 (d) who will maintain the database and manage the information in the program;
- 1501 (e) what the information in the database is to be used for; and
- 1502 (f) penalties for improper use of the information in the database.
- 1503 (4) The local oversight committee shall develop a written interagency information
- 1504 sharing agreement to be signed by the chief executive officer of each of the agencies
- 1505 represented on the oversight committee. The sharing agreement shall include the provisions
- 1506 requiring that:
- 1507 (a) all records pertaining to a SHO be kept confidential;
- 1508 (b) when a SHO is included in the SHOCAP program for the purposes of tracking and
- 1509 providing coordinated services, the local law enforcement agency or an agency designated by
- 1510 the interagency agreement shall as soon as reasonably possible notify the SHO and the parent
- 1511 or guardian of the SHO;
- 1512 (c) the disclosure of information to other staff members of signatory agencies be made
- 1513 only to those staff members who provide direct services or supervision to the SHO; and

1514 (d) all staff members of signatory agencies receiving confidential information
 1515 concerning a SHO be subject to the confidentiality requirements of this chapter.

1516 (5) Notwithstanding any other statutory provision, staff members of signatory agencies
 1517 who provide direct services or supervision to SHOCAP youth may distribute photographs of
 1518 SHOCAP youth to other staff members of signatory agencies who provide direct services or
 1519 supervision to SHOCAP youth.

1520 (6) The local oversight committee shall develop a program capable of maintaining the
 1521 information determined to be necessary under Subsection (3).

1522 Section 28. Section **63B-3-102** is amended to read:

1523 **63B-3-102. Maximum amount -- Projects authorized.**

1524 (1) The total amount of bonds issued under this part may not exceed \$64,600,000.

1525 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
 1526 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
 1527 Subsection (2).

1528 (b) These costs may include the cost of acquiring land, interests in land, easements and
 1529 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
 1530 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
 1531 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
 1532 covered by construction of the projects plus a period of six months after the end of the
 1533 construction period and all related engineering, architectural, and legal fees.

1534 (c) For the division, proceeds shall be provided for the following:

1535

CAPITAL IMPROVEMENTS		
h	1 ALTERATIONS, REPAIRS, AND IMPROVEMENTS	\$5,000,000
h		
1536	TOTAL IMPROVEMENTS	\$5,000,000

1537 **CAPITAL AND ECONOMIC DEVELOPMENT**

			ESTIMATED OPERATIONS AND
1541	PROJECT PROJECT	AMOUNT	MAINTENANCE
1542	PRIORITY DESCRIPTION	FUNDED	COSTS
1543	1 University of Utah	\$13,811,500	\$881,600
1544	Marriott Library Phase III (Final)		

1545	2	Bridgerland Applied Technology Center	\$2,400,000	\$0
1546		Utah State University Space		
1547	3	Weber State University -	\$2,332,100	\$9,600
1548		Heat Plant		
1549	4	Department of Human Services	\$4,180,000	\$400,000
1550		- Division of Youth Corrections <u>renamed</u>		
1551		<u>in 2003 to the Division of Juvenile Justice Services</u>		
1552	5	Snow College -	\$3,885,100	\$224,500
1553		Administrative Services/Student Center		
1554	6	Ogden Weber Applied	\$750,000	\$0
1555		Technology Center -		
1556		Metal Trades Building Design and		
1557		Equipment Purchase		
1558	7	Department of Corrections	\$1,237,100	\$72,000
1559		B-Block Remodel		
1560	8	Utah State University -	\$550,000	\$0
1561		Old Main Phase III Design		
1562	9	Department of Corrections - 144 bed	\$6,700,000	\$168,800
1563		Uintah Expansion		
1564	10	Southern Utah University	\$5,630,400	\$314,200
1565		Administrative Services/Student Center		
1566	11	Anasazi Museum	\$760,200	\$8,500
1567	12	Hill Air Force Base -	\$9,500,000	\$0
1568		Easements Purchase		
1569	13	Signetics Building Remodel	\$2,000,000	\$0
1570	14	Antelope Island Visitors Center	\$750,000	\$30,000
1571	15	State Fair Park -	\$150,000	\$0
1572		Master Study		
1573	16	Utah National Guard - Draper Land	\$380,800	\$0
1574	17	Davis Applied Technology Center -	\$325,000	\$0
1575		Design		

1576	18	Palisade State Park - Land	\$800,000	\$0
1577		and Park Development		
1578	19	Department of Human Services	\$80,000	\$0
1579		- Cedar City Land		
1580	20	Department of Human Services	\$163,400	\$0
1581		- Clearfield Land		
1582	21	Electronic technology,	\$2,500,000	\$0
1583		equipment, and hardware		
1584		TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	\$58,885,600	
1585		TOTAL IMPROVEMENTS AND		
1586		CAPITAL AND ECONOMIC DEVELOPMENT	\$63,885,600	

- 1587 (d) For purposes of this section, operations and maintenance costs:
- 1588 (i) are estimates only;
- 1589 (ii) may include any operations and maintenance costs already funded in existing
- 1590 agency budgets; and
- 1591 (iii) are not commitments by this Legislature or future Legislatures to fund those
- 1592 operations and maintenance costs.
- 1593 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
- 1594 constitute a limitation on the amount that may be expended for any project.
- 1595 (b) The board may revise these estimates and redistribute the amount estimated for a
- 1596 project among the projects authorized.
- 1597 (c) The commission, by resolution and in consultation with the board, may delete one
- 1598 or more projects from this list if the inclusion of that project or those projects in the list could
- 1599 be construed to violate state law or federal law or regulation.
- 1600 (4) (a) The division may enter into agreements related to these projects before the
- 1601 receipt of proceeds of bonds issued under this chapter.
- 1602 (b) The division shall make those expenditures from unexpended and unencumbered
- 1603 building funds already appropriated to the Capital Projects Fund.
- 1604 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
- 1605 of bonds issued under this chapter.
- 1606 (d) The commission may, by resolution, make any statement of intent relating to that

1607 reimbursement that is necessary or desirable to comply with federal tax law.

1608 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
1609 it is the intent of the Legislature that the balance necessary to complete the projects be
1610 addressed by future Legislatures, either through appropriations or through the issuance or sale
1611 of bonds.

1612 (b) For those phased projects, the division may enter into contracts for amounts not to
1613 exceed the anticipated full project funding but may not allow work to be performed on those
1614 contracts in excess of the funding already authorized by the Legislature.

1615 (c) Those contracts shall contain a provision for termination of the contract for the
1616 convenience of the state as required by Section 63-56-40.

1617 (d) It is also the intent of the Legislature that this authorization to the division does not
1618 bind future Legislatures to fund projects initiated from this authorization.

1619 Section 29. Section **63B-3-301** is amended to read:

1620 **63B-3-301. Legislative intent -- Additional projects.**

1621 (1) It is the intent of the Legislature that, for any lease purchase agreement that the
1622 Legislature may authorize the Division of Facilities Construction and Management to enter into
1623 during its 1994 Annual General Session, the State Building Ownership Authority, at the
1624 reasonable rates and amounts it may determine, and with technical assistance from the state
1625 treasurer, the director of the Division of Finance, and the director of the Office of Planning and
1626 Budget, may seek out the most cost effective and prudent lease purchase plans available to the
1627 state and may, pursuant to Title 63, Chapter 9a, State Building Ownership Act, certificate out
1628 interests in, or obligations of the authority pertaining to:

1629 (a) the lease purchase obligation; or

1630 (b) lease rental payments under the lease purchase obligation.

1631 (2) It is the intent of the Legislature that the Department of Transportation dispose of
1632 surplus real properties and use the proceeds from those properties to acquire or construct
1633 through the Division of Facilities Construction and Management a new District Two Complex.

1634 (3) It is the intent of the Legislature that the State Building Board allocate funds from
1635 the Capital Improvement appropriation and donations to cover costs associated with the
1636 upgrade of the Governor's Residence that go beyond the restoration costs which can be covered
1637 by insurance proceeds.

1638 (4) (a) It is the intent of the Legislature to authorize the State Building Ownership
1639 Authority under authority of Title 63, Chapter 9a, State Building Ownership Act, to issue or
1640 execute obligations or enter into or arrange for a lease purchase agreement in which
1641 participation interests may be created, to provide up to \$10,600,000 for the construction of a
1642 Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

- 1643 (i) pay costs of issuance;
- 1644 (ii) pay capitalized interest; and
- 1645 (iii) fund any debt service reserve requirements.

1646 (b) It is the intent of the Legislature that the authority seek out the most cost effective
1647 and prudent lease purchase plan available with technical assistance from the state treasurer, the
1648 director of the Division of Finance, and the director of the Office of Planning and Budget.

1649 (c) It is the intent of the Legislature that the operating budget for the Department of
1650 Natural Resources not be increased to fund these lease payments.

1651 (5) (a) It is the intent of the Legislature to authorize the State Building Ownership
1652 Authority under authority of Title 63, Chapter 9a, State Building Ownership Act, to issue or
1653 execute obligations or enter into or arrange for a lease purchase agreement in which
1654 participation interests may be created, to provide up to \$8,300,000 for the acquisition of the
1655 office buildings currently occupied by the Department of Environmental Quality and
1656 approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake
1657 City, together with additional amounts necessary to:

- 1658 (i) pay costs of issuance;
- 1659 (ii) pay capitalized interest; and
- 1660 (iii) fund any debt service reserve requirements.

1661 (b) It is the intent of the Legislature that the authority seek out the most cost effective
1662 and prudent lease purchase plan available with technical assistance from the state treasurer, the
1663 director of the Division of Finance, and the director of the Office of Planning and Budget.

1664 (6) (a) It is the intent of the Legislature to authorize the State Building Ownership
1665 Authority under authority of Title 63, Chapter 9a, State Building Ownership Act, to issue or
1666 execute obligations or enter into or arrange for a lease purchase agreement in which
1667 participation interests may be created, to provide up to \$9,000,000 for the acquisition or
1668 construction of up to two field offices for the Department of Human Services in the

1669 southwestern portion of Salt Lake County, together with additional amounts necessary to:

- 1670 (i) pay costs of issuance;
- 1671 (ii) pay capitalized interest; and
- 1672 (iii) fund any debt service reserve requirements.

1673 (b) It is the intent of the Legislature that the authority seek out the most cost effective
1674 and prudent lease purchase plan available with technical assistance from the state treasurer, the
1675 director of the Division of Finance, and the director of the Office of Planning and Budget.

1676 (7) (a) It is the intent of the Legislature to authorize the State Building Ownership
1677 Authority under authority of Title 63, Chapter 9a, State Building Ownership Act, to issue or
1678 execute obligations or enter into or arrange for lease purchase agreements in which
1679 participation interests may be created, to provide up to \$5,000,000 for the acquisition or
1680 construction of up to 13 stores for the Department of Alcoholic Beverage Control, together
1681 with additional amounts necessary to:

- 1682 (i) pay costs of issuance;
- 1683 (ii) pay capitalized interest; and
- 1684 (iii) fund any debt service reserve requirements.

1685 (b) It is the intent of the Legislature that the authority seek out the most cost effective
1686 and prudent lease purchase plan available with technical assistance from the state treasurer, the
1687 director of the Division of Finance, and the director of the Office of Planning and Budget.

1688 (c) It is the intent of the Legislature that the operating budget for the Department of
1689 Alcoholic Beverage Control not be increased to fund these lease payments.

1690 (8) (a) It is the intent of the Legislature to authorize the State Building Ownership
1691 Authority under authority of Title 63, Chapter 9a, State Building Ownership Act, to issue or
1692 execute obligations or enter into or arrange for a lease purchase agreement in which
1693 participation interests may be created, to provide up to \$6,800,000 for the construction of a
1694 Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300
1695 beds, together with additional amounts necessary to:

- 1696 (i) pay costs of issuance;
- 1697 (ii) pay capitalized interest; and
- 1698 (iii) fund any debt service reserve requirements.

1699 (b) It is the intent of the Legislature that the authority seek out the most cost effective

1700 and prudent lease purchase plan available with technical assistance from the state treasurer, the
1701 director of the Division of Finance, and the director of the Office of Planning and Budget.

1702 (9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex
1703 in Salt Lake City, becomes law, it is the intent of the Legislature that:

1704 (a) the Legislative Management Committee, the Interim Appropriation Subcommittees
1705 for General Government and Capital Facilities and Executive Offices, Courts, and Corrections,
1706 the Office of the Legislative Fiscal Analyst, the Office of Planning and Budget, and the State
1707 Building Board participate in a review of the proposed facility design for the Courts Complex
1708 no later than December 1994; and

1709 (b) although this review will not affect the funding authorization issued by the 1994
1710 Legislature, it is expected that Division of Facilities Construction and Management will give
1711 proper attention to concerns raised in these reviews and make appropriate design changes
1712 pursuant to the review.

1713 (10) It is the intent of the Legislature that:

1714 (a) the Division of Facilities Construction and Management, in cooperation with the
1715 Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services,
1716 develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003
1717 to the Division of Juvenile Justice Services;

1718 (b) the development process use existing prototype proposals unless it can be
1719 quantifiably demonstrated that the proposals cannot be used;

1720 (c) the facility is designed so that with minor modifications, it can accommodate
1721 detention, observation and assessment, transition, and secure programs as needed at specific
1722 geographical locations;

1723 (d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division
1724 of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to
1725 design and construct one facility and design the other;

1726 (ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile
1727 Justice Services shall:

1728 (A) determine the location for the facility for which design and construction are fully
1729 funded; and

1730 (B) in conjunction with the Division of Facilities Construction and Management,

1731 determine the best methodology for design and construction of the fully funded facility;

1732 (e) the Division of Facilities Construction and Management submit the prototype as
1733 soon as possible to the Capital Facilities and Administrative Services Appropriation
1734 Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation
1735 Subcommittee for review;

1736 (f) the Division of Facilities Construction and Management issue a Request for
1737 Proposal for one of the facilities, with that facility designed and constructed entirely by the
1738 winning firm;

1739 (g) the other facility be designed and constructed under the existing Division of
1740 Facilities Construction and Management process;

1741 (h) that both facilities follow the program needs and specifications as identified by
1742 Division of Facilities Construction and Management and the Division of Youth Corrections
1743 renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

1744 (i) the fully funded facility should be ready for occupancy by September 1, 1995.

1745 (11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair
1746 Park Master Study be used by the Division of Facilities Construction and Management to
1747 develop a master plan for the State Fair Park that:

1748 (a) identifies capital facilities needs, capital improvement needs, building
1749 configuration, and other long term needs and uses of the State Fair Park and its buildings; and

1750 (b) establishes priorities for development, estimated costs, and projected timetables.

1751 (12) It is the intent of the Legislature that:

1752 (a) the Division of Facilities Construction and Management, in cooperation with the
1753 Division of Parks and Recreation and surrounding counties, develop a master plan and general
1754 program for the phased development of Antelope Island;

1755 (b) the master plan:

1756 (i) establish priorities for development;

1757 (ii) include estimated costs and projected time tables; and

1758 (iii) include recommendations for funding methods and the allocation of
1759 responsibilities between the parties; and

1760 (c) the results of the effort be reported to the Natural Resources Appropriations
1761 Subcommittee and Capital Facilities and Administrative Services Appropriation

1762 Subcommittee.

1763 (13) It is the intent of the Legislature to authorize the University of Utah to use:

1764 (a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under
1765 the supervision of the director of the Division of Facilities Construction and Management
1766 unless supervisory authority is delegated by the director; and

1767 (b) donated and other nonappropriated funds to plan, design, and construct the Biology
1768 Research Building under the supervision of the director of the Division of Facilities
1769 Construction and Management unless supervisory authority is delegated by the director.

1770 (14) It is the intent of the Legislature to authorize Utah State University to use:

1771 (a) federal and other funds to plan, design, and construct the Bee Lab under the
1772 supervision of the director of the Division of Facilities Construction and Management unless
1773 supervisory authority is delegated by the director;

1774 (b) donated and other nonappropriated funds to plan, design, and construct an Athletic
1775 Facility addition and renovation under the supervision of the director of the Division of
1776 Facilities Construction and Management unless supervisory authority is delegated by the
1777 director;

1778 (c) donated and other nonappropriated funds to plan, design, and construct a renovation
1779 to the Nutrition and Food Science Building under the supervision of the director of the
1780 Division of Facilities Construction and Management unless supervisory authority is delegated
1781 by the director; and

1782 (d) federal and private funds to plan, design, and construct the Millville Research
1783 Facility under the supervision of the director of the Division of Facilities Construction and
1784 Management unless supervisory authority is delegated by the director.

1785 (15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

1786 (a) institutional funds to plan, design, and construct a remodel to the Auto Trades
1787 Office and Learning Center under the supervision of the director of the Division of Facilities
1788 Construction and Management unless supervisory authority is delegated by the director;

1789 (b) institutional funds to plan, design, and construct the relocation and expansion of a
1790 temporary maintenance compound under the supervision of the director of the Division of
1791 Facilities Construction and Management unless supervisory authority is delegated by the
1792 director; and

1793 (c) institutional funds to plan, design, and construct the Alder Amphitheater under the
1794 supervision of the director of the Division of Facilities Construction and Management unless
1795 supervisory authority is delegated by the director.

1796 (16) It is the intent of the Legislature to authorize Southern Utah University to use:

1797 (a) federal funds to plan, design, and construct a Community Services Building under
1798 the supervision of the director of the Division of Facilities Construction and Management
1799 unless supervisory authority is delegated by the director; and

1800 (b) donated and other nonappropriated funds to plan, design, and construct a stadium
1801 expansion under the supervision of the director of the Division of Facilities Construction and
1802 Management unless supervisory authority is delegated by the director.

1803 (17) It is the intent of the Legislature to authorize the Department of Corrections to use
1804 donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional
1805 Facility in Gunnison under the supervision of the director of the Division of Facilities
1806 Construction and Management unless supervisory authority is delegated by the director.

1807 (18) If the Utah National Guard does not relocate in the Signetics Building, it is the
1808 intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City
1809 to plan and design an Armory in Provo, Utah, under the supervision of the director of the
1810 Division of Facilities Construction and Management unless supervisory authority is delegated
1811 by the director.

1812 (19) It is the intent of the Legislature that the Utah Department of Transportation use
1813 \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in
1814 Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

1815 (20) It is the intent of the Legislature that the Ogden-Weber Applied Technology
1816 Center use the monies appropriated for fiscal year 1995 to design the Metal Trades Building
1817 and purchase equipment for use in that building that could be used in metal trades or other
1818 programs in other Applied Technology Centers.

1819 (21) It is the intent of the Legislature that the Bridgerland Applied Technology Center
1820 and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be
1821 considered as the highest priority projects for construction funding in fiscal year 1996.

1822 (22) It is the intent of the Legislature that:

1823 (a) the Division of Facilities Construction and Management complete physical space

1824 utilization standards by June 30, 1995, for the use of technology education activities;

1825 (b) these standards are to be developed with and approved by the State Office of
1826 Education, the Board of Regents, and the Utah State Building Board;

1827 (c) these physical standards be used as the basis for:

1828 (i) determining utilization of any technology space based on number of stations capable
1829 and occupied for any given hour of operation; and

1830 (ii) requests for any new space or remodeling;

1831 (d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the
1832 Ogden-Weber Applied Technology Center are exempt from this process; and

1833 (e) the design of the Davis Applied Technology Center take into account the utilization
1834 formulas established by the Division of Facilities Construction and Management.

1835 (23) It is the intent of the Legislature that Utah Valley State College may use the
1836 monies from the bond allocated to the remodel of the Signetics building to relocate its technical
1837 education programs at other designated sites or facilities under the supervision of the director
1838 of the Division of Facilities Construction and Management unless supervisory authority is
1839 delegated by the director.

1840 (24) It is the intent of the Legislature that the monies provided for the fiscal year 1995
1841 project for the Bridgerland Applied Technology Center be used to design and construct the
1842 space associated with Utah State University and design the technology center portion of the
1843 project.

1844 (25) It is the intent of the Legislature that the governor provide periodic reports on the
1845 expenditure of the funds provided for electronic technology, equipment, and hardware to the
1846 Information Technology Commission, the Capital Facilities and Administrative Services
1847 Appropriation Subcommittee, and the Legislative Management Committee.

1848 Section 30. Section **63B-4-102** is amended to read:

1849 **63B-4-102. Maximum amount -- Projects authorized.**

1850 (1) The total amount of bonds issued under this part may not exceed \$45,300,000.

1851 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide
1852 funds to pay all or part of the cost of acquiring and constructing the projects listed in this
1853 Subsection (2).

1854 (b) These costs may include the cost of acquiring land, interests in land, easements and

1855 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities
 1856 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or
 1857 convenient to the facilities, interest estimated to accrue on these bonds during the period to be
 1858 covered by construction of the projects plus a period of six months after the end of the
 1859 construction period, and all related engineering, architectural, and legal fees.

1860 (c) For the division, proceeds shall be provided for the following:

1861 CAPITAL IMPROVEMENTS

1862	Alterations, Repairs, and Improvements	\$7,200,000
------	----------------------------------------	-------------

1863	TOTAL IMPROVEMENTS	\$7,200,000
------	--------------------	-------------

1864 CAPITAL AND ECONOMIC DEVELOPMENT

1865	PROJECT	AMOUNT	ESTIMATED
1866	DESCRIPTION	FUNDED	OPERATIONS AND
1867			MAINTENANCE
1868			COSTS
1869	Corrections - Uinta IVA	\$11,300,000	\$212,800
1870	Utah County Youth Correctional Facility	\$6,650,000	\$245,000
1871	Ogden Weber Applied Technology Center -	\$5,161,000	\$176,000
1872	Metal Trades		
1873	Project Reserve Fund	\$3,500,000	None
1874	Weber State University - Browning Center	\$3,300,000	None
1875	Remodel		
1876	Heber Wells Building Remodel	\$2,000,000	None
1877	Higher Education Davis County - Land Purchase	\$1,600,000	None
1878	National Guard -- Provo Armory	\$1,500,000	\$128,000
1879	Department of Natural Resources - Pioneer	\$900,000	\$65,000
1880	Trails Visitor Center		
1881	Higher Education Design Projects	\$800,000	Varies
1882			depending
1883			upon
1884			projects
1885			selected

1886	Salt Lake Community College -		
1887	South Valley Planning	\$300,000	None
1888	Division of Youth Corrections <u>renamed in 2003</u>		
1889	<u>to the Division of Juvenile Justice</u>		
1890	<u>Services</u> - Logan Land	\$120,000	None
1891	Purchase		
1892	TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		\$37,131,000
1893	TOTAL IMPROVEMENTS AND		
1894	CAPITAL AND ECONOMIC DEVELOPMENT		\$44,331,000

- 1895 (d) For purposes of this section, operations and maintenance costs:
- 1896 (i) are estimates only;
- 1897 (ii) may include any operations and maintenance costs already funded in existing
- 1898 agency budgets; and
- 1899 (iii) are not commitments by this Legislature or future Legislatures to fund those
- 1900 operations and maintenance costs.
- 1901 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
- 1902 constitute a limitation on the amount that may be expended for any project.
- 1903 (b) The board may revise these estimates and redistribute the amount estimated for a
- 1904 project among the projects authorized.
- 1905 (c) The commission, by resolution and in consultation with the board, may delete one
- 1906 or more projects from this list if the inclusion of that project or those projects in the list could
- 1907 be construed to violate state law or federal law or regulation.
- 1908 (4) (a) The division may enter into agreements related to these projects before the
- 1909 receipt of proceeds of bonds issued under this chapter.
- 1910 (b) The division shall make those expenditures from unexpended and unencumbered
- 1911 building funds already appropriated to the Capital Projects Fund.
- 1912 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
- 1913 of bonds issued under this chapter.
- 1914 (d) The commission may, by resolution, make any statement of intent relating to that
- 1915 reimbursement that is necessary or desirable to comply with federal tax law.
- 1916 (5) (a) For those projects for which only partial funding is provided in Subsection (2),

1917 it is the intent of the Legislature that the balance necessary to complete the projects be
1918 addressed by future Legislatures, either through appropriations or through the issuance or sale
1919 of bonds.

1920 (b) For those phased projects, the division may enter into contracts for amounts not to
1921 exceed the anticipated full project funding but may not allow work to be performed on those
1922 contracts in excess of the funding already authorized by the Legislature.

1923 (c) Those contracts shall contain a provision for termination of the contract for the
1924 convenience of the state as required by Section 63-56-40.

1925 (d) It is also the intent of the Legislature that this authorization to the division does not
1926 bind future Legislatures to fund projects initiated from this authorization.

1927 Section 31. Section **63B-7-501** is amended to read:

1928 **63B-7-501. Revenue bond authorizations.**

1929 (1) (a) It is the intent of the Legislature that the State Building Ownership Authority,
1930 under the authority of Title 63, Chapter 9a, State Building Ownership Act, may issue or
1931 execute obligations, or enter into or arrange for a lease purchase agreement in which
1932 participation interests may be created, to provide up to \$1,568,600 for the construction of a
1933 Utah Correctional Industries Facility at the Central Utah Correctional Facility at Gunnison,
1934 together with additional amounts necessary to pay costs of issuance, pay capitalized interest,
1935 and fund any debt service requirements.

1936 (b) The State Building Ownership Authority shall work cooperatively with the
1937 Department of Corrections to seek out the most cost effective and prudent lease purchase plan
1938 available.

1939 (c) It is the intent of the Legislature that program revenues be used as the primary
1940 revenue source for repayment of any obligation created under authority of this Subsection (1).

1941 (2) It is the intent of the Legislature that:

1942 (a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and
1943 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
1944 money on the credit, income, and revenues of the University of Utah, other than appropriations
1945 of the Legislature, to finance the cost of constructing, furnishing, and equipping student
1946 housing;

1947 (b) University funds and housing rental revenues be used as the primary revenue source

1948 for repayment of any obligation created under authority of this Subsection (2); and

1949 (c) the bonds or other evidences of indebtedness authorized by this Subsection (2) may
1950 provide up to \$86,000,000 together with other amounts necessary to pay costs of issuance, pay
1951 capitalized interest, and fund any debt service reserve requirements.

1952 (3) It is the intent of the Legislature that:

1953 (a) the State Board of Regents on behalf of the University of Utah issue, sell, and
1954 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
1955 money on the credit, income, and revenues of the University of Utah, other than appropriations
1956 of the Legislature, to finance the cost of constructing, furnishing, and equipping a Health
1957 Sciences Parking Structure;

1958 (b) University funds and parking revenues be used as the primary revenue source for
1959 repayment of any obligation created under authority of this Subsection (3); and

1960 (c) the bonds or other evidences of indebtedness authorized by this Subsection (3) may
1961 provide up to \$12,000,000, together with other amounts necessary to pay costs of issuance, pay
1962 capitalized interest, and fund any debt service reserve requirements.

1963 (4) It is the intent of the Legislature that:

1964 (a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and
1965 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
1966 money on the credit and income and revenues of the University of Utah, other than
1967 appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping
1968 a Southwest Campus Parking Structure;

1969 (b) University funds and parking revenues be used as the primary revenue source for
1970 repayment of any obligation created under authority of this Subsection (4); and

1971 (c) the bonds or other evidences of indebtedness authorized by this Subsection (4) may
1972 provide up to \$7,200,000, together with other amounts necessary to pay costs of issuance, pay
1973 capitalized interest, and fund any debt service reserve requirements.

1974 (5) It is the intent of the Legislature that:

1975 (a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and
1976 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
1977 money on the credit and income and revenues of the University of Utah, other than
1978 appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping

1979 an expansion of the Eccles Broadcast Center;

1980 (b) University funds and service revenues be used as the primary revenue source for
1981 repayment of any obligation created under authority of this Subsection (5); and

1982 (c) the bonds or other evidences of indebtedness authorized by this Subsection (5) may
1983 provide up to \$5,100,000, together with other amounts necessary to pay costs of issuance, pay
1984 capitalized interest, and fund any debt service reserve requirements.

1985 (6) It is the intent of the Legislature that:

1986 (a) the State Board of Regents, on behalf of the University of Utah, issue, sell, and
1987 deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow
1988 money on the credit and income and revenues of the University of Utah, other than
1989 appropriations of the Legislature, to finance the cost of constructing, furnishing, equipping, and
1990 remodeling facilities for perinatal services, adult critical care services, clinical training and
1991 support, and upgrade of the University Hospital Rehabilitation Unit, and for purchase of the
1992 University Neuropsychiatric Institute and Summit Health Center in Park West;

1993 (b) University Hospital revenues be used as the primary revenue source for repayment
1994 of any obligation created under authority of this Subsection (6); and

1995 (c) the bonds or other evidences of indebtedness authorized by this Subsection (6) may
1996 provide up to \$23,300,000 together with other amounts necessary to pay costs of issuance, pay
1997 capitalized interest, and fund any debt service reserve requirements.

1998 (7) It is the intent of the Legislature that:

1999 (a) the State Board of Regents, on behalf of Weber State University, issue, sell, and
2000 deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow
2001 money on the credit and income and revenues of Weber State University, other than
2002 appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping
2003 student housing;

2004 (b) University funds and housing rental revenues be used as the primary revenue source
2005 for repayment of any obligation created under authority of this Subsection (7); and

2006 (c) the bonds or other evidences of indebtedness authorized by this Subsection (7) may
2007 provide up to \$19,000,000 together with other amounts necessary to pay costs of issuance, pay
2008 capitalized interest, and fund any debt service reserve requirements.

2009 (8) (a) It is the intent of the Legislature that the State Building Ownership Authority,

2010 under the authority of Title 63, Chapter 9a, State Building Ownership Act, may issue or
2011 execute obligations, or enter into or arrange for a lease purchase agreement in which
2012 participation interests may be created, to provide up to \$1,100,000 for the construction of
2013 surplus property facilities for the Division of Fleet Operations, together with additional
2014 amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service
2015 reserve requirements.

2016 (b) The State Building Ownership Authority shall work cooperatively with the
2017 Department of Administrative Services to seek out the most cost effective and prudent lease
2018 purchase plan available.

2019 (c) It is the intent of the Legislature that Internal Service Fund revenues be used as the
2020 primary revenue source for repayment of any obligation created under authority of this
2021 Subsection (8).

2022 (9) (a) Contingent upon the state of Utah receiving a perfected security interest in
2023 accordance with Senate Joint Resolution 14, 1998 Annual General Session, the State Building
2024 Ownership Authority, under authority of Title 63, Chapter 9a, State Building Ownership
2025 Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase
2026 agreement in which participation interests may be created, to provide up to \$25,000,000 for the
2027 cost of constructing, furnishing, and equipping housing facilities at the University of Utah,
2028 together with additional amounts necessary to:

- 2029 (i) pay costs of issuance;
- 2030 (ii) pay capitalized interest; and
- 2031 (iii) fund any debt service reserve requirements.

2032 (b) The State Building Ownership Authority and the University of Utah may enter into
2033 real estate arrangements and security arrangements that are:

- 2034 (i) necessary to accomplish the purposes of this Subsection (9); and
- 2035 (ii) not inconsistent with the requirements of Senate Joint Resolution 14, 1998 Annual
2036 General Session.

2037 (10) In order to achieve a debt service savings, it is the intent of the Legislature that the
2038 State Building Ownership Authority, under authority of Title 63, Chapter 9a, State Building
2039 Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease
2040 purchase agreement in which participation interests may be created, to provide sufficient

2041 funding to exercise the state's option to purchase the Youth Corrections Facility in Salt Lake
2042 County currently financed by Salt Lake County.

2043 Section 32. Section **63B-11-702** is amended to read:

2044 **63B-11-702. Other capital facility authorizations and intent language.**

2045 (1) It is the intent of the Legislature that:

2046 (a) Salt Lake Community College use donations and other institutional funds to plan,
2047 design, and construct a renovation of and addition to the Grand Theater under the direction of
2048 the director of the Division of Facilities Construction and Management unless supervisory
2049 authority has been delegated;

2050 (b) no state funds be used for any portion of this project; and

2051 (c) the college may request state funds for operations and maintenance to the extent
2052 that the college is able to demonstrate to the Board of Regents that the facility meets approved
2053 academic and training purposes under Board of Regents policy R710.

2054 (2) It is the intent of the Legislature that:

2055 (a) the University of Utah use donations, grants, and other institutional funds to plan,
2056 design, and construct a Department of Chemistry Gauss House under the direction of the
2057 director of the Division of Facilities Construction and Management unless supervisory
2058 authority has been delegated;

2059 (b) no state funds be used for any portion of this project; and

2060 (c) the university may request state funds for operations and maintenance to the extent
2061 that the university is able to demonstrate to the Board of Regents that the facility meets
2062 approved academic and training purposes under Board of Regents policy R710.

2063 (3) It is the intent of the Legislature that:

2064 (a) the University of Utah use donations and other institutional funds to plan, design,
2065 and construct an expansion of the Eccles Health Science Library and the associated parking
2066 structure under the direction of the director of the Division of Facilities Construction and
2067 Management unless supervisory authority has been delegated;

2068 (b) no state funds be used for any portion of this project; and

2069 (c) the university may request state funds for operations and maintenance to the extent
2070 that the university is able to demonstrate to the Board of Regents that the facility meets
2071 approved academic and training purposes under Board of Regents policy R710.

- 2072 (4) It is the intent of the Legislature that:
- 2073 (a) the University of Utah use donations and other institutional funds to plan, design,
- 2074 and construct a Phase II Addition to the Moran Eye Center under the direction of the director of
- 2075 the Division of Facilities Construction and Management unless supervisory authority has been
- 2076 delegated;
- 2077 (b) no state funds be used for any portion of this project; and
- 2078 (c) the university may not request state funds for operations and maintenance.
- 2079 (5) It is the intent of the Legislature that:
- 2080 (a) the University of Utah use donations and other institutional funds to plan, design,
- 2081 and construct a Children's Dance Theatre under the direction of the director of the Division of
- 2082 Facilities Construction and Management unless supervisory authority has been delegated;
- 2083 (b) no state funds be used for any portion of this project; and
- 2084 (c) the university may not request state funds for operations and maintenance.
- 2085 (6) It is the intent of the Legislature that:
- 2086 (a) Utah State University use donations and other institutional funds to plan, design,
- 2087 and construct a Teaching Pavilion at its Animal Science Farm under the direction of the
- 2088 director of the Division of Facilities Construction and Management unless supervisory
- 2089 authority has been delegated;
- 2090 (b) no state funds be used for any portion of this project; and
- 2091 (c) the university may request state funds for operations and maintenance to the extent
- 2092 that the university is able to demonstrate to the Board of Regents that the facility meets
- 2093 approved academic and training purposes under Board of Regents policy R710.
- 2094 (7) It is the intent of the Legislature that:
- 2095 (a) the [~~Division of Youth Corrections~~] Division of Juvenile Justice Services use
- 2096 donations to plan, design, and construct a chapel at the Slate Canyon Youth Corrections
- 2097 Facility under the direction of the director of the Division of Facilities Construction and
- 2098 Management unless supervisory authority has been delegated;
- 2099 (b) no state funds be used for any portion of this project; and
- 2100 (c) the division may not request additional state funding for operations and
- 2101 maintenance.
- 2102 (8) It is the intent of the Legislature that the Utah National Guard use federal funds and

2103 proceeds from the sale of property to acquire a site for new facilities in Salt Lake or Davis
2104 County.

2105 (9) It is the intent of the Legislature that:

2106 (a) the Utah National Guard use donations and grants to plan, design, and construct the
2107 renovation and expansion of the Fort Douglas Military Museum under the direction of the
2108 director of the Division of Facilities Construction and Management unless supervisory
2109 authority has been delegated;

2110 (b) no state funds be used for any portion of this project; and

2111 (c) the National Guard may not request additional state funding for operations and
2112 maintenance.

2113 (10) It is the intent of the Legislature that:

2114 (a) the Division of Facilities Construction and Management pursue the exchange of
2115 public safety facilities in Orem if:

2116 (i) the land and newly constructed replacement facilities meet the needs of the Driver
2117 License Division and the Utah Highway Patrol; and

2118 (ii) the replacement property and facilities can be obtained at a cost that is not less than
2119 the market value of the existing property and facilities; and

2120 (b) the division confirms the value of the properties to be exchanged.

2121 Section 33. Section **67-5b-101** is amended to read:

2122 **67-5b-101. Definitions.**

2123 As used in this part:

2124 (1) "Abused child" means a child who is a victim of sexual abuse or serious physical
2125 abuse and who is 17 years of age or younger.

2126 (2) "Agreement" means a written contract between two or more public agencies and
2127 other persons to provide for multidisciplinary intergovernmental operation of a center
2128 established in accordance with Section 67-5b-104.

2129 (3) "Center" means a Children's Justice Center established in accordance with Section
2130 67-5b-102.

2131 (4) "Officers and employees" means any person performing services for two or more
2132 public agencies as agreed in intergovernmental contracts in accordance with Section
2133 67-5b-104.

2134 (5) "Public agency" means a municipality, a county, the attorney general, the Division
2135 of Child and Family Services, the [~~Division of Youth Corrections~~] Division of Juvenile Justice
2136 Services, the Department of Corrections, the juvenile court, and the Administrative Office of
2137 the Courts.

2138 (6) "Volunteer" means any person who donates service without pay or other
2139 compensation except expenses actually and reasonably incurred as approved by the supervising
2140 agency. Volunteer does not include any person participating in human subjects research and
2141 court-ordered compensatory service workers as defined in Section 67-20-2.

2142 Section 34. Section **76-5-101** is amended to read:

2143 **76-5-101. "Prisoner" defined.**

2144 For purposes of this part "prisoner" means any person who is in custody of a peace
2145 officer pursuant to a lawful arrest or who is confined in a jail or other penal institution or a
2146 facility used for confinement of delinquent juveniles operated by the [~~Division of Youth~~
2147 ~~Corrections~~] Division of Juvenile Justice Services regardless of whether the confinement is
2148 legal.

2149 Section 35. Section **76-5-413** is amended to read:

2150 **76-5-413. Custodial sexual relations or misconduct with youth receiving state**
2151 **services -- Definitions -- Penalties -- Defenses.**

2152 (1) As used in this section:

2153 (a) "Actor" means:

2154 (i) a person employed by the Department of Human Services, as created in Section
2155 [~~62A-1-105~~] 62A-1-102, or an employee of a private provider or contractor; or

2156 (ii) a person employed by the juvenile court of the state, or an employee of a private
2157 provider or contractor.

2158 (b) "Department" means the Department of Human Services created in Section
2159 62A-1-102.

2160 (c) "Juvenile court" means the juvenile court of the state created in Section 78-3a-102.

2161 (d) "Private provider or contractor" means any person or entity that contracts with the:

2162 (i) department to provide services or functions that are part of the operation of the
2163 department; or

2164 (ii) juvenile court to provide services or functions that are part of the operation of the

2165 juvenile court.

2166 (e) "Youth receiving state services" means a person:

2167 (i) younger than 18 years of age, except as provided under Subsection (1)(e)(ii), who is:

2168 (A) in the custody of the department under Subsection 78-3a-118(2)(c)(ii); or

2169 (B) receiving services from any division of the department if any portion of the costs of
2170 these services is covered by public monies as defined in Section 76-8-401; or

2171 (ii) younger than 21 years of age who is:

2172 (A) in the custody of the [~~Division of Youth Corrections~~] Division of Juvenile Justice

2173 Services, or the Division of Child and Family Services; or

2174 (B) under the jurisdiction of the juvenile court.

2175 (2) (a) An actor commits custodial sexual relations with a youth receiving state
2176 services if the actor commits any of the acts under Subsection (3):

2177 (i) under circumstances not amounting to commission of, or an attempt to commit, an
2178 offense under Subsection (6); and

2179 (ii) (A) the actor knows that the individual is a youth receiving state services; or

2180 (B) a reasonable person in the actor's position should have known under the

2181 circumstances that the individual was a youth receiving state services.

2182 (b) A violation of Subsection (2)(a) is a third degree felony, but if the youth receiving
2183 state services is younger than 18 years of age, a violation of Subsection(2)(a) is a second degree
2184 felony.

2185 (c) If the act committed under this Subsection (2) amounts to an offense subject to a
2186 greater penalty under another provision of state law than is provided under this Subsection (2),
2187 this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

2188 (3) Acts referred to in Subsection (2)(a) are:

2189 (a) having sexual intercourse with a youth receiving state services;

2190 (b) engaging in any sexual act with a youth receiving state services involving the
2191 genitals of one person and the mouth or anus of another person, regardless of the sex of either
2192 participant; or

2193 (c) causing the penetration, however slight, of the genital or anal opening of a youth
2194 receiving state services by any foreign object, substance, instrument, or device, including a part
2195 of the human body, with the intent to cause substantial emotional or bodily pain to any person,

2196 regardless of the sex of any participant or with the intent to arouse or gratify the sexual desire
2197 of any person, regardless of the sex of any participant.

2198 (4) (a) An actor commits custodial sexual misconduct with a youth receiving state
2199 services if the actor commits any of the acts under Subsection (5):

2200 (i) under circumstances not amounting to commission of, or an attempt to commit, an
2201 offense under Subsection (6); and

2202 (ii) (A) the actor knows that the individual is a youth receiving state services; or

2203 (B) a reasonable person in the actor's position should have known under the

2204 circumstances that the individual was a youth receiving state services.

2205 (b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth
2206 receiving state services is younger than 18 years of age, a violation of Subsection (4)(a) is a
2207 third degree felony.

2208 (c) If the act committed under this Subsection (4) amounts to an offense subject to a
2209 greater penalty under another provision of state law than is provided under this Subsection (4),
2210 this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

2211 (5) Acts referred to in Subsection (4)(a) are the following acts when committed with
2212 the intent to cause substantial emotional or bodily pain to any person or with the intent to
2213 arouse or gratify the sexual desire of any person, regardless of the sex of any participant:

2214 (a) touching the anus, buttocks, or any part of the genitals of a youth receiving state
2215 services;

2216 (b) touching the breast of a female youth receiving state services;

2217 (c) otherwise taking indecent liberties with a youth receiving state services; or

2218 (d) causing a youth receiving state services to take indecent liberties with the actor or
2219 another person.

2220 (6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

2221 (a) Section 76-5-401, unlawful sexual activity with a minor;

2222 (b) Section 76-5-402, rape;

2223 (c) Section 76-5-402.1, rape of a child;

2224 (d) Section 76-5-402.2, object rape;

2225 (e) Section 76-5-402.3, object rape of a child;

2226 (f) Section 76-5-403, forcible sodomy;

- 2227 (g) Section 76-5-403.1, sodomy on a child;
2228 (h) Section 76-5-404, forcible sexual abuse;
2229 (i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or
2230 (j) Section 76-5-405, aggravated sexual assault.

2231 (7) (a) It is not a defense to the commission of the offense of custodial sexual relations
2232 with a youth receiving state services under Subsection (2) or custodial sexual misconduct with
2233 a youth receiving state services under Subsection (4), or an attempt to commit either of these
2234 offenses, if the youth receiving state services is younger than 18 years of age, that the actor:

2235 (i) mistakenly believed the youth receiving state services to be 18 years of age or older
2236 at the time of the alleged offense; or

2237 (ii) was unaware of the true age of the youth receiving state services.

2238 (b) Consent of the youth receiving state services is not a defense to any violation or
2239 attempted violation of Subsection (2) or (4).

2240 (8) It is a defense that the commission by the actor of an act under Subsection (2) or (4)
2241 is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

2242 Section 36. Section **77-38-3** is amended to read:

2243 **77-38-3. Notification to victims -- Initial notice, election to receive subsequent**
2244 **notices -- Form of notice -- Protected victim information.**

2245 (1) Within seven days of the filing of felony criminal charges against a defendant, the
2246 prosecuting agency shall provide an initial notice to reasonably identifiable and locatable
2247 victims of the crime contained in the charges, except as otherwise provided in this chapter.

2248 (2) The initial notice to the victim of a crime shall provide information about electing
2249 to receive notice of subsequent important criminal justice hearings listed in Subsections
2250 77-38-2(5)(a) through (f) and rights under this chapter.

2251 (3) The prosecuting agency shall provide notice to a victim of a crime for the important
2252 criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (f) which the victim
2253 has requested.

2254 (4) (a) The responsible prosecuting agency may provide initial and subsequent notices
2255 in any reasonable manner, including telephonically, electronically, orally, or by means of a
2256 letter or form prepared for this purpose.

2257 (b) In the event of an unforeseen important criminal justice hearing, listed in

2258 Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith
2259 attempt to contact the victim by telephone shall be considered sufficient notice, provided that
2260 the prosecuting agency subsequently notifies the victim of the result of the proceeding.

2261 (5) (a) The court shall take reasonable measures to ensure that its scheduling practices
2262 for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for
2263 victims of crimes to be notified.

2264 (b) The court shall also consider whether any notification system that it might use to
2265 provide notice of judicial proceedings to defendants could be used to provide notice of those
2266 same proceedings to victims of crimes.

2267 (6) A defendant or, if it is the moving party, Adult Probation and Parole, shall give
2268 notice to the responsible prosecuting agency of any motion for modification of any
2269 determination made at any of the important criminal justice hearings provided in Subsections
2270 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so that the
2271 prosecuting agency may comply with its notification obligation.

2272 (7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and
2273 Parole for the important criminal justice hearing provided in Subsection 77-38-2(5)(g).

2274 (b) The board may provide notice in any reasonable manner, including telephonically,
2275 electronically, orally, or by means of a letter or form prepared for this purpose.

2276 (8) Prosecuting agencies and the Board of Pardons and Parole are required to give
2277 notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through
2278 (f) only where the victim has responded to the initial notice, requested notice of subsequent
2279 proceedings, and provided a current address and telephone number if applicable.

2280 (9) (a) Law enforcement and criminal justice agencies shall refer any requests for
2281 notice or information about crime victim rights from victims to the responsible prosecuting
2282 agency.

2283 (b) In a case in which the Board of Pardons and Parole is involved, the responsible
2284 prosecuting agency shall forward any request for notice that it has received from a victim to the
2285 Board of Pardons and Parole.

2286 (10) In all cases where the number of victims exceeds ten, the responsible prosecuting
2287 agency may send any notices required under this chapter in its discretion to a representative
2288 sample of the victims.

2289 (11) (a) A victim's address, telephone number, and victim impact statement maintained
2290 by a peace officer, prosecuting agency, Youth Parole Authority, [~~Division of Youth~~
2291 ~~Corrections~~] Division of Juvenile Justice Services, Department of Corrections, and Board of
2292 Pardons and Parole, for purposes of providing notice under this section, is classified as
2293 protected as provided in Subsection 63-2-304(10).

2294 (b) The victim's address, telephone number, and victim impact statement is available
2295 only to the following persons or entities in the performance of their duties:

- 2296 (i) a law enforcement agency, including the prosecuting agency;
- 2297 (ii) a victims' right committee as provided in Section 77-37-5;
- 2298 (iii) a governmentally sponsored victim or witness program;
- 2299 (iv) the Department of Corrections;
- 2300 (v) Office of Crime Victims' Reparations;
- 2301 (vi) Commission on Criminal and Juvenile Justice; and
- 2302 (vii) the Board of Pardons and Parole.

2303 (12) The notice provisions as provided in this section do not apply to misdemeanors as
2304 provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section
2305 77-38-2.

2306 Section 37. Section **78-3a-103** is amended to read:

2307 **78-3a-103. Definitions.**

2308 (1) As used in this chapter:

2309 (a) "Abused child" includes a minor less than 18 years of age who:

- 2310 (i) has suffered or been threatened with nonaccidental physical or mental harm,
2311 negligent treatment, or sexual exploitation; or
- 2312 (ii) has been the victim of any sexual abuse.

2313 (b) "Adjudication" means a finding by the court, incorporated in a decree, that the facts
2314 alleged in the petition have been proved.

2315 (c) "Adult" means a person 18 years of age or over, except that persons 18 years or
2316 over under the continuing jurisdiction of the juvenile court pursuant to Section 78-3a-121 shall
2317 be referred to as minors.

2318 (d) "Board" means the Board of Juvenile Court Judges.

2319 (e) "Child placement agency" means:

- 2320 (i) a private agency licensed to receive minors for placement or adoption under this
2321 code; or
- 2322 (ii) a private agency receiving minors for placement or adoption in another state, which
2323 agency is licensed or approved where such license or approval is required by law.
- 2324 (f) "Commit" means to transfer legal custody.
- 2325 (g) "Court" means the juvenile court.
- 2326 (h) "Dependent child" includes a minor who is homeless or without proper care
2327 through no fault of his parent, guardian, or custodian.
- 2328 (i) "Deprivation of custody" means transfer of legal custody by the court from a parent
2329 or the parents or a previous legal custodian to another person, agency, or institution.
- 2330 (j) "Detention" means home detention and secure detention as defined in Section
2331 62A-7-101 for the temporary care of minors who require secure custody in physically
2332 restricting facilities:
- 2333 (i) pending court disposition or transfer to another jurisdiction; or
2334 (ii) while under the continuing jurisdiction of the court.
- 2335 (k) "Division" means the Division of Child and Family Services.
- 2336 (l) "Formal referral" means a written report from a peace officer or other person
2337 informing the court that a minor is or appears to be within the court's jurisdiction and that a
2338 petition may be filed.
- 2339 (m) "Group rehabilitation therapy" means psychological and social counseling of one
2340 or more persons in the group, depending upon the recommendation of the therapist.
- 2341 (n) "Guardianship of the person" includes the authority to consent to marriage, to
2342 enlistment in the armed forces, to major medical, surgical, or psychiatric treatment, and to legal
2343 custody, if legal custody is not vested in another person, agency, or institution.
- 2344 (o) "Habitual truant" is a school-age minor who has received more than two truancy
2345 citations within one school year from the school in which the minor is or should be enrolled
2346 and eight absences without a legitimate or valid excuse or who, in defiance of efforts on the
2347 part of school authorities as required under Section 53A-11-103, refuses to regularly attend
2348 school or any scheduled period of the school day.
- 2349 (p) "Legal custody" means a relationship embodying the following rights and duties:
2350 (i) the right to physical custody of the minor;

- 2351 (ii) the right and duty to protect, train, and discipline the minor;
- 2352 (iii) the duty to provide the minor with food, clothing, shelter, education, and ordinary
2353 medical care;
- 2354 (iv) the right to determine where and with whom the minor shall live; and
- 2355 (v) the right, in an emergency, to authorize surgery or other extraordinary care.
- 2356 (q) "Minor" means a person under the age of 18 years. It includes the term "child" as
2357 used in other parts of this chapter.
- 2358 (r) "Natural parent" means a minor's biological or adoptive parent, and includes the
2359 minor's noncustodial parent.
- 2360 (s) (i) "Neglected child" means a minor:
 - 2361 (A) whose parent, guardian, or custodian has abandoned the minor, except as provided
2362 in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;
 - 2363 (B) whose parent, guardian, or custodian has subjected the minor to mistreatment or
2364 abuse;
 - 2365 (C) who lacks proper parental care by reason of the fault or habits of the parent,
2366 guardian, or custodian;
 - 2367 (D) whose parent, guardian, or custodian fails or refuses to provide proper or necessary
2368 subsistence, education, or medical care, including surgery or psychiatric services when
2369 required, or any other care necessary for health, safety, morals, or well-being; or
 - 2370 (E) who is at risk of being a neglected or abused child as defined in this chapter
2371 because another minor in the same home is a neglected or abused child as defined in this
2372 chapter.
- 2373 (ii) The aspect of neglect related to education, described in Subsection (1)(s)(i)(D),
2374 means that, after receiving notice that a minor has been frequently absent from school without
2375 good cause, or that the minor has failed to cooperate with school authorities in a reasonable
2376 manner, a parent or guardian fails to make a good faith effort to ensure that the minor receives
2377 an appropriate education.
- 2378 (iii) A parent or guardian legitimately practicing religious beliefs and who, for that
2379 reason, does not provide specified medical treatment for a minor, is not guilty of neglect.
- 2380 (t) "Nonjudicial adjustment" means closure of the case by the assigned probation
2381 officer without judicial determination upon the consent in writing of the minor, the parent,

2382 legal guardian or custodian, and the assigned probation officer.

2383 (u) "Probation" means a legal status created by court order following an adjudication
2384 on the ground of a violation of law or under Section 78-3a-104, whereby the minor is permitted
2385 to remain in his home under prescribed conditions and under supervision by the probation
2386 department or other agency designated by the court, subject to return to the court for violation
2387 of any of the conditions prescribed.

2388 (v) "Protective supervision" means a legal status created by court order following an
2389 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to
2390 remain in his home, and supervision and assistance to correct the abuse, neglect, or dependency
2391 is provided by the probation department or other agency designated by the court.

2392 (w) "Residual parental rights and duties" means those rights and duties remaining with
2393 the parent after legal custody or guardianship, or both, have been vested in another person or
2394 agency, including the responsibility for support, the right to consent to adoption, the right to
2395 determine the child's religious affiliation, and the right to reasonable parent-time unless
2396 restricted by the court. If no guardian has been appointed, "residual parental rights and duties"
2397 also include the right to consent to marriage, to enlistment, and to major medical, surgical, or
2398 psychiatric treatment.

2399 (x) "Secure facility" means any facility operated by or under contract with the
2400 [~~Division of Youth Corrections~~] Division of Juvenile Justice Services, that provides 24-hour
2401 supervision and confinement for youth offenders committed to the division for custody and
2402 rehabilitation.

2403 (y) "Shelter" means the temporary care of minors in physically unrestricted facilities
2404 pending court disposition or transfer to another jurisdiction.

2405 (z) "State supervision" means a disposition which provides a more intensive level of
2406 intervention than standard probation but is less intensive or restrictive than a community
2407 placement with the [~~Division of Youth Corrections~~] Division of Juvenile Justice Services.

2408 (aa) "Substantiated" has the same meaning as defined in Section 62A-4a-101.

2409 (bb) "Supported" has the same meaning as defined in Section 62A-4a-101.

2410 (cc) "Termination of parental rights" means the permanent elimination of all parental
2411 rights and duties, including residual parental rights and duties, by court order.

2412 (dd) "Therapist" means a person employed by a state division or agency for the purpose

2413 of conducting psychological treatment and counseling of a minor in its custody, or any other
2414 person licensed or approved by the state for the purpose of conducting psychological treatment
2415 and counseling.

2416 (ee) "Unsubstantiated" has the same meaning as defined in Section 62A-4a-101.

2417 (ff) "Without merit" has the same meaning as defined in Section 62A-4a-101.

2418 (2) As used in Part 3, Abuse, Neglect, and Dependency Proceedings, with regard to the
2419 Division of Child and Family Services:

2420 (a) "Custody" means the custody of a minor in the Division of Child and Family
2421 Services as of the date of disposition.

2422 (b) "Protective custody" means the shelter of a minor by the Division of Child and
2423 Family Services from the time the minor is removed from home until the shelter hearing, or the
2424 minor's return home, whichever occurs earlier.

2425 (c) "Temporary custody" means the custody of a minor in the Division of Child and
2426 Family Services from the date of the shelter hearing until disposition.

2427 Section 38. Section **78-3a-113** is amended to read:

2428 **78-3a-113. Minor taken into custody by peace officer, private citizen, or**
2429 **probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds**
2430 **for peace officer to take adult into custody.**

2431 (1) A minor may be taken into custody by a peace officer without order of the court if:

2432 (a) in the presence of the officer the minor has violated a state law, federal law, local
2433 law, or municipal ordinance;

2434 (b) there are reasonable grounds to believe the minor has committed an act which if
2435 committed by an adult would be a felony;

2436 (c) the minor is seriously endangered in his surroundings or if the minor seriously
2437 endangers others, and immediate removal appears to be necessary for his protection or the
2438 protection of others;

2439 (d) there are reasonable grounds to believe the minor has run away or escaped from his
2440 parents, guardian, or custodian; or

2441 (e) there is reason to believe the minor is subject to the state's compulsory education
2442 law and that the minor is absent from school without legitimate or valid excuse, subject to
2443 Section 53A-11-105.

2444 (2) (a) A private citizen or a probation officer may take a minor into custody if under
2445 the circumstances he could make a citizen's arrest if the minor was an adult.

2446 (b) A probation officer may also take a minor into custody under Subsection (1) or if
2447 the minor has violated the conditions of probation, if the minor is under the continuing
2448 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not
2449 immediately available.

2450 (3) (a) If an officer or other person takes a minor into temporary custody, he shall
2451 without unnecessary delay notify the parents, guardian, or custodian. The minor shall then be
2452 released to the care of his parent or other responsible adult, unless his immediate welfare or the
2453 protection of the community requires his detention.

2454 (b) Before the minor is released, the parent or other person to whom the minor is
2455 released shall be required to sign a written promise on forms supplied by the court to bring the
2456 minor to the court at a time set or to be set by the court.

2457 (4) (a) A minor may not be held in temporary custody by law enforcement any longer
2458 than is reasonably necessary to obtain his name, age, residence, and other necessary
2459 information and to contact his parents, guardian, or custodian.

2460 (b) If the minor is not released under Subsection (3), he shall be taken to a place of
2461 detention or shelter without unnecessary delay.

2462 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
2463 file with the detention or shelter facility a written report on a form provided by the division
2464 stating the details of the presently alleged offense, the facts which bring the minor within the
2465 jurisdiction of the juvenile court, and the reason the minor was not released by law
2466 enforcement.

2467 (b) (i) The designated youth corrections facility staff person shall immediately review
2468 the form and determine, based on the guidelines for detention admissions established by the
2469 [~~Division of Youth Corrections~~] Division of Juvenile Justice Services under Sections
2470 62A-7-104 and 62A-7-205, whether to admit the minor to secure detention, admit the minor to
2471 home detention, place the minor in a placement other than detention, or return the minor home
2472 upon written promise to bring the minor to the court at a time set, or without restriction.

2473 (ii) If the designated youth corrections facility staff person determines to admit the
2474 minor to home detention, that staff person shall notify the juvenile court of that determination.

2475 The court shall order that notice be provided to the designated persons in the local law
2476 enforcement agency and the school or transferee school, if applicable, which the minor attends
2477 of the home detention. The designated persons may receive the information for purposes of the
2478 minor's supervision and student safety.

2479 (iii) Any employee of the local law enforcement agency and the school which the
2480 minor attends who discloses the notification of home detention is not:

2481 (A) civilly liable except when disclosure constitutes fraud or malice as provided in
2482 Section 63-30-4; and

2483 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
2484 of Section 63-2-801.

2485 (c) A minor may not be admitted to detention unless the minor is detainable based on
2486 the guidelines or the minor has been brought to detention pursuant to a judicial order or
2487 division warrant pursuant to Subsection 62A-7-112(8).

2488 (d) If a minor taken to detention does not qualify for admission under the guidelines
2489 established by the division under Sections 62A-7-104 and 62A-7-205, detention staff shall
2490 arrange appropriate placement.

2491 (e) If a minor is taken into custody and admitted to a secure detention or shelter
2492 facility, facility staff shall immediately notify the minor's parents, guardian, or custodian and
2493 shall promptly notify the court of the placement.

2494 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
2495 his residence and it is determined in the hearing held under Subsection 78-3a-114(3) that
2496 detention shall continue, the judge or commissioner shall direct the sheriff of the county of the
2497 minor's residence to transport the minor to a detention or shelter facility as provided in this
2498 section.

2499 (6) A person may be taken into custody by a peace officer without a court order if the
2500 person is in apparent violation of a protective order or if there is reason to believe that a minor
2501 is being abused by the person and any of the situations outlined in Section 77-7-2 exist.

2502 Section 39. Section **78-3a-114** is amended to read:

2503 **78-3a-114. Placement of minor in detention or shelter facility -- Grounds --**
2504 **Detention hearings -- Period of detention -- Notice -- Confinement of minors for criminal**
2505 **proceedings -- Bail laws inapplicable, exception.**

2506 (1) (a) A minor may not be placed or kept in a secure detention facility pending court
2507 proceedings unless it is unsafe for the public to leave the minor with his parents, guardian, or
2508 custodian and the minor is detainable based on guidelines promulgated by the [~~Division of~~
2509 ~~Youth Corrections~~] Division of Juvenile Justice Services.

2510 (b) A minor who must be taken from his home but who does not require physical
2511 restriction shall be given temporary care in a shelter facility and may not be placed in a
2512 detention facility.

2513 (c) A minor may not be placed or kept in a shelter facility pending court proceedings
2514 unless it is unsafe for the minor to leave him with his parents, guardian, or custodian.

2515 (2) After admission to a detention facility pursuant to the guidelines established by the
2516 [~~Division of Youth Corrections~~] Division of Juvenile Justice Services and immediate
2517 investigation by an authorized officer of the court, the judge or the officer shall order the
2518 release of the minor to his parents, guardian, or custodian if it is found he can be safely
2519 returned to their care, either upon written promise to bring the minor to the court at a time set
2520 or without restriction.

2521 (a) If the minor's parent, guardian, or custodian fails to retrieve the minor from a
2522 facility within 24 hours after notification of release, the parent, guardian, or custodian is
2523 responsible for the cost of care for the time the minor remains in the facility.

2524 (b) The facility shall determine the cost of care.

2525 (c) Any money collected under this Subsection (2) shall be retained by the [~~Division of~~
2526 ~~Youth Corrections~~] Division of Juvenile Justice Services to recover the cost of care for the time
2527 the minor remains in the facility.

2528 (3) (a) When a minor is detained in a detention or shelter facility, the parents or
2529 guardian shall be informed by the person in charge of the facility that they have the right to a
2530 prompt hearing in court to determine whether the minor is to be further detained or released.

2531 (b) Detention hearings shall be held by the judge or by a commissioner.

2532 (c) The court may, at any time, order the release of the minor, whether a detention
2533 hearing is held or not.

2534 (d) If the minor is released, and the minor remains in the facility, because the parents,
2535 guardian, or custodian fails to retrieve the minor, the parents, guardian, or custodian shall be
2536 responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).

2537 (4) (a) A minor may not be held in a detention facility longer than 48 hours prior to a
2538 detention hearing, excluding weekends and holidays, unless the court has entered an order for
2539 continued detention.

2540 (b) A minor may not be held in a shelter facility longer than 48 hours prior to a shelter
2541 hearing, excluding weekends and holidays, unless a court order for extended shelter has been
2542 entered by the court after notice to all parties described in Section 78-3a-306.

2543 (c) A hearing for detention or shelter may not be waived. Detention staff shall provide
2544 the court with all information received from the person who brought the minor to the detention
2545 facility.

2546 (d) If the court finds at a detention hearing that it is not safe to release the minor, the
2547 judge or commissioner may order the minor to be held in the facility or be placed in another
2548 appropriate facility, subject to further order of the court.

2549 (e) (i) After a detention hearing has been held, only the court may release a minor from
2550 detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to
2551 the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued
2552 detention is necessary.

2553 (ii) If the court orders home detention, it shall direct that notice of its order be provided
2554 to designated persons in the appropriate local law enforcement agency and the school or
2555 transferee school, if applicable, which the minor attends. The designated persons may receive
2556 the information for purposes of the minor's supervision and student safety.

2557 (iii) Any employee of the local law enforcement agency and the school which the
2558 minor attends who discloses the court's order of probation is not:

2559 (A) civilly liable except when the disclosure constitutes fraud or malice as provided in
2560 Section 63-30-4; and

2561 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
2562 of Section 63-2-801.

2563 (5) A minor may not be held in a detention facility, following a dispositional order of
2564 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for
2565 community-based placement under Section 62A-7-101 for longer than 72 hours, excluding
2566 weekends and holidays. The period of detention may be extended by the court for one period
2567 of seven calendar days if:

2568 (a) the [~~Division of Youth Corrections~~] Division of Juvenile Justice Services or
2569 another agency responsible for placement files a written petition with the court requesting the
2570 extension and setting forth good cause; and

2571 (b) the court enters a written finding that it is in the best interests of both the minor and
2572 the community to extend the period of detention.

2573 (6) The agency requesting an extension shall promptly notify the detention facility that
2574 a written petition has been filed.

2575 (7) The court shall promptly notify the detention facility regarding its initial disposition
2576 and any ruling on a petition for an extension, whether granted or denied.

2577 (8) (a) A minor under 16 years of age may not be held in a jail, lockup, or other place
2578 for adult detention except as provided by Section 62A-7-201 or unless certified as an adult
2579 pursuant to Section 78-3a-603. The provisions of Section 62A-7-201 regarding confinement
2580 facilities apply to this Subsection (8).

2581 (b) A minor 16 years of age or older whose conduct or condition endangers the safety
2582 or welfare of others in the detention facility for minors may, by court order that specifies the
2583 reasons, be detained in another place of confinement considered appropriate by the court,
2584 including a jail or other place of confinement for adults. However, a secure youth corrections
2585 facility is not an appropriate place of confinement for detention purposes under this section.

2586 (9) A sheriff, warden, or other official in charge of a jail or other facility for the
2587 detention of adult offenders or persons charged with crime shall immediately notify the
2588 juvenile court when a minor who is or appears to be under 18 years of age is received at the
2589 facility and shall make arrangements for the transfer of the minor to a detention facility, unless
2590 otherwise ordered by the juvenile court.

2591 (10) This section does not apply to a minor who is brought to the adult facility under
2592 charges pursuant to Section 78-3a-602 or by order of the juvenile court to be held for criminal
2593 proceedings in the district court under Section 78-3a-603.

2594 (11) A minor held for criminal proceedings under Section 78-3a-602 or 78-3a-603 may
2595 be detained in a jail or other place of detention used for adults charged with crime.

2596 (12) Provisions of law regarding bail are not applicable to minors detained or taken
2597 into custody under this chapter, except that bail may be allowed:

2598 (a) if a minor who need not be detained lives outside this state; or

2599 (b) when a minor who need not be detained comes within one of the classes in
2600 Subsection 78-3a-503(11).

2601 (13) Section 76-8-418 is applicable to a minor who willfully and intentionally commits
2602 an act against a jail or other place of confinement, including a [~~Division of Youth Corrections~~]
2603 Division of Juvenile Justice Services detention, shelter, or secure confinement facility which
2604 would be a third degree felony if committed by an adult.

2605 Section 40. Section **78-3a-118** is amended to read:

2606 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
2607 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**
2608 **sample.**

2609 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the
2610 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
2611 jurisdiction over the minor. However, in cases within the provisions of Subsection
2612 78-3a-104(1), findings of fact are not necessary.

2613 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
2614 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
2615 to the school superintendent of the district in which the minor resides or attends school. Notice
2616 shall be made to the district superintendent within three days of the adjudication and shall
2617 include the specific offenses for which the minor was adjudicated.

2618 (2) Upon adjudication the court may make the following dispositions by court order:

2619 (a) (i) The court may place the minor on probation or under protective supervision in
2620 the minor's own home and upon conditions determined by the court, including compensatory
2621 service as provided in Section 78-11-20.7.

2622 (ii) The court may place the minor in state supervision with the probation department
2623 of the court, under the legal custody of:

2624 (A) his parent or guardian;

2625 (B) the [~~Division of Youth Corrections~~] Division of Juvenile Justice Services; or

2626 (C) the Division of Child and Family Services.

2627 (iii) If the court orders probation or state supervision, the court shall direct that notice
2628 of its order be provided to designated persons in the local law enforcement agency and the
2629 school or transferee school, if applicable, which the minor attends. The designated persons

2630 may receive the information for purposes of the minor's supervision and student safety.

2631 (iv) Any employee of the local law enforcement agency and the school which the
2632 minor attends who discloses the court's order of probation is not:

2633 (A) civilly liable except when the disclosure constitutes fraud or malice as provided in
2634 Section 63-30-4; and

2635 (B) civilly or criminally liable except when the disclosure constitutes a knowing
2636 violation of Section 63-2-801.

2637 (b) The court may place the minor in the legal custody of a relative or other suitable
2638 person, with or without probation or protective supervision, but the juvenile court may not
2639 assume the function of developing foster home services.

2640 (c) (i) The court may:

2641 (A) vest legal custody of the minor in the Division of Child and Family Services,
2642 [~~Division of Youth Corrections~~] Division of Juvenile Justice Services, or the Division of
2643 Substance Abuse and Mental Health; and

2644 (B) order the Department of Human Services to provide dispositional
2645 recommendations and services.

2646 (ii) For minors who may qualify for services from two or more divisions within the
2647 Department of Human Services, the court may vest legal custody with the department.

2648 (iii) (A) Minors who are committed to the custody of the Division of Child and Family
2649 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,
2650 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title
2651 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

2652 (B) Prior to the court entering an order to place a minor in the custody of the Division
2653 of Child and Family Services on grounds other than abuse or neglect, the court shall provide
2654 the division with notice of the hearing no later than five days before the time specified for the
2655 hearing so the division may attend the hearing.

2656 (C) Prior to committing a minor to the custody of the Division of Child and Family
2657 Services, the court shall make a finding as to what reasonable efforts have been attempted to
2658 prevent the minor's removal from his home.

2659 (d) (i) The court may commit the minor to the [~~Division of Youth Corrections~~]
2660 Division of Juvenile Justice Services for secure confinement.

2661 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
2662 or dependency under Subsection 78-3a-104(1)(c) may not be committed to the [~~Division of~~
2663 ~~Youth Corrections~~] Division of Juvenile Justice Services.

2664 (e) The court may commit the minor, subject to the court retaining continuing
2665 jurisdiction over him, to the temporary custody of the [~~Division of Youth Corrections~~] Division
2666 of Juvenile Justice Services for observation and evaluation for a period not to exceed 45 days,
2667 which period may be extended up to 15 days at the request of the director of the [~~Division of~~
2668 ~~Youth Corrections~~] Division of Juvenile Justice Services.

2669 (f) (i) The court may commit the minor to a place of detention or an alternative to
2670 detention for a period not to exceed 30 days subject to the court retaining continuing
2671 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions
2672 ordered by the court.

2673 (ii) This Subsection (2)(f) applies only to those minors adjudicated for:

2674 (A) an act which if committed by an adult would be a criminal offense; or

2675 (B) contempt of court under Section 78-3a-901.

2676 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
2677 the Division of Child and Family Services or any other appropriate person in accordance with
2678 the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and
2679 Dependency Proceedings.

2680 (h) The court may place the minor on a ranch or forestry camp, or similar facility for
2681 care and also for work, if possible, if the person, agency, or association operating the facility
2682 has been approved or has otherwise complied with all applicable state and local laws. A minor
2683 placed in a forestry camp or similar facility may be required to work on fire prevention,
2684 forestation and reforestation, recreational works, forest roads, and on other works on or off the
2685 grounds of the facility and may be paid wages, subject to the approval of and under conditions
2686 set by the court.

2687 (i) The court may order the minor to repair, replace, or otherwise make restitution for
2688 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in
2689 Section 78-3a-318 and impose fines in limited amounts. If a minor has been returned to this
2690 state under the Interstate Compact on Juveniles, the court may order the minor to make
2691 restitution for costs expended by any governmental entity for the return.

2692 (j) The court may issue orders necessary for the collection of restitution and fines
2693 ordered by the court, including garnishments, wage withholdings, and executions.

2694 (k) (i) The court may through its probation department encourage the development of
2695 employment or work programs to enable minors to fulfill their obligations under Subsection
2696 (2)(i) and for other purposes considered desirable by the court.

2697 (ii) Consistent with the order of the court, the probation officer may permit the minor
2698 found to be within the jurisdiction of the court to participate in a program of work restitution or
2699 compensatory service in lieu of paying part or all of the fine imposed by the court.

2700 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in
2701 addition to any other disposition authorized by this section:

2702 (A) restrain the minor from driving for periods of time the court considers necessary;
2703 and

2704 (B) take possession of the minor's driver license.

2705 (ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the
2706 suspension of driving privileges for an offense under Section 78-3a-506 are governed only by
2707 Section 78-3a-506.

2708 (m) (i) When a minor is found within the jurisdiction of the juvenile court under
2709 Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug
2710 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court
2711 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a
2712 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
2713 completion of an approved substance abuse prevention or treatment program may be credited
2714 by the court as compensatory service hours.

2715 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
2716 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court
2717 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
2718 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory
2719 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
2720 approved substance abuse prevention or treatment program may be credited by the court as
2721 compensatory service hours.

2722 (n) The court may order that the minor be examined or treated by a physician, surgeon,

2723 psychiatrist, or psychologist or that he receive other special care. For these purposes the court
2724 may place the minor in a hospital or other suitable facility.

2725 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the
2726 interest of the minor, and may appoint as guardian a public or private institution or agency in
2727 which legal custody of the minor is vested.

2728 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
2729 private agency or institution, the court shall give primary consideration to the welfare of the
2730 minor. When practicable, the court may take into consideration the religious preferences of the
2731 minor and of the minor's parents.

2732 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable
2733 conditions to be complied with by the parents or guardian, the minor, the minor's custodian, or
2734 any other person who has been made a party to the proceedings. Conditions may include:

2735 (A) parent-time by the parents or one parent;

2736 (B) restrictions on the minor's associates;

2737 (C) restrictions on the minor's occupation and other activities; and

2738 (D) requirements to be observed by the parents or custodian.

2739 (ii) A minor whose parents or guardians successfully complete a family or other
2740 counseling program may be credited by the court for detention, confinement, or probation time.

2741 (q) The court may order the minor to be placed in the legal custody of the Division of
2742 Substance Abuse and Mental Health or committed to the physical custody of a local mental
2743 health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15,
2744 Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental
2745 Health.

2746 (r) (i) The court may make an order committing a minor within its jurisdiction to the
2747 Utah State Developmental Center if the minor has mental retardation in accordance with the
2748 provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.

2749 (ii) The court shall follow the procedure applicable in the district courts with respect to
2750 judicial commitments to the Utah State Developmental Center when ordering a commitment
2751 under Subsection (2)(r)(i).

2752 (s) The court may terminate all parental rights upon a finding of compliance with the
2753 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.

2754 (t) The court may make any other reasonable orders for the best interest of the minor or
2755 as required for the protection of the public, except that a person younger than 18 years of age
2756 may not be committed to jail or prison.

2757 (u) The court may combine the dispositions listed in this section if they are compatible.

2758 (v) Before depriving any parent of custody, the court shall give due consideration to the
2759 rights of parents concerning their minor. The court may transfer custody of a minor to another
2760 person, agency, or institution in accordance with the requirements and procedures of Title 78,
2761 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

2762 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
2763 probation or placement of a minor with an individual or an agency shall include a date certain
2764 for a review of the case by the court. A new date shall be set upon each review.

2765 (x) In reviewing foster home placements, special attention shall be given to making
2766 adoptable minors available for adoption without delay.

2767 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
2768 with a relative or individual of a minor where the court has previously acquired jurisdiction as
2769 a result of an adjudication of abuse, neglect, or dependency, excluding cases arising under
2770 Subsection 78-3a-105(4).

2771 (ii) Orders under Subsection (2)(y)(i):

2772 (A) shall remain in effect until the minor reaches majority;

2773 (B) are not subject to review under Section 78-3a-119; and

2774 (C) may be modified by petition or motion as provided in Section 78-3a-903.

2775 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
2776 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
2777 of the juvenile court.

2778 (3) In addition to the dispositions described in Subsection (2), when a minor comes
2779 within the court's jurisdiction he may be given a choice by the court to serve in the National
2780 Guard in lieu of other sanctions, provided:

2781 (a) the minor meets the current entrance qualifications for service in the National
2782 Guard as determined by a recruiter, whose determination is final;

2783 (b) the minor is not under the jurisdiction of the court for any act that:

2784 (i) would be a felony if committed by an adult;

2785 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

2786 (iii) was committed with a weapon; and

2787 (c) the court retains jurisdiction over the minor under conditions set by the court and
2788 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

2789 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of
2790 the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
2791 designated employees of the court or, if the minor is in the legal custody of the [~~Division of~~
2792 ~~Youth Corrections~~] Division of Juvenile Justice Services, then by designated employees of the
2793 division under Subsection 53-10-404(5)(b).

2794 (b) The responsible agency shall ensure that employees designated to collect the saliva
2795 DNA specimens receive appropriate training and that the specimens are obtained in accordance
2796 with accepted protocol.

2797 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
2798 Specimen Restricted Account created in Section 53-10-407.

2799 (d) Payment of the reimbursement is second in priority to payments the minor is
2800 ordered to make for restitution under this section and treatment under Section 78-3a-318.

2801 Section 41. Section **78-3a-301** is amended to read:

2802 **78-3a-301. Court-ordered protective custody of a minor following petition filing**
2803 **-- Grounds.**

2804 (1) After a petition has been filed under Subsection 78-3a-305(1), if the minor who is
2805 the subject of the petition is not in the protective custody of the division, a court may order that
2806 the minor be removed from the minor's home or otherwise taken into protective custody if the
2807 court finds, by a preponderance of the evidence, that any one or more of the following
2808 circumstances exist:

2809 (a) there is an imminent danger to the physical health or safety of the minor and the
2810 minor's physical health or safety may not be protected without removing the minor from the
2811 custody of the minor's parent or guardian. If a minor has previously been adjudicated as
2812 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency
2813 has occurred involving the same alleged abuser or under similar circumstance as the previous
2814 abuse, that fact constitutes prima facie evidence that the minor cannot safely remain in the
2815 custody of the minor's parent;

2816 (b) a parent or guardian engages in or threatens the minor with unreasonable conduct
2817 that causes the minor to suffer emotional damage and there are no reasonable means available
2818 by which the minor's emotional health may be protected without removing the minor from the
2819 custody of the minor's parent or guardian;

2820 (c) (i) the minor or another minor residing in the same household has been physically
2821 or sexually abused, or is [~~deemed~~] considered to be at substantial risk of being physically or
2822 sexually abused, by a parent or guardian, a member of the parent's or guardian's household, or
2823 other person known to the parent or guardian.

2824 (ii) For purposes of this Subsection (1)(c), another minor residing in the same
2825 household may not be removed from the home unless that minor is considered to be at
2826 substantial risk of being physically or sexually abused as described in Subsection (1)(c)(i) or
2827 (iii).

2828 (iii) If a parent or guardian has received actual notice that physical or sexual abuse by a
2829 person known to the parent has occurred, and there is evidence that the parent or guardian
2830 failed to protect the minor by allowing the minor to be in the physical presence of the alleged
2831 abuser, that fact constitutes prima facie evidence that the minor is at substantial risk of being
2832 physically or sexually abused;

2833 (d) the parent or guardian is unwilling to have physical custody of the minor;

2834 (e) the minor has been abandoned or left without any provision for the minor's support;

2835 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged
2836 or cannot arrange for safe and appropriate care for the minor;

2837 (g) a relative or other adult custodian with whom the minor has been left by the parent
2838 or guardian is unwilling or unable to provide care or support for the minor, the whereabouts of
2839 the parent or guardian are unknown, and reasonable efforts to locate the parent or guardian
2840 have been unsuccessful;

2841 (h) the minor is in immediate need of medical care;

2842 (i) (i) a parent's or guardian's actions, omissions, or habitual action create an
2843 environment that poses a threat to the minor's health or safety; or

2844 (ii) a parent's or guardian's action in leaving a minor unattended would reasonably pose
2845 a threat to the minor's health or safety;

2846 (j) (i) the minor or another minor residing in the same household has been neglected;

2847 and

2848 (ii) for purposes of Subsection (1)(j)(i), another minor residing in the same household
2849 may not be removed unless that minor is [~~deemed~~] considered to be at substantial risk of being
2850 neglected;

2851 (k) an infant has been abandoned, as defined in Section 78-3a-313.5;

2852 (l) the parent or guardian, or an adult residing in the same household as the parent or
2853 guardian, has been charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab
2854 Act, and any clandestine laboratory operation, as defined in Section 58-37d-3, was located in
2855 the residence or on the property where the minor resided; or

2856 (m) the minor's welfare is otherwise endangered.

2857 (2) A court may not remove a minor from the parent's or guardian's custody on the basis
2858 of educational neglect, in the absence of one of the factors described in Subsection (1).

2859 (3) A court may not remove a minor from the parent's or guardian's custody on the basis
2860 of mental illness or poverty of the parent or guardian, in the absence of one of the factors
2861 described in Subsection (1).

2862 (4) A minor removed from the custody of the minor's parent or guardian under this
2863 section may not be placed or kept in a secure detention facility pending further court
2864 proceedings unless the minor is detainable based on guidelines promulgated by the [~~Division of~~
2865 ~~Youth Corrections~~] Division of Juvenile Justice Services.

2866 (5) This section does not preclude removal of a minor from the minor's home without a
2867 warrant or court order under Section 62A-4a-202.1.

2868 Section 42. Section **78-3a-503** is amended to read:

2869 **78-3a-503. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to**
2870 **appear.**

2871 (1) As used in this section, "citation" means an abbreviated referral and is sufficient to
2872 invoke the jurisdiction of the court in lieu of a petition.

2873 (2) A citation shall be submitted to the court within five days of its issuance.

2874 (3) Each copy of the citation shall contain:

2875 (a) the name and address of the juvenile court before which the minor is to appear;

2876 (b) the name of the minor cited;

2877 (c) the statute or local ordinance that is alleged to have been violated;

- 2878 (d) a brief description of the offense charged;
- 2879 (e) the date, time, and location at which the offense is alleged to have occurred;
- 2880 (f) the date the citation was issued;
- 2881 (g) the name and badge or identification number of the peace officer or public official
- 2882 who issued the citation;
- 2883 (h) the name of the arresting person if an arrest was made by a private party and the
- 2884 citation was issued in lieu of taking the arrested minor into custody as provided in Section
- 2885 78-3a-113;
- 2886 (i) the date and time when the minor is to appear, or a statement that the minor and
- 2887 parent or legal guardian are to appear when notified by the juvenile court; and
- 2888 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to
- 2889 appear at the juvenile court as designated on the citation.
- 2890 (4) Each copy of the citation shall contain space for the following information to be
- 2891 entered if known:
- 2892 (a) the minor's address;
- 2893 (b) the minor's date of birth;
- 2894 (c) the name and address of the minor's custodial parent or legal guardian, if different
- 2895 from the minor; and
- 2896 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that
- 2897 this information shall be removed from the documents the minor receives.
- 2898 (5) A citation received by the court beyond the time designated in Subsection (2) shall
- 2899 include a written explanation for the delay.
- 2900 (6) The following offenses may be sent to the juvenile court as a citation:
- 2901 (a) violations of fish and game laws;
- 2902 (b) violations of boating laws;
- 2903 (c) violations of curfew laws;
- 2904 (d) any class B misdemeanor or less traffic violations where the person is under the age
- 2905 of 16;
- 2906 (e) any class B or class C misdemeanor or infraction;
- 2907 (f) any other infraction or misdemeanor as designated by general order of the Board of
- 2908 Juvenile Court Judges; and

2909 (g) violations of Section 76-10-105 subject to the jurisdiction of the Juvenile Court.

2910 (7) A preliminary inquiry is not required unless requested by the court.

2911 (8) The provisions of Subsection (5) may not apply to a runaway, ungovernable, or
2912 habitually truant minor.

2913 (9) In the case of Section 76-10-105 violations committed on school property when a
2914 citation is issued under this section, the peace officer, public official, or compliance officer
2915 shall issue one copy to the minor cited, provide the parent or legal guardian with a copy, and
2916 file a duplicate with the juvenile court specified in the citation within five days.

2917 (10) (a) A minor receiving a citation described in this section shall appear at the
2918 juvenile court designated in the citation on the time and date specified in the citation or when
2919 notified by the juvenile court.

2920 (b) A citation may not require a minor to appear sooner than five days following its
2921 issuance.

2922 (11) A minor who receives a citation and willfully fails to appear before the juvenile
2923 court pursuant to a citation is subject to arrest and may be found in contempt of court. The
2924 court may proceed against the minor as provided in Section 78-3a-901 regardless of the
2925 disposition of the offense upon which the minor was originally cited.

2926 (12) When a citation is issued under this section, bail may be posted and forfeited
2927 under Subsection 78-3a-114~~(10)~~ (12) with the consent of the court and parent or legal
2928 guardian of the minor cited.

2929 Section 43. Section **78-3a-504** is amended to read:

2930 **78-3a-504. Minor held in detention -- Credit for good behavior.**

2931 (1) A minor held in detention under Subsection 78-3a-118(2)(f) or 78-3a-901(3) shall
2932 receive credit for good behavior against the period of detention ordered by the court at the rate
2933 of one day for every three days served under guidelines established by the [~~Division of Youth~~
2934 ~~Corrections~~] Division of Juvenile Justice Services.

2935 (2) Any disposition including detention under Subsection 78-3a-118(2)(f) or
2936 78-3a-901(3) shall be concurrent with any other order of detention.

2937 Section 44. Section **78-3a-601** is amended to read:

2938 **78-3a-601. Jurisdiction of district court.**

2939 (1) The district court shall have exclusive original jurisdiction over all persons 16 years

2940 of age or older charged by information or indictment with:

2941 (a) an offense which would be murder or aggravated murder if committed by an adult;

2942 or

2943 (b) an offense which would be a felony if committed by an adult if the minor has been
2944 previously committed to a secure facility as defined in Section 62A-7-101. This Subsection
2945 (1)(b) shall not apply if the offense is committed in a secure facility.

2946 (2) When the district court has exclusive original jurisdiction over a minor under this
2947 section, it also has exclusive original jurisdiction over the minor regarding all offenses joined
2948 with the qualifying offense, and any other offenses, including misdemeanors, arising from the
2949 same criminal episode. The district court is not divested of jurisdiction by virtue of the fact
2950 that the minor is allowed to enter a plea to, or is found guilty of, a lesser or joined offense.

2951 (3) (a) Any felony, misdemeanor, or infraction committed after the offense over which
2952 the district court takes jurisdiction under Subsection (1) or (2) shall be tried against the
2953 defendant as an adult in the district court or justice court having jurisdiction.

2954 (b) If the qualifying charge under Subsection (1) results in an acquittal, a finding of not
2955 guilty, or a dismissal of the charge in the district court, the juvenile court under Section
2956 78-3a-104 and the ~~[Division of Youth Corrections]~~ Division of Juvenile Justice Services regain
2957 jurisdiction and any authority previously exercised over the minor.

2958 Section 45. Section **78-3a-602** is amended to read:

2959 **78-3a-602. Serious youth offender -- Procedure.**

2960 (1) Any action filed by a county attorney, district attorney, or attorney general charging
2961 a minor 16 years of age or older with a felony shall be by criminal information and filed in the
2962 juvenile court if the information charges any of the following offenses:

2963 (a) any felony violation of:

2964 (i) Section 76-6-103, aggravated arson;

2965 (ii) Subsection 76-5-103(1)(a), aggravated assault, involving intentionally causing
2966 serious bodily injury to another;

2967 (iii) Section 76-5-302, aggravated kidnaping;

2968 (iv) Section 76-6-203, aggravated burglary;

2969 (v) Section 76-6-302, aggravated robbery;

2970 (vi) Section 76-5-405, aggravated sexual assault;

2971 (vii) Section 76-10-508, discharge of a firearm from a vehicle;

2972 (viii) Section 76-5-202, attempted aggravated murder; or

2973 (ix) Section 76-5-203, attempted murder; or

2974 (b) an offense other than those listed in Subsection (1)(a) involving the use of a
2975 dangerous weapon which would be a felony if committed by an adult, and the minor has been
2976 previously adjudicated or convicted of an offense involving the use of a dangerous weapon
2977 which also would have been a felony if committed by an adult.

2978 (2) All proceedings before the juvenile court related to charges filed under Subsection
2979 (1) shall be conducted in conformity with the rules established by the Utah Supreme Court.

2980 (3) (a) If the information alleges the violation of a felony listed in Subsection (1), the
2981 state shall have the burden of going forward with its case and the burden of proof to establish
2982 probable cause to believe that one of the crimes listed in Subsection (1) has been committed
2983 and that the defendant committed it. If proceeding under Subsection (1)(b), the state shall have
2984 the additional burden of proving by a preponderance of the evidence that the defendant has
2985 previously been adjudicated or convicted of an offense involving the use of a dangerous
2986 weapon.

2987 (b) If the juvenile court judge finds the state has met its burden under this Subsection
2988 (3), the court shall order that the defendant be bound over and held to answer in the district
2989 court in the same manner as an adult unless the juvenile court judge finds that all of the
2990 following conditions exist:

2991 (i) the minor has not been previously adjudicated delinquent for an offense involving
2992 the use of a dangerous weapon which would be a felony if committed by an adult;

2993 (ii) that if the offense was committed with one or more other persons, the minor
2994 appears to have a lesser degree of culpability than the codefendants; and

2995 (iii) that the minor's role in the offense was not committed in a violent, aggressive, or
2996 premeditated manner.

2997 (c) Once the state has met its burden under this Subsection (3) as to a showing of
2998 probable cause, the defendant shall have the burden of going forward and presenting evidence
2999 as to the existence of the above conditions.

3000 (d) If the juvenile court judge finds by clear and convincing evidence that all the above
3001 conditions are satisfied, the court shall so state in its findings and order the minor held for trial

3002 as a minor and shall proceed upon the information as though it were a juvenile petition.

3003 (4) If the juvenile court judge finds that an offense has been committed, but that the
3004 state has not met its burden of proving the other criteria needed to bind the defendant over
3005 under Subsection (1), the juvenile court judge shall order the defendant held for trial as a minor
3006 and shall proceed upon the information as though it were a juvenile petition.

3007 (5) At the time of a bind over to district court a criminal warrant of arrest shall issue.
3008 The defendant shall have the same right to bail as any other criminal defendant and shall be
3009 advised of that right by the juvenile court judge. The juvenile court shall set initial bail in
3010 accordance with Title 77, Chapter 20, Bail.

3011 (6) If an indictment is returned by a grand jury charging a violation under this section,
3012 the preliminary examination held by the juvenile court judge need not include a finding of
3013 probable cause that the crime alleged in the indictment was committed and that the defendant
3014 committed it, but the juvenile court shall proceed in accordance with this section regarding the
3015 additional considerations listed in Subsection (3)(b).

3016 (7) When a defendant is charged with multiple criminal offenses in the same
3017 information or indictment and is bound over to answer in the district court for one or more
3018 charges under this section, other offenses arising from the same criminal episode and any
3019 subsequent misdemeanors or felonies charged against him shall be considered together with
3020 those charges, and where the court finds probable cause to believe that those crimes have been
3021 committed and that the defendant committed them, the defendant shall also be bound over to
3022 the district court to answer for those charges.

3023 (8) A minor who is bound over to answer as an adult in the district court under this
3024 section or on whom an indictment has been returned by a grand jury, is not entitled to a
3025 preliminary examination in the district court.

3026 (9) Allegations contained in the indictment or information that the defendant has
3027 previously been adjudicated or convicted of an offense involving the use of a dangerous
3028 weapon, or is 16 years of age or older, are not elements of the criminal offense and do not need
3029 to be proven at trial in the district court.

3030 (10) If a minor enters a plea to, or is found guilty of, any of the charges filed or any
3031 other offense arising from the same criminal episode, the district court retains jurisdiction over
3032 the minor for all purposes, including sentencing.

3033 (11) The juvenile court under Section 78-3a-104 and the [~~Division of Youth~~
3034 ~~Corrections~~] Division of Juvenile Justice Services regain jurisdiction and any authority
3035 previously exercised over the juvenile when there is an acquittal, a finding of not guilty, or
3036 dismissal of all charges in the district court.

3037 Section 46. Section **78-3a-603** is amended to read:

3038 **78-3a-603. Certification hearings -- Juvenile court to hold preliminary hearing --**
3039 **Factors considered by juvenile court for waiver of jurisdiction to district court.**

3040 (1) If a criminal information filed in accordance with Subsection 78-3a-502(3) alleges
3041 the commission of an act which would constitute a felony if committed by an adult, the
3042 juvenile court shall conduct a preliminary hearing.

3043 (2) At the preliminary hearing the state shall have the burden of going forward with its
3044 case and the burden of establishing:

3045 (a) probable cause to believe that a crime was committed and that the defendant
3046 committed it; and

3047 (b) by a preponderance of the evidence, that it would be contrary to the best interests of
3048 the minor or of the public for the juvenile court to retain jurisdiction.

3049 (3) In considering whether or not it would be contrary to the best interests of the minor
3050 or of the public for the juvenile court to retain jurisdiction, the juvenile court shall consider,
3051 and may base its decision on, the finding of one or more of the following factors:

3052 (a) the seriousness of the offense and whether the protection of the community requires
3053 isolation of the minor beyond that afforded by juvenile facilities;

3054 (b) whether the alleged offense was committed by the minor in concert with two or
3055 more persons under circumstances which would subject the minor to enhanced penalties under
3056 Section 76-3-203.1 were he an adult;

3057 (c) whether the alleged offense was committed in an aggressive, violent, premeditated,
3058 or willful manner;

3059 (d) whether the alleged offense was against persons or property, greater weight being
3060 given to offenses against persons, except as provided in Section 76-8-418;

3061 (e) the maturity of the minor as determined by considerations of his home,
3062 environment, emotional attitude, and pattern of living;

3063 (f) the record and previous history of the minor;

3064 (g) the likelihood of rehabilitation of the minor by use of facilities available to the
3065 juvenile court;

3066 (h) the desirability of trial and disposition of the entire offense in one court when the
3067 minor's associates in the alleged offense are adults who will be charged with a crime in the
3068 district court;

3069 (i) whether the minor used a firearm in the commission of an offense; and

3070 (j) whether the minor possessed a dangerous weapon on or about school premises as
3071 provided in Section 76-10-505.5.

3072 (4) The amount of weight to be given to each of the factors listed in Subsection (3) is
3073 discretionary with the court.

3074 (5) (a) Written reports and other materials relating to the minor's mental, physical,
3075 educational, and social history may be considered by the court.

3076 (b) If requested by the minor, the minor's parent, guardian, or other interested party, the
3077 court shall require the person or agency preparing the report and other material to appear and
3078 be subject to both direct and cross-examination.

3079 (6) At the conclusion of the state's case, the minor may testify under oath, call
3080 witnesses, cross-examine adverse witnesses, and present evidence on the factors required by
3081 Subsection (3).

3082 (7) If the court finds the state has met its burden under Subsection (2), the court may
3083 enter an order:

3084 (a) certifying that finding; and

3085 (b) directing that the minor be held for criminal proceedings in the district court.

3086 (8) If an indictment is returned by a grand jury, the preliminary examination held by the
3087 juvenile court need not include a finding of probable cause, but the juvenile court shall proceed
3088 in accordance with this section regarding the additional consideration referred to in Subsection
3089 (2)(b).

3090 (9) The provisions of Section 78-3a-116, Section 78-3a-913, and other provisions
3091 relating to proceedings in juvenile cases are applicable to the hearing held under this section to
3092 the extent they are pertinent.

3093 (10) A minor who has been directed to be held for criminal proceedings in the district
3094 court is not entitled to a preliminary examination in the district court.

3095 (11) A minor who has been certified for trial in the district court shall have the same
3096 right to bail as any other criminal defendant and shall be advised of that right by the juvenile
3097 court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20,
3098 Bail.

3099 (12) When a minor has been certified to the district court under this section or when a
3100 criminal information or indictment is filed in a court of competent jurisdiction before a
3101 committing magistrate charging the minor with an offense described in Section 78-3a-602, the
3102 jurisdiction of the [~~Division of Youth Corrections~~] Division of Juvenile Justice Services and
3103 the jurisdiction of the juvenile court over the minor is terminated regarding that offense, any
3104 other offenses arising from the same criminal episode, and any subsequent misdemeanors or
3105 felonies charged against him, except as provided in Subsection (14).

3106 (13) If a minor enters a plea to, or is found guilty of any of the charges filed or on any
3107 other offense arising out of the same criminal episode, the district court retains jurisdiction
3108 over the minor for all purposes, including sentencing.

3109 (14) The juvenile court under Section 78-3a-104 and the [~~Division of Youth~~
3110 ~~Corrections~~] Division of Juvenile Justice Services regain jurisdiction and any authority
3111 previously exercised over the minor when there is an acquittal, a finding of not guilty, or
3112 dismissal of all charges in the district court.

3113 Section 47. Section **78-3a-904** is amended to read:

3114 **78-3a-904. When photographs, fingerprints, or HIV infection tests may be taken**
3115 **-- Distribution -- Expungement.**

3116 (1) Photographs may be taken of a minor 14 years of age or older who:

3117 (a) is taken into custody for the alleged commission of an offense under Sections
3118 78-3a-104, 78-3a-601, and 78-3a-602 that would also be an offense if the minor were 18 years
3119 of age or older; or

3120 (b) has been determined to be a serious habitual offender for tracking under Section
3121 63-92-2 and is under the continuing jurisdiction of the Juvenile Court or the [~~Division of Youth~~
3122 ~~Corrections~~] Division of Juvenile Justice Services.

3123 (2) (a) Fingerprints may be taken of a minor 14 years of age or older who:

3124 (i) is taken into custody for the alleged commission of an offense that would be a
3125 felony if the minor were 18 years of age or older; or

3126 (ii) has been determined to be a serious habitual offender for tracking under Section
3127 63-92-2 and is under the continuing jurisdiction of the Juvenile Court or the [~~Division of Youth~~
3128 ~~Corrections~~] Division of Juvenile Justice Services.

3129 (b) Fingerprints shall be forwarded to the Bureau of Criminal Identification and may be
3130 stored by electronic medium.

3131 (3) HIV testing may be conducted on a minor who is taken into custody after having
3132 been adjudicated to have violated state law prohibiting a sexual offense under Title 76, Chapter
3133 5, Part 4, Sexual Offenses, upon the request of the victim or the parent or guardian of a minor
3134 victim.

3135 (4) HIV tests, photographs, and fingerprints may not be taken of a minor younger than
3136 14 years of age without the consent of the court.

3137 (5) (a) Photographs may be distributed or disbursed to individuals or agencies other
3138 than state or local law enforcement agencies only when a minor 14 years of age or older is
3139 charged with an offense which would be a felony if committed by an adult.

3140 (b) Fingerprints may be distributed or disbursed to individuals or agencies other than
3141 state or local law enforcement agencies.

3142 (6) When a minor's juvenile record is expunged, all photographs and other records as
3143 ordered shall upon court order be destroyed by the law enforcement agency. Fingerprint records
3144 may not be destroyed.

3145 Section 48. Section **78-3a-905** is amended to read:

3146 **78-3a-905. Expungement of juvenile court record -- Petition -- Procedure.**

3147 (1) (a) A person who has been adjudicated under this chapter may petition the court for
3148 the expungement of his record in the juvenile court if:

3149 (i) he has reached 18 years of age; and

3150 (ii) one year has elapsed from the date of termination of the continuing jurisdiction of
3151 the juvenile court or, in case he was committed to a secure youth corrections facility, one year
3152 from the date of his unconditional release from the custody of the [~~Division of Youth~~
3153 ~~Corrections~~] Division of Juvenile Justice Services.

3154 (b) The court may waive the requirements in Subsection (1)(a), if the court finds, and
3155 states on the record, the reason why the waiver is appropriate.

3156 (c) The petitioner shall include with his petition the original criminal history report

3157 obtained from the Bureau of Criminal Identification in accordance with the provisions of
3158 Subsection 53-10-108(8).

3159 (d) The petitioner shall send a copy of the petition to the county attorney or, if within a
3160 prosecution district, the district attorney.

3161 (e) (i) Upon the filing of a petition, the court shall set a date for a hearing and shall
3162 notify the county attorney or district attorney, and the agency with custody of the records of the
3163 pendency of the petition and of the date of the hearing. Notice shall be given at least 30 days
3164 prior to the hearing.

3165 (ii) The court shall provide a victim with the opportunity to request notice of a petition
3166 for expungement. A victim shall receive notice of a petition for expungement at least 30 days
3167 prior to the hearing if, prior to the entry of an expungement order, the victim or, in the case of a
3168 minor or a person who is incapacitated or deceased, the victim's next of kin or authorized
3169 representative, submits a written and signed request for notice to the court in the judicial
3170 district in which the crime occurred or judgment was entered. The notice shall include a copy
3171 of the petition and statutes and rules applicable to the petition.

3172 (2) (a) At the hearing, the county attorney or district attorney, a victim, and any other
3173 person who may have relevant information about the petitioner may testify.

3174 (b) In deciding whether to grant a petition for expungement, the court shall consider
3175 whether the rehabilitation of the petitioner has been attained to the satisfaction of the court,
3176 taking into consideration the petitioner's response to programs and treatment, his behavior
3177 subsequent to adjudication, and the nature and seriousness of the conduct.

3178 (c) The court may order sealed all petitioner's records under the control of the juvenile
3179 court and any of petitioner's records under the control of any other agency or official pertaining
3180 to the petitioner's adjudicated juvenile court cases if the court finds that:

3181 (i) the petitioner has not, since the termination of the court's jurisdiction or his
3182 unconditional release from the [~~Division of Youth Corrections~~] Division of Juvenile Justice
3183 Services, been convicted of a:

3184 (A) felony; or

3185 (B) misdemeanor involving moral turpitude; and

3186 (ii) no proceeding involving a felony or misdemeanor is pending or being instituted
3187 against him.

3188 (3) The petitioner shall be responsible for service of the order of expungement to all
3189 affected state, county, and local entities, agencies, and officials. To avoid destruction or
3190 sealing of the records in whole or in part, the agency or entity receiving the expungement order
3191 shall only expunge all references to the petitioner's name in the records pertaining to the
3192 petitioner's adjudicated juvenile court cases.

3193 (4) Upon the entry of the order, the proceedings in the petitioner's case shall be
3194 considered never to have occurred and the petitioner may properly reply accordingly upon any
3195 inquiry in the matter. Inspection of the records may thereafter only be permitted by the court
3196 upon petition by the person who is the subject of the records, and only to persons named in the
3197 petition.

3198 (5) The court may not expunge a juvenile court record if the record contains an
3199 adjudication of:

- 3200 (a) Section 76-5-202, aggravated murder; or
- 3201 (b) Section 76-5-203, murder.

3202 (6) (a) A person whose juvenile court record consists solely of nonjudicial adjustments
3203 as provided in Section 78-3a-502 may petition the court for expungement of his record if the
3204 person:

- 3205 (i) has reached 18 years of age; and
- 3206 (ii) has completed the conditions of the nonjudicial adjustments.

3207 (b) The court shall, without a hearing, order sealed all petitioner's records under the
3208 control of the juvenile court and any of petitioner's records under the control of any other
3209 agency or official pertaining to the petitioner's nonjudicial adjustments.

3210 Section 49. Section **78-3a-914** is amended to read:

3211 **78-3a-914. Exchange of information with agency or institution having legal**
3212 **custody -- Transfer of minor to state prison or other adult facility prohibited.**

3213 (1) Whenever legal custody of a minor is vested in an institution or agency, the court
3214 shall transmit with the court order copies of the social study, any clinical reports, and other
3215 information pertinent to the care and treatment of the minor. The institution or agency shall
3216 give the court any information concerning the minor that the court may at any time require.

3217 (2) The [~~Division of Youth Corrections~~] Division of Juvenile Justice Services or any
3218 other institution or agency to whom a minor is committed under Section 78-3a-118 may not

02-13-03 1:17 PM

2nd Sub. (Salmon) S.B. 58

3219 transfer custody of the minor to the state prison or any other institution for the correction of
3220 adult offenders.

3221 Section 50. **Effective date.**

3222 This act takes effect on July 1, 2004.

Fiscal Note**Youth Corrections - Division Name Amendment***18-Feb-03***Bill Number SB0058s2***10:52 AM*

State Impact

Any fiscal impact can be handled within existing budget.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst