

Representative V. Lowry Snow proposes the following substitute bill:

JUVENILE JUSTICE AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- ▶ addresses duties of prosecutors;
- ▶ modifies adjudications of minors under the Alcoholic Beverage Control Act;
- ▶ amends provisions related to sanctions and driver licenses;
- ▶ addresses education of certain persons under 21 years of age;
- ▶ amends provisions related to powers and duties of local school boards, charter school governing boards, school districts, or public school administrators;
- ▶ addresses reporting of certain conduct;
- ▶ addresses public school discipline policies;
- ▶ modifies provisions related to rules addressing prohibited conduct;
- ▶ enacts a tiered approach to disciplinary actions related to students;
- ▶ amends provisions related to disruptive student behavior;
- ▶ addresses contracts between LEAs and law enforcement for school resource officer services;
- ▶ modifies provisions related to controlled substances and prohibited acts;

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- 26 ▶ modifies sentencing requirements for minors and drug paraphernalia and controlled
- 27 substances;
- 28 ▶ repeals language regarding programs and procedures for minors committed to the
- 29 custody of the Division of Child and Family Services;
- 30 ▶ amends provisions related to in-home services;
- 31 ▶ amends definition provisions;
- 32 ▶ modifies provisions related to the Division of Juvenile Justice Services;
- 33 ▶ modifies provisions related to restitution by a youth offender;
- 34 ▶ addresses location of detention facilities and services;
- 35 ▶ addresses commitment;
- 36 ▶ modifies provisions related to the Youth Parole Authority;
- 37 ▶ addresses discharge of youth offender;
- 38 ▶ addresses youth services for prevention and early intervention;
- 39 ▶ addresses community-based programs;
- 40 ▶ modifies provisions related to the Commission on Criminal and Juvenile Justice;
- 41 ▶ amends provisions related to minors and intoxication;
- 42 ▶ amends provisions related to the buying and possession of a cigar, cigarette,
- 43 electronic cigarette, or tobacco;
- 44 ▶ addresses the Utah Indigent Defense Commission;
- 45 ▶ addresses the jurisdiction of the juvenile court;
- 46 ▶ enacts language regarding warrants;
- 47 ▶ addresses when a minor may be taken into custody;
- 48 ▶ addresses summons;
- 49 ▶ repeals language regarding bench warrants;
- 50 ▶ modifies provisions related minors being taken into custody or detention or
- 51 alternatives;
- 52 ▶ addresses when the attorney general represents the Division of Child and Family
- 53 Services;
- 54 ▶ modifies provisions related to the adjudication in juvenile courts;
- 55 ▶ addresses a judgment, decree, or order and the rights and responsibilities of agency
- 56 or individual granted custody, probation, or protective supervision;

- 57 ▶ addresses fines, fees, and restitution;
- 58 ▶ enacts provisions related to case planning and appropriate responses;
- 59 ▶ enacts provisions related to detention risk assessment tool;
- 60 ▶ amends provisions related to prosecutors and review of case;
- 61 ▶ modifies the citation procedure;
- 62 ▶ addresses a minor held in detention;
- 63 ▶ modifies suspension of driver license;
- 64 ▶ modifies jurisdiction of district court;
- 65 ▶ modifies enforcement of contempt or a fine, fee, or restitution;
- 66 ▶ addresses youth court;
- 67 ▶ addresses right to counsel;
- 68 ▶ addresses the imposition of fees and expenses;
- 69 ▶ addresses jurisdiction of courts; and
- 70 ▶ makes technical and conforming amendments.

71 **Money Appropriated in this Bill:**

72 None

73 **Other Special Clauses:**

74 None

75 **Utah Code Sections Affected:**

76 AMENDS:

- 77 [17-18a-404](#), as enacted by Laws of Utah 2013, Chapter 237
- 78 [32B-4-409](#), as last amended by Laws of Utah 2015, Chapter 165
- 79 [32B-4-410](#), as last amended by Laws of Utah 2015, Chapter 165
- 80 [32B-4-411](#), as last amended by Laws of Utah 2015, Chapter 165
- 81 [53A-1-403](#), as last amended by Laws of Utah 2011, Chapter 359
- 82 [53A-3-402](#), as last amended by Laws of Utah 2016, Chapter 144
- 83 [53A-11-101.7](#), as last amended by Laws of Utah 2014, Chapter 359
- 84 [53A-11-103](#), as last amended by Laws of Utah 2012, Chapter 203
- 85 [53A-11-105](#), as last amended by Laws of Utah 2008, Chapter 3
- 86 [53A-11-403](#), as enacted by Laws of Utah 1988, Chapter 2
- 87 [53A-11-901](#), as last amended by Laws of Utah 2015, Chapter 442

- 88 [53A-11-908](#), as last amended by Laws of Utah 2010, Chapter 114
- 89 [53A-11-910](#), as last amended by Laws of Utah 2008, Chapter 250
- 90 [53A-11-1302](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 91 [53A-11-1604](#), as enacted by Laws of Utah 2016, Chapter 165
- 92 [58-37-8](#), as last amended by Laws of Utah 2016, Chapters 99 and 348
- 93 [58-37a-7](#), as enacted by Laws of Utah 2015, Chapter 165
- 94 [58-37b-9](#), as enacted by Laws of Utah 2015, Chapter 165
- 95 [62A-4a-105](#), as last amended by Laws of Utah 2016, Chapter 296
- 96 [62A-4a-201](#), as last amended by Laws of Utah 2015, Chapter 274
- 97 [62A-4a-202](#), as last amended by Laws of Utah 2014, Chapter 265
- 98 [62A-4a-208](#), as last amended by Laws of Utah 2009, Chapter 75
- 99 [62A-4a-250](#), as last amended by Laws of Utah 2008, Chapter 3
- 100 [62A-7-101](#), as last amended by Laws of Utah 2008, Chapter 3
- 101 [62A-7-104](#), as last amended by Laws of Utah 2015, Chapter 210
- 102 [62A-7-107.5](#), as renumbered and amended by Laws of Utah 2005, Chapter 13
- 103 [62A-7-109.5](#), as renumbered and amended by Laws of Utah 2005, Chapter 13
- 104 [62A-7-201](#), as last amended by Laws of Utah 2015, Chapter 338
- 105 [62A-7-202](#), as last amended by Laws of Utah 2008, Chapter 382
- 106 [62A-7-404](#), as renumbered and amended by Laws of Utah 2005, Chapter 13
- 107 [62A-7-501](#), as last amended by Laws of Utah 2010, Chapter 286
- 108 [62A-7-504](#), as renumbered and amended by Laws of Utah 2005, Chapter 13
- 109 [62A-7-506](#), as renumbered and amended by Laws of Utah 2005, Chapter 13
- 110 [62A-7-601](#), as renumbered and amended by Laws of Utah 2005, Chapter 13
- 111 [62A-7-701](#), as renumbered and amended by Laws of Utah 2005, Chapter 13
- 112 [63M-7-204](#), as last amended by Laws of Utah 2015, Chapter 412
- 113 [63M-7-404](#), as last amended by Laws of Utah 2015, Chapter 412
- 114 [76-5-413](#), as last amended by Laws of Utah 2008, Chapter 3
- 115 [76-9-701](#), as last amended by Laws of Utah 2015, Chapter 165
- 116 [76-10-105](#), as last amended by Laws of Utah 2010, Chapter 114
- 117 [77-32-804](#), as enacted by Laws of Utah 2016, Chapter 177
- 118 [78A-6-103](#), as last amended by Laws of Utah 2012, Chapter 316

- 119 **78A-6-105**, as last amended by Laws of Utah 2016, Chapters 109 and 351
- 120 **78A-6-106**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 121 **78A-6-109**, as last amended by Laws of Utah 2009, Chapter 388
- 122 **78A-6-111**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 123 **78A-6-112**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 124 **78A-6-113**, as last amended by Laws of Utah 2010, Chapter 38
- 125 **78A-6-115**, as last amended by Laws of Utah 2010, Chapter 34
- 126 **78A-6-117**, as last amended by Laws of Utah 2016, Chapter 418
- 127 **78A-6-118**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 128 **78A-6-119**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 129 **78A-6-120**, as last amended by Laws of Utah 2014, Chapter 217
- 130 **78A-6-121**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 131 **78A-6-302**, as last amended by Laws of Utah 2016, Chapter 231
- 132 **78A-6-306**, as last amended by Laws of Utah 2015, Chapter 274
- 133 **78A-6-312**, as last amended by Laws of Utah 2016, Chapter 231
- 134 **78A-6-401**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 135 **78A-6-602**, as last amended by Laws of Utah 2013, Chapter 237
- 136 **78A-6-603**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 137 **78A-6-604**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 138 **78A-6-606**, as last amended by Laws of Utah 2015, Chapters 165 and 258
- 139 **78A-6-701**, as last amended by Laws of Utah 2015, Chapter 338
- 140 **78A-6-1101**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 141 **78A-6-1111**, as last amended by Laws of Utah 2016, Chapters 33 and 177
- 142 **78A-6-1202**, as last amended by Laws of Utah 2010, Chapter 276
- 143 **78A-6-1203**, as last amended by Laws of Utah 2013, Chapter 27
- 144 **78A-6-1207**, as last amended by Laws of Utah 2013, Chapter 27
- 145 **78A-6-1302**, as last amended by Laws of Utah 2013, Chapter 278
- 146 **78A-7-106**, as last amended by Laws of Utah 2016, Chapter 33

147 ENACTS:

- 148 **53A-11-911**, Utah Code Annotated 1953
- 149 **63M-7-208**, Utah Code Annotated 1953

150 [78A-6-106.5](#), Utah Code Annotated 1953

151 [78A-6-123](#), Utah Code Annotated 1953

152 [78A-6-124](#), Utah Code Annotated 1953

153

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

155 Section 1. Section **17-18a-404** is amended to read:

156 **17-18a-404. Juvenile proceedings.**

157 For a proceeding involving a charge of juvenile delinquency, [~~a public~~] infraction, or a
158 status offense, a prosecutor shall:

159 (1) review each case pursuant to Section [78A-6-602](#); and

160 (2) appear and prosecute for the state in the juvenile court of the county.

161 Section 2. Section **32B-4-409** is amended to read:

162 **32B-4-409. Unlawful purchase, possession, consumption by minor -- Measurable**
163 **amounts in body.**

164 (1) Unless specifically authorized by this title, it is unlawful for a minor to:

165 (a) purchase an alcoholic product;

166 (b) attempt to purchase an alcoholic product;

167 (c) solicit another person to purchase an alcoholic product;

168 (d) possess an alcoholic product;

169 (e) consume an alcoholic product; or

170 (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.

171 (2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic
172 product for a minor for:

173 (a) a minor to misrepresent the minor's age; or

174 (b) any other person to misrepresent the age of a minor.

175 (3) It is unlawful for a minor to possess or consume an alcoholic product while riding
176 in a limousine or chartered bus.

177 (4) (a) If a minor is found by a court to have violated this section and the violation is
178 the minor's first violation of this section, the court may:

179 (i) order the minor to complete a screening as defined in Section [41-6a-501](#);

180 (ii) order the minor to complete an assessment as defined in Section [41-6a-501](#) if the

181 screening indicates an assessment to be appropriate; and

182 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
183 or substance [abuse] use disorder treatment as indicated by an assessment.

184 (b) If a minor is found by a court to have violated this section and the violation is the
185 minor's second or subsequent violation of this section, the court shall:

186 (i) order the minor to complete a screening as defined in Section 41-6a-501;

187 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
188 screening indicates an assessment to be appropriate; and

189 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
190 or substance [abuse] use disorder treatment as indicated by an assessment.

191 (5) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
192 found by a court to have violated this section, except as provided in Section 32B-4-411, the
193 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

194 (b) Notwithstanding the provision in Subsection (5)(a), the court may reduce the
195 suspension period required under Section 53-3-219 if:

196 (i) the violation is the minor's first violation of this section; and

197 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

198 (B) the minor demonstrates substantial progress in substance [abuse] use disorder
199 treatment.

200 (c) Notwithstanding the requirement in Subsection (5)(a) and in accordance with the
201 requirements of Section 53-3-219, the court may reduce the suspension period required under
202 Section 53-3-219 if:

203 (i) the violation is the minor's second or subsequent violation of this section;

204 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
205 demonstrated substantial progress in substance [abuse] use disorder treatment; and

206 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
207 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
208 consecutive period during the suspension period imposed under Subsection (5)(a); or

209 (B) the person is under 18 years of age and has the person's parent or legal guardian
210 provide an affidavit or sworn statement to the court certifying that to the parent or legal
211 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a

212 one-year consecutive period during the suspension period imposed under Subsection (5)(a).

213 (6) When a minor who is [~~at least 13 years old, but~~] younger than 18 years old[;] is
214 found by the court to have violated this section, Section 78A-6-606 applies to the violation.

215 (7) Notwithstanding Subsections (5)(a) and (b), if a minor is adjudicated under Section
216 78A-6-117, the court may only order substance use disorder treatment or an educational series
217 if the minor has an assessed need for the intervention on the basis of the results of a validated
218 assessment.

219 [~~(7)~~] (8) When a court issues an order suspending a person's driving privileges for a
220 violation of this section, the Driver License Division shall suspend the person's license under
221 Section 53-3-219.

222 [~~(8)~~] (9) When the Department of Public Safety receives the arrest or conviction record
223 of a person for a driving offense committed while the person's license is suspended pursuant to
224 this section, the Department of Public Safety shall extend the suspension for an additional like
225 period of time.

226 [~~(9)~~] (10) This section does not apply to a minor's consumption of an alcoholic product
227 in accordance with this title:

228 (a) for medicinal purposes if:

229 (i) the minor is at least 18 years old; or

230 (ii) the alcoholic product is furnished by:

231 (A) the parent or guardian of the minor; or

232 (B) the minor's health care practitioner, if the health care practitioner is authorized by
233 law to write a prescription; or

234 (b) as part of a religious organization's religious services.

235 Section 3. Section 32B-4-410 is amended to read:

236 **32B-4-410. Unlawful admittance or attempt to gain admittance by minor.**

237 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
238 premises of:

239 (a) a tavern; or

240 (b) a social club licensee, except to the extent authorized by Section 32B-6-406.1.

241 (2) A minor who violates this section is guilty of a class C misdemeanor.

242 (3) (a) If a minor is found by a court to have violated this section and the violation is

243 the minor's first violation of this section, the court may:

- 244 (i) order the minor to complete a screening as defined in Section 41-6a-501;
- 245 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
- 246 screening indicates an assessment to be appropriate; and
- 247 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
- 248 or substance [abuse] use disorder treatment as indicated by an assessment.

249 (b) If a minor is found by a court to have violated this section and the violation is the

250 minor's second or subsequent violation of this section, the court shall:

- 251 (i) order the minor to complete a screening as defined in Section 41-6a-501;
- 252 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
- 253 screening indicates an assessment to be appropriate; and
- 254 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
- 255 or substance [abuse] use disorder treatment as indicated by an assessment.

256 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is

257 found by a court to have violated this section, except as provided in Section 32B-4-411, the

258 court hearing the case shall suspend the minor's driving privileges under Section 53-3-219.

259 (b) Notwithstanding [the provision in] Subsection (4)(a), the court may reduce the

260 suspension period required under Section 53-3-219 if:

- 261 (i) the violation is the minor's first violation of this section; and
- 262 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or
- 263 (B) the minor demonstrates substantial progress in substance [abuse] use disorder
- 264 treatment.

265 (c) Notwithstanding [the requirement in] Subsection (4)(a) and in accordance with [the

266 requirements of] Section 53-3-219, the court may reduce the suspension period required under

267 Section 53-3-219 if:

- 268 (i) the violation is the minor's second or subsequent violation of this section;
- 269 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
- 270 demonstrated substantial progress in substance [abuse] use disorder treatment; and
- 271 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
- 272 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
- 273 consecutive period during the suspension period imposed under Subsection (4)(a); or

274 (B) the person is under 18 years of age and has the person's parent or legal guardian
275 provide an affidavit or sworn statement to the court certifying that to the parent or legal
276 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
277 one-year consecutive period during the suspension period imposed under Subsection (4)(a).

278 (5) When a minor who is [~~at least 13 years old, but~~] younger than 18 years old[,] is
279 found by a court to have violated this section, Section 78A-6-606 applies to the violation.

280 (6) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under Section
281 78A-6-117, the court may only order substance use disorder treatment or an educational series
282 if the minor has an assessed need for the intervention on the basis of the results of a validated
283 assessment.

284 [~~(6)~~] (7) When a court issues an order suspending a person's driving privileges for a
285 violation of this section, the Driver License Division shall suspend the person's license under
286 Section 53-3-219.

287 [~~(7)~~] (8) When the Department of Public Safety receives the arrest or conviction record
288 of a person for a driving offense committed while the person's license is suspended pursuant to
289 this section, the Department of Public Safety shall extend the suspension for an additional like
290 period of time.

291 Section 4. Section 32B-4-411 is amended to read:

292 **32B-4-411. Minor's unlawful use of proof of age.**

293 (1) As used in this section, "proof of age violation" means a violation by a minor of:

294 (a) Chapter 1, Part 4, Proof of Age Act; or

295 (b) if as part of the violation the minor uses a proof of age in violation of Chapter 1,
296 Part 4, Proof of Age Act:

297 (i) Section 32B-4-409; or

298 (ii) Section 32B-4-410.

299 (2) If a court finds a minor engaged in a proof of age violation, notwithstanding the
300 penalties provided for in Subsection (1):

301 (a) (i) for a first violation, the minor is guilty of a class B misdemeanor;

302 (ii) for a second violation, the minor is guilty of a class A misdemeanor; and

303 (iii) for a third or subsequent violation, the minor is guilty of a class A misdemeanor,

304 except that the court may impose:

- 305 (A) a fine of up to \$5,000;
- 306 (B) screening, assessment, or substance [~~abuse~~] use disorder treatment, as defined in
- 307 Section [41-6a-501](#);
- 308 (C) an educational series, as defined in Section [41-6a-501](#);
- 309 (D) alcoholic product related community service or compensatory service work
- 310 program hours;
- 311 (E) fees for restitution and treatment costs;
- 312 (F) defensive driver education courses; or
- 313 (G) a combination of these penalties; and
- 314 (b) (i) for a minor who is [~~at least 13 years old, but~~] younger than 18 years old:
- 315 (A) the court [~~shall~~] may forward to the Driver License Division a record of an
- 316 adjudication under Title 78A, Chapter 6, Juvenile Court Act [~~of 1996~~], for a violation under
- 317 this section; and
- 318 (B) the provisions regarding suspension of a driver license under Section [78A-6-606](#)
- 319 apply; and
- 320 (ii) for a minor who is at least 18 years old, but younger than 21 years old:
- 321 (A) the court shall forward to the Driver License Division a record of conviction for a
- 322 violation under this section; and
- 323 (B) the Driver License Division shall suspend the person's license under Section
- 324 [53-3-220](#).
- 325 (c) Notwithstanding Subsection (2)(a), if a minor is adjudicated under Section
- 326 [78A-6-117](#), the court may order:
- 327 (i) substance use disorder treatment or an educational series only if the minor has an
- 328 assessed need for the intervention based on the results of a validated assessment; and
- 329 (ii) a fine, fee, service hours, or costs in accordance with Section [78A-6-117](#).
- 330 (3) (a) Notwithstanding [~~the requirement in~~] Subsection (2)(b), the court may reduce
- 331 the suspension period under Subsection [53-3-220](#)(1)(e) or [78A-6-606](#)(3)(d) if:
- 332 (i) the violation is the minor's first violation of [~~Section [32B-4-411](#)~~] this section; and
- 333 (ii) (A) the minor completes an educational series as defined in Section [41-6a-501](#); or
- 334 (B) the minor demonstrates substantial progress in substance [~~abuse~~] use disorder
- 335 treatment.

336 (b) Notwithstanding the requirement in Subsection (2)(b), the court may reduce the
337 suspension period under Subsection 53-3-220(1)(e) or 78A-6-606(3)(d) if:

338 (i) the violation is the minor's second or subsequent violation of [~~Section 32B-4-411~~]
339 this section;

340 (ii) the person has completed an educational series as defined in Section 41-6a-501 or
341 demonstrated substantial progress in substance [~~abuse~~] use disorder treatment; and

342 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
343 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
344 consecutive period during the suspension period imposed under Subsection 53-3-220(1)(e) or
345 78A-6-606(3)(d); or

346 (B) the minor is under 18 years of age and has the minor's parent or legal guardian
347 provide an affidavit or sworn statement to the court certifying that to the parent or legal
348 guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a
349 one-year consecutive period during the suspension period imposed under Subsection
350 53-3-220(1)(e) or 78A-6-606(3)(d).

351 (4) When the Department of Public Safety receives the arrest or conviction record of an
352 individual for a driving offense committed while the individual's license is suspended pursuant
353 to this section, the Department of Public Safety shall extend the suspension for an additional
354 like period of time.

355 (5) A court may not fail to enter a judgment of conviction under this section under a
356 plea in abeyance agreement.

357 Section 5. Section 53A-1-403 is amended to read:

358 **53A-1-403. Education of persons under 21 in custody of or receiving services**
359 **from certain state agencies -- Establishment of coordinating council -- Advisory councils.**

360 (1) For purposes of this section, "board" means the State Board of Education.

361 (2) (a) The board is directly responsible for the education of all persons under the age
362 of 21 who are:

363 (i) [~~in the custody of~~] receiving services from the Department of Human Services;

364 (ii) in the custody of an equivalent agency of a Native American tribe recognized by
365 the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides
366 within the state; or

367 (iii) being held in a juvenile detention facility.

368 (b) The board shall adopt rules, in accordance with Title 63G, Chapter 3, Utah
369 Administrative Rulemaking Act, to provide for the distribution of funds for the education of
370 persons described in Subsection (2)(a).

371 (3) Subsection (2)(a)(ii) does not apply to persons taken into custody for the primary
372 purpose of obtaining access to education programs provided for youth in custody.

373 (4) The board shall, where feasible, contract with school districts or other appropriate
374 agencies to provide educational, administrative, and supportive services, but the board shall
375 retain responsibility for the programs.

376 (5) The Legislature shall establish and maintain separate education budget categories
377 for youth in custody or who are under the jurisdiction of the following state agencies:

378 (a) detention centers and the Divisions of Juvenile Justice Services and Child and
379 Family Services;

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

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

382 (6) (a) The Department of Human Services and the State Board of Education shall
383 appoint a coordinating council to plan, coordinate, and recommend budget, policy, and
384 program guidelines for the education and treatment of persons in the custody of the Division of
385 Juvenile Justice Services and the Division of Child and Family Services.

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

389 (7) A school district contracting to provide services under Subsection (4) shall
390 establish an advisory council to plan, coordinate, and review education and treatment programs
391 for persons held in custody in the district.

392 Section 6. Section **53A-3-402** is amended to read:

393 **53A-3-402. Powers and duties generally.**

394 (1) [~~Each~~] A local school board shall:

395 (a) implement the core standards for Utah public schools [~~utilizing~~] using instructional
396 materials that best correlate to the core standards for Utah public schools and graduation
397 requirements;

398 (b) administer tests, required by the State Board of Education, which measure the
399 progress of each student, and coordinate with the state superintendent and State Board of
400 Education to assess results and create plans to improve the student's progress, which shall be
401 submitted to the State Board of Education for approval;

402 (c) use progress-based assessments as part of a plan to identify schools, teachers, and
403 students that need remediation and determine the type and amount of federal, state, and local
404 resources to implement remediation;

405 (d) develop early warning systems for students or classes failing to make progress;

406 (e) work with the State Board of Education to establish a library of documented best
407 practices, consistent with state and federal regulations, for use by the local districts; and

408 (f) implement training programs for school administrators, including basic
409 management training, best practices in instructional methods, budget training, staff
410 management, managing for learning results and continuous improvement, and how to help
411 every child achieve optimal learning in basic academic subjects.

412 (2) Local school boards shall spend minimum school program funds for programs and
413 activities for which the State Board of Education has established minimum standards or rules
414 under Section [53A-1-402](#).

415 (3) (a) A board may purchase, sell, and make improvements on school sites, buildings,
416 and equipment and construct, erect, and furnish school buildings.

417 (b) School sites or buildings may only be conveyed or sold on board resolution
418 affirmed by at least two-thirds of the members.

419 (4) (a) A board may participate in the joint construction or operation of a school
420 attended by children residing within the district and children residing in other districts either
421 within or outside the state.

422 (b) Any agreement for the joint operation or construction of a school shall:

423 (i) be signed by the president of the board of each participating district;

424 (ii) include a mutually agreed upon pro rata cost; and

425 (iii) be filed with the State Board of Education.

426 (5) A board may establish, locate, and maintain elementary, secondary, and applied
427 technology schools.

428 (6) Except as provided in Section [53A-1-1001](#), a board may enroll children in school

429 who are at least five years of age before September 2 of the year in which admission is sought.

430 (7) A board may establish and support school libraries.

431 (8) A board may collect damages for the loss, injury, or destruction of school property.

432 (9) A board may authorize guidance and counseling services for children and their
433 parents or guardians [~~prior to~~] before, during, or following enrollment of the children in
434 schools.

435 (10) (a) A board shall administer and implement federal educational programs in
436 accordance with Title 53A, Chapter 1, Part 9, Implementing Federal or National Education
437 Programs Act.

438 (b) Federal funds are not considered funds within the school district budget under Title
439 53A, Chapter 19, Public School Budgets.

440 (11) (a) A board may organize school safety patrols and adopt rules under which the
441 patrols promote student safety.

442 (b) A student appointed to a safety patrol shall be at least 10 years old and have written
443 parental consent for the appointment.

444 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion
445 of a highway intended for vehicular traffic use.

446 (d) Liability may not attach to a school district, its employees, officers, or agents or to a
447 safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting
448 the program by virtue of the organization, maintenance, or operation of a school safety patrol.

449 (12) (a) A board may on its own behalf, or on behalf of an educational institution for
450 which the board is the direct governing body, accept private grants, loans, gifts, endowments,
451 devises, or bequests that are made for educational purposes.

452 (b) These contributions are not subject to appropriation by the Legislature.

453 (13) (a) A board may appoint and fix the compensation of a compliance officer to issue
454 citations for violations of Subsection [76-10-105\(2\)](#).

455 (b) A person may not be appointed to serve as a compliance officer without the
456 person's consent.

457 (c) A teacher or student may not be appointed as a compliance officer.

458 (14) A board shall adopt bylaws and rules for [~~its~~] the board's own procedures.

459 (15) (a) A board shall make and enforce rules necessary for the control and

460 management of the district schools.

461 (b) [~~All board~~] Board rules and policies shall be in writing, filed, and referenced for
462 public access.

463 (16) A board may hold school on legal holidays other than Sundays.

464 (17) (a) [~~Each~~] A board shall establish for each school year a school traffic safety
465 committee to implement this Subsection (17).

466 (b) The committee shall be composed of one representative of:

467 (i) the schools within the district;

468 (ii) the Parent Teachers' Association of the schools within the district;

469 (iii) the municipality or county;

470 (iv) state or local law enforcement; and

471 (v) state or local traffic safety engineering.

472 (c) The committee shall:

473 (i) receive suggestions from school community councils, parents, teachers, and others
474 and recommend school traffic safety improvements, boundary changes to enhance safety, and
475 school traffic safety program measures;

476 (ii) review and submit annually to the Department of Transportation and affected
477 municipalities and counties a child access routing plan for each elementary, middle, and junior
478 high school within the district;

479 (iii) consult the Utah Safety Council and the Division of Family Health Services and
480 provide training to all school children in kindergarten through grade six, within the district, on
481 school crossing safety and use; and

482 (iv) help ensure the district's compliance with rules made by the Department of
483 Transportation under Section [41-6a-303](#).

484 (d) The committee may establish subcommittees as needed to assist in accomplishing
485 its duties under Subsection (17)(c).

486 (18) (a) [~~Each~~] A school board shall adopt and implement a comprehensive emergency
487 response plan to prevent and combat violence in [~~its~~] the school board's public schools, on
488 school grounds, on its school vehicles, and in connection with school-related activities or
489 events.

490 (b) The plan shall:

- 491 (i) include prevention, intervention, and response components;
- 492 (ii) be consistent with the student conduct and discipline policies required for school
493 districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;
- 494 (iii) require inservice training for all district and school building staff on what their
495 roles are in the emergency response plan;
- 496 (iv) provide for coordination with local law enforcement and other public safety
497 representatives in preventing, intervening, and responding to violence in the areas and activities
498 referred to in Subsection (18)(a); and
- 499 (v) include procedures to notify a student, to the extent practicable, who is off campus
500 at the time of a school violence emergency because the student is:
- 501 (A) participating in a school-related activity; or
- 502 (B) excused from school for a period of time during the regular school day to
503 participate in religious instruction at the request of the student's parent or guardian.
- 504 (c) The State Board of Education, through the state superintendent of public
505 instruction, shall develop comprehensive emergency response plan models that local school
506 boards may use, where appropriate, to comply with Subsection (18)(a).
- 507 (d) ~~Each~~ A local school board shall, by July 1 of each year, certify to the State Board
508 of Education that its plan has been practiced at the school level and presented to and reviewed
509 by its teachers, administrators, students, and their parents and local law enforcement and public
510 safety representatives.
- 511 (19) (a) ~~Each~~ A local school board may adopt an emergency response plan for the
512 treatment of sports-related injuries that occur during school sports practices and events.
- 513 (b) The plan may be implemented by each secondary school in the district that has a
514 sports program for students.
- 515 (c) The plan may:
- 516 (i) include emergency personnel, emergency communication, and emergency
517 equipment components;
- 518 (ii) require inservice training on the emergency response plan for school personnel who
519 are involved in sports programs in the district's secondary schools; and
- 520 (iii) provide for coordination with individuals and agency representatives who:
- 521 (A) are not employees of the school district; and

522 (B) would be involved in providing emergency services to students injured while
523 participating in sports events.

524 (d) The board, in collaboration with the schools referred to in Subsection (19)(b), may
525 review the plan each year and make revisions when required to improve or enhance the plan.

526 (e) The State Board of Education, through the state superintendent of public
527 instruction, shall provide local school boards with an emergency plan response model that local
528 boards may use to comply with the requirements of this Subsection (19).

529 (20) A board shall do all other things necessary for the maintenance, prosperity, and
530 success of the schools and the promotion of education.

531 (21) (a) Before closing a school or changing the boundaries of a school, a board shall:

532 (i) hold a public hearing, as defined in Section [10-9a-103](#); and

533 (ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

534 (b) The notice of a public hearing required under Subsection (21)(a) shall:

535 (i) indicate the:

536 (A) school or schools under consideration for closure or boundary change; and

537 (B) date, time, and location of the public hearing; and

538 (ii) at least 10 days [~~prior to~~] before the public hearing, be:

539 (A) published:

540 (I) in a newspaper of general circulation in the area; and

541 (II) on the Utah Public Notice Website created in Section [63F-1-701](#); and

542 (B) posted in at least three public locations within the municipality or on the district's
543 official website.

544 (22) A board may implement a facility energy efficiency program established under
545 Title 11, Chapter 44, Performance Efficiency Act.

546 (23) A board may establish or partner with a certified youth court program, in
547 accordance with Section [78A-6-1203](#), or establish or partner with a comparable restorative
548 justice program, in coordination with schools in that district. A school may refer a student to
549 youth court or a comparable restorative justice program in accordance with Section
550 [53A-11-911](#).

551 (24) (a) A board may authorize and establish procedures to create a multidisciplinary
552 team to respond to a student who fails to comply with the program or the agreement reached

553 through youth court or a comparable restorative justice program in accordance with Section
554 53A-11-911.

555 (b) A multidisciplinary team shall include:

556 (i) the minor;

557 (ii) the minor's parent, guardian, or custodial relative;

558 (iii) a school administrator or the school administrator's designee;

559 (iv) a clinician who has training and experience coordinating behavioral or mental
560 health treatment for juveniles if a clinician is available; and

561 (v) any other person or agency representative who is needed to assist in providing
562 recommendations for the particular needs of the minor and family.

563 Section 7. Section 53A-11-101.7 is amended to read:

564 **53A-11-101.7. Truancy -- Notice of truancy -- Failure to cooperate with school**
565 **authorities.**

566 (1) Except as provided in Section 53A-11-102 or 53A-11-102.5, a school-age minor
567 who is enrolled in a public school shall attend the public school in which the school-age minor
568 is enrolled.

569 (2) A local school board, charter school governing board, or school district may impose
570 administrative penalties on a school-age minor in accordance with Section 53A-11-911 who is
571 truant.

572 (3) A local school board or charter school governing board:

573 (a) may authorize a school administrator, a designee of a school administrator, a law
574 enforcement officer acting as a school resource officer, or a truancy specialist to issue notices
575 of truancy to school-age minors who are at least 12 years old; and

576 (b) shall establish a procedure for a school-age minor, or the school-age minor's
577 parents, to contest a notice of truancy.

578 (4) The notice of truancy described in Subsection (3):

579 (a) may not be issued until the school-age minor has been truant at least five times
580 during the school year;

581 (b) may not be issued to a school-age minor who is less than 12 years old;

582 (c) may not be issued to a minor exempt from school attendance as provided in Section
583 53A-11-102 or 53A-11-102.5;

584 (d) shall direct the school-age minor and the parent of the school-age minor to:
585 (i) meet with school authorities to discuss the school-age minor's trancies; and
586 (ii) cooperate with the school board, local charter board, or school district in securing
587 regular attendance by the school-age minor; and
588 (e) shall be mailed to, or served on, the school-age minor's parent.

589 [~~(5)(a) Except as provided in Subsection (5)(b), a habitual truant citation may be~~
590 ~~issued to a habitual truant if:]~~

591 [~~(i) the local school board, charter school governing board, or school district has made~~
592 ~~reasonable efforts, under Section 53A-11-103, to resolve the school attendance problems of the~~
593 ~~habitual truant; and]~~

594 [~~(ii) the efforts to resolve the school attendance problems, described in Subsection~~
595 ~~(5)(a)(i), have not been successful.]~~

596 [~~(b) A habitual truant citation may not be issued to a habitual truant if the habitual~~
597 ~~truant:]~~

598 [~~(i) has at least a 3.5 cumulative grade point average; and]~~

599 [~~(ii) is at least 16 years old.]~~

600 [~~(6) A habitual truant to whom a habitual truant citation is issued under Subsection~~
601 ~~(5):]~~

602 [~~(a) shall be referred to the juvenile court for violation of Subsection (1); and]~~

603 [~~(b) is subject to the jurisdiction of the juvenile court.]~~

604 [~~(7) A notice of truancy or a habitual truant citation may only be issued by:]~~

605 [~~(a) a school administrator, or a truancy specialist, who is authorized by a local school~~
606 ~~board or charter school governing board;]~~

607 [~~(b) a designee of a school administrator described in Subsection (7)(a); or]~~

608 [~~(c) a law enforcement officer acting as a school resource officer.]~~

609 [~~(8)~~ (5) Nothing in this part prohibits a local school board, charter school governing
610 board, or school district from taking action to resolve a truancy problem with a school-age
611 minor who has been truant less than five times, provided that the action does not conflict with
612 the requirements of this part.

613 [~~(9) Nothing in this part allows a local school board or charter school governing board~~
614 ~~to issue a citation pursuant to this section if the minor is exempt from school attendance as~~

615 provided in Section ~~53A-11-102 or 53A-11-102.5.~~]

616 Section 8. Section **53A-11-103** is amended to read:

617 **53A-11-103. Duties of a school board, local charter board, or school district in**
 618 **resolving attendance problems -- Parental involvement -- Liability not imposed.**

619 (1) (a) Except as provided in Subsection (1)(b), a local school board, local charter
 620 board, or school district shall make efforts to resolve the school attendance problems of each
 621 school-age minor who is, or should be, enrolled in the school district.

622 (b) A minor exempt from school attendance under Section ~~53A-11-102~~ or
 623 ~~53A-11-102.5~~ is not considered to be a minor who is or should be enrolled in a school district
 624 or charter school under Subsection (1)(a).

625 (2) The efforts described in Subsection (1) shall include, as reasonably feasible:

626 (a) counseling of the minor by school authorities;

627 (b) issuing a notice of truancy to a school-age minor who is at least 12 years old, in
 628 accordance with Section ~~53A-11-101.7~~;

629 [~~(c) issuing a habitual truant citation, in accordance with Section ~~53A-11-101.7~~;~~]

630 [~~(d)~~] (c) issuing a notice of compulsory education violation to a parent of a school-age
 631 child, in accordance with Section ~~53A-11-101.5~~;

632 [~~(e)~~] (d) making any necessary adjustment to the curriculum and schedule to meet
 633 special needs of the minor;

634 [~~(f)~~] (e) considering alternatives proposed by a parent;

635 [~~(g)~~] (f) monitoring school attendance of the minor;

636 [~~(h)~~] (g) voluntary participation in truancy mediation, if available; and

637 [~~(i)~~] (h) providing a school-age minor's parent, upon request, with a list of resources
 638 available to assist the parent in resolving the school-age minor's attendance problems.

639 (3) In addition to the efforts described in Subsection (2), the local school board, local
 640 charter board, or school district may enlist the assistance of community and law enforcement
 641 agencies as appropriate and reasonably feasible in accordance with Section ~~53A-11-911~~.

642 (4) This section [~~shall~~] does not impose [~~any~~] civil liability on boards of education,
 643 local school boards, local charter boards, school districts, or their employees.

644 (5) Proceedings initiated under this part do not obligate or preclude action by the
 645 Division of Child and Family Services under Section ~~78A-6-319~~.

646 Section 9. Section 53A-11-105 is amended to read:

647 **53A-11-105. Taking custody of a person believed to be a truant minor --**

648 **Disposition -- Reports -- Immunity from liability.**

649 (1) A peace officer or public school administrator may take a minor into temporary
650 custody if there is reason to believe the minor is a truant minor.

651 (2) An individual taking a school-age minor into custody under Subsection (1) shall,
652 without unnecessary delay, release the minor to:

653 (a) the principal of the minor's school;

654 (b) a person who has been designated by the local school board or local charter board
655 to receive and return the minor to school; or

656 (c) a [receiving] truancy center established under Subsection (5).

657 (3) If the minor refuses to return to school or go to the [receiving] truancy center, the
658 officer or administrator shall, without unnecessary delay, notify the minor's parents and release
659 the minor to their custody.

660 (4) If the parents cannot be reached or are unable or unwilling to accept custody and
661 none of the options in Subsection (2) are available, the minor shall be referred to the Division
662 of Child and Family Services.

663 (5) (a) A local school board or local charter board, singly or jointly with another school
664 board, may establish or designate [receiving] truancy centers within existing school buildings
665 and staff the centers with existing teachers or staff to provide educational guidance and
666 counseling for truant minors. Upon receipt of a truant minor, the center shall, without
667 unnecessary delay, notify and direct the minor's parents to come to the center, pick up the
668 minor, and return the minor to the school in which the minor is enrolled.

669 (b) If the parents cannot be reached or are unable or unwilling to comply with the
670 request within a reasonable time, the center shall take such steps as are reasonably necessary to
671 insure the safety and well being of the minor, including, when appropriate, returning the minor
672 to school or referring the minor to the Division of Child and Family Services. A minor taken
673 into custody under this section may not be placed in a detention center or other secure
674 confinement facility.

675 (6) Action taken under this section shall be reported to the appropriate school district.
676 The district shall promptly notify the minor's parents of the action taken.

677 (7) The Utah Governmental Immunity Act applies to all actions taken under this
678 section.

679 (8) Nothing in this section may be construed to grant authority to a public school
680 administrator to place a minor in the custody of the Division of Child and Family Services,
681 without complying with [~~the provisions of~~] Title 62A, Chapter 4a, Part 2, Child Welfare
682 Services, [~~and Part 2a, Minors in Custody on Grounds Other Than Abuse or Neglect,~~] and [of]
683 Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings[~~, and Part 4,~~
684 ~~Minors in Custody on Grounds Other Than Abuse or Neglect~~].

685 Section 10. Section **53A-11-403** is amended to read:

686 **53A-11-403. Reporting procedure.**

687 (1) The principal of a public school affected by this chapter shall appoint one educator
688 as the "designated educator" to make all reports required under Sections [53A-11-401](#) through
689 [53A-11-404](#).

690 (2) The designated educator, upon receiving a report of a prohibited act from an
691 educator under Section [53A-11-402](#), shall immediately report the violation to the student's
692 parent or legal guardian, and may report the violation to an appropriate law enforcement
693 agency or official, in accordance with Section [53A-11-911](#).

694 (3) The designated educator may not disclose to the student or to the student's parent or
695 legal guardian the identity of the educator who made the initial report.

696 Section 11. Section **53A-11-901** is amended to read:

697 **53A-11-901. Public school discipline policies -- Basis of the policies --**
698 **Enforcement.**

699 (1) The Legislature recognizes that every student in the public schools should have the
700 opportunity to learn in an environment which is safe, conducive to the learning process, and
701 free from unnecessary disruption.

702 (2) (a) To foster such an environment, each local school board or governing board of a
703 charter school, with input from school employees, parents and guardians of students, students,
704 and the community at large, shall adopt conduct and discipline policies for the public schools
705 in accordance with Section [53A-11-911](#).

706 (b) [~~Each~~] A district or charter school shall base its policies on the principle that every
707 student is expected:

708 (i) to follow accepted rules of conduct; and
709 (ii) to show respect for other people and to obey persons in authority at the school.
710 (c) (i) On or before September 1, 2015, the State Board of Education shall revise the
711 conduct and discipline policy models for elementary and secondary public schools to include
712 procedures for responding to reports received through the School Safety and Crisis Line under
713 Subsection [53A-11-1503\(3\)](#).

714 (ii) Each district or charter school shall use the models, where appropriate, in
715 developing its conduct and discipline policies under this chapter.

716 (d) The policies shall emphasize that certain behavior, most particularly behavior
717 which disrupts, is unacceptable and may result in disciplinary action.

718 (3) The local superintendent and designated employees of the district or charter school
719 shall enforce the policies so that students demonstrating unacceptable behavior and their
720 parents or guardians understand that such behavior will not be tolerated and will be dealt with
721 in accordance with the district's conduct and discipline policies.

722 Section 12. Section **53A-11-908** is amended to read:

723 **53A-11-908. Extracurricular activities -- Prohibited conduct -- Reporting of**
724 **violations -- Limitation of liability.**

725 (1) The Legislature recognizes that:

726 (a) participation in student government and extracurricular activities may confer
727 important educational and lifetime benefits upon students, and encourages school districts and
728 charter schools to provide a variety of opportunities for all students to participate in such
729 activities in meaningful ways;

730 (b) there is no constitutional right to participate in these types of activities, and does
731 not through this section or any other provision of law create such a right;

732 (c) students who participate in student government and extracurricular activities,
733 particularly competitive athletics, and the adult coaches, advisors, and assistants who direct
734 those activities, become role models for others in the school and community;

735 (d) these individuals often play major roles in establishing standards of acceptable
736 behavior in the school and community, and establishing and maintaining the reputation of the
737 school and the level of community confidence and support afforded the school; and

738 (e) it is of the utmost importance that those involved in student government, whether as

739 officers or advisors, and those involved in competitive athletics and related activities, whether
740 students or staff, comply with all applicable laws and rules of behavior and conduct themselves
741 at all times in a manner befitting their positions and responsibilities.

742 (2) (a) The State Board of Education may, and local boards of education and governing
743 boards of charter schools shall, adopt rules implementing this section that apply to both
744 students and staff.

745 (b) ~~[Those]~~ The rules described in Subsection (2)(a) shall include prohibitions against
746 the following types of conduct in accordance with Section 53A-11-911, while in the classroom,
747 on school property, during school sponsored activities, or regardless of the location or
748 circumstance, affecting a person or property described in Subsections 53A-11-902(5)(a)
749 through (d):

750 (i) use of foul, abusive, or profane language while engaged in school related activities;

751 (ii) illicit use, possession, or distribution of controlled substances or drug
752 paraphernalia, and the use, possession, or distribution of an electronic cigarette as defined in
753 Section 76-10-101, tobacco, or alcoholic beverages contrary to law; and

754 (iii) hazing, demeaning, or assaultive behavior, whether consensual or not, including
755 behavior involving physical violence, restraint, improper touching, or inappropriate exposure
756 of body parts not normally exposed in public settings, forced ingestion of any substance, or any
757 act which would constitute a crime against a person or public order under Utah law.

758 (3) (a) School employees who reasonably believe that a violation of this section may
759 have occurred shall immediately report that belief to the school principal, district
760 superintendent, or chief administrative officer of a charter school.

761 (b) Principals who receive a report under Subsection (3)(a) shall submit a report of the
762 alleged incident, and actions taken in response, to the district superintendent or the
763 superintendent's designee within 10 working days after receipt of the report.

764 (c) Failure of a person holding a professional certificate to report as required under this
765 Subsection (3) constitutes an unprofessional practice.

766 (4) Limitations of liability set forth under Section 53A-11-1004 apply to this section.

767 Section 13. Section 53A-11-910 is amended to read:

768 **53A-11-910. Disruptive student behavior.**

769 (1) As used in this section:

- 770 (a) "Disruptive student behavior" includes:
- 771 (i) the grounds for suspension or expulsion described in Section [53A-11-904](#); and
- 772 (ii) the conduct described in Subsection [53A-11-908\(2\)\(b\)](#).
- 773 (b) "Parent" includes:
- 774 (i) a custodial parent of a school-age minor;
- 775 (ii) a legally appointed guardian of a school-age minor; or
- 776 (iii) any other person purporting to exercise any authority over the minor which could
- 777 be exercised by a person described in Subsection (1)(b)(i) or (ii).
- 778 (c) "Qualifying minor" means a school-age minor who:
- 779 (i) is at least nine years old; or
- 780 (ii) turns nine years old at any time during the school year.
- 781 (d) "School year" means the period of time designated by a local school board or local
- 782 charter board as the school year for the school where the school-age minor is enrolled.
- 783 (2) A local school board, school district, governing board of a charter school, or charter
- 784 school may impose administrative penalties in accordance with Section [53A-11-911](#) on a
- 785 school-age minor who violates this part.
- 786 [~~(3) (a) It is unlawful for a school-age minor to engage in disruptive student behavior.]~~
- 787 [~~(b) A qualifying minor is subject to the jurisdiction of the juvenile court if the~~
- 788 ~~qualifying minor:]~~
- 789 [~~(i) engages in disruptive student behavior, that does not result in suspension or~~
- 790 ~~expulsion, at least six times during the school year;]~~
- 791 [~~(ii) (A) engages in disruptive student behavior, that does not result in suspension or~~
- 792 ~~expulsion, at least three times during the school year; and]~~
- 793 [~~(B) engages in disruptive student behavior, that results in suspension or expulsion, at~~
- 794 ~~least once during the school year; or]~~
- 795 [~~(iii) engages in disruptive student behavior, that results in suspension or expulsion, at~~
- 796 ~~least twice during the school year.]~~
- 797 [~~(4)~~] (3) (a) A local school board or governing board of a charter school shall:
- 798 (i) authorize a school administrator or a designee of a school administrator to issue
- 799 notices of disruptive student behavior to qualifying minors; and
- 800 (ii) establish a procedure for a qualifying minor, or a qualifying minor's parent, to

801 contest a notice of disruptive student behavior.

802 (b) A school representative shall provide to a parent of a school-age minor, a list of
803 resources available to assist the parent in resolving the school-age minor's disruptive student
804 behavior problem.

805 (c) A local school board or governing board of a charter school shall establish
806 procedures for a school counselor or other designated school representative to work with a
807 qualifying minor who engages in disruptive student behavior in order to attempt to resolve the
808 minor's disruptive student behavior problems [~~before the qualifying minor becomes subject to~~
809 ~~the jurisdiction of the juvenile court as provided for under this section~~].

810 [~~(5)~~] (4) The notice of disruptive student behavior described in Subsection [~~(4)~~] (3)(a):

811 (a) shall be issued to a qualifying minor who:

812 (i) engages in disruptive student behavior, that does not result in suspension or
813 expulsion, three times during the school year; or

814 (ii) engages in disruptive student behavior, that results in suspension or expulsion, once
815 during the school year;

816 (b) shall require that the qualifying minor and a parent of the qualifying minor:

817 (i) meet with school authorities to discuss the qualifying minor's disruptive student
818 behavior; and

819 (ii) cooperate with the local school board or governing board of a charter school in
820 correcting the school-age minor's disruptive student behavior; and

821 [~~(c) shall contain a statement indicating:~~]

822 [~~(i) the number of additional times that, if the qualifying minor engages in disruptive~~
823 ~~student behavior that does not result in suspension or expulsion, will result in the qualifying~~
824 ~~minor receiving a habitual disruptive student behavior citation; and]~~

825 [~~(ii) that the qualifying minor will receive a habitual disruptive student behavior~~
826 ~~citation if the qualifying minor engages in disruptive student behavior that results in suspension~~
827 ~~or expulsion; and]~~

828 [~~(d)~~] (c) shall be mailed by certified mail to, or served on, a parent of the qualifying
829 minor.

830 [~~(6)~~] (5) A habitual disruptive student behavior [~~citation~~] notice:

831 (a) may only be issued to a qualifying minor who:

832 (i) engages in disruptive student behavior, that does not result in suspension or
833 expulsion, at least six times during the school year;

834 (ii) (A) engages in disruptive student behavior, that does not result in suspension or
835 expulsion, at least three times during the school year; and

836 (B) engages in disruptive student behavior, that results in suspension or expulsion, at
837 least once during the school year; or

838 (iii) engages in disruptive student behavior, that results in suspension or expulsion, at
839 least twice during the school year; and

840 (b) may only be issued by a school administrator, a designee of a school administrator,
841 or a truancy specialist, who is authorized by a local school board or governing board of a local
842 charter school to issue a habitual disruptive student behavior ~~[citations]~~ notice.

843 ~~[(7)] (6)~~ (a) A qualifying minor to whom a habitual disruptive student behavior
844 ~~[citation]~~ notice is issued under Subsection ~~[(6) shall]~~ (5) may not be referred to the juvenile
845 court ~~[for violation of Subsection (3)].~~

846 (b) Within five days after the day on which a habitual disruptive student behavior
847 ~~[citation]~~ notice is issued, a representative of the school district or charter school shall provide
848 documentation, to a parent of the qualifying minor who receives the ~~[citation]~~ notice, of the
849 efforts made by a school counselor or representative under Subsection ~~[(4)] (3)(c)~~.

850 ~~[(8) Nothing in this part prohibits a local school board, school district, governing board
851 of a charter school, or charter school from taking any lawful action not in conflict with the
852 provisions of this section, including action described in this part and action relating to a
853 habitually truant or ungovernable child, to address a disruptive student behavior problem of:]~~

854 ~~[(a) a school-age minor who is not a qualifying minor; or]~~

855 ~~[(b) a qualifying minor, regardless of the number of times that the qualifying minor has
856 engaged in disruptive student behavior during the school year.]~~

857 Section 14. Section **53A-11-911** is enacted to read:

858 **53A-11-911. Tiered responses to school-based behavior.**

859 (1) As used in this section:

860 (a) "Class A misdemeanor person offense" means a class A misdemeanor described in
861 Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 5b, Sexual Exploitation
862 Act.

863 (b) "Mobile crisis outreach team" means the same as that term is defined in Section
864 78A-6-105.

865 (c) "Nonperson class A misdemeanor" means a class A misdemeanor that is not a class
866 A misdemeanor person offense.

867 (d) "Restorative justice program" means a school-based program that is designed to
868 enhance school safety, reduce school suspensions, and limit referrals to court, and is designed
869 to help minors take responsibility for and repair the harm of behavior that occurs in school.

870 (2) This section applies to a minor enrolled in school who is alleged to have committed
871 an offense:

872 (a) on school grounds; or

873 (b) that is truancy.

874 (3) If the alleged offense is a class C misdemeanor, an infraction, a status offense on
875 school grounds, or truancy, the minor may not be referred to law enforcement or court but may
876 be referred to alternative school-related interventions, including:

877 (a) a mobile crisis outreach team, as defined in Section 78A-6-105;

878 (b) a receiving center operated by the Division of Juvenile Justice Services in
879 accordance with Section 62A-7-104; and

880 (c) a youth court or comparable restorative justice program.

881 (4) Except as provided in Subsection (5), if an offense alleged under Subsection (2) is a
882 class B misdemeanor or a nonperson class A misdemeanor, the following procedure may apply:

883 (a) the school administrator or the school administrator's designee shall refer the minor
884 to a youth court in accordance with Section 78A-6-1203 or a comparable restorative justice
885 program within the school setting;

886 (b) if a minor under Subsection (3)(a) elects not to participate in the program or fails to
887 comply with the program or the agreement reached through youth court or a comparable
888 restorative justice program, the minor shall then be referred to a multi-disciplinary team
889 established by the school board, local charter board, or school in accordance with Section
890 53A-3-402;

891 (c) the multi-disciplinary team shall review each case referral and establish a plan to
892 reduce the likelihood of a referral to juvenile court; and

893 (d) the minor may only be referred to law enforcement, the court, or a prosecutor in

894 accordance with Section 78A-6-602 if the minor does not comply with the plan established by
895 the multi-disciplinary team.

896 (5) (a) The procedure under Subsection (4) does not apply if the offense alleged under
897 Subsection (2) is a class B misdemeanor or a class A misdemeanor and the offense is an
898 offense:

899 (i) against a person committed as part of gang activity; or

900 (ii) where a dangerous weapon, as defined in Subsection 76-1-601(5), is used in the
901 commission of the offense.

902 (b) In a case under this Subsection (5), or in the case of any class A misdemeanor
903 person offense or felony alleged under Subsection (2), the procedure under Subsection (4) may
904 be followed, or the offense may be referred directly to law enforcement, juvenile court, or a
905 prosecutor.

906 Section 15. Section **53A-11-1302** is amended to read:

907 **53A-11-1302. Reporting of prohibited acts affecting a school -- Confidentiality.**

908 (1) A person who has reasonable cause to believe that an individual has committed a
909 prohibited act shall, in accordance with Section 53A-11-911, immediately notify:

910 [~~(a) the nearest law enforcement agency;~~]

911 [~~(b)~~] (a) the principal;

912 [~~(c)~~] (b) an administrator of the affected school;

913 [~~(d)~~] (c) the superintendent of the affected school district; or

914 [~~(e)~~] (d) an administrator of the affected school district.

915 (2) If notice is given to a school official, the official may authorize an investigation
916 into allegations involving school property, students, or school district employees.

917 (3) [~~School officials~~] A school official may only refer a complaint of an alleged
918 prohibited act reported as occurring on school grounds or in connection with school-sponsored
919 activities to an appropriate law enforcement agency[~~. Referrals shall be made by school~~
920 ~~officials if the complaint alleges the prohibited act occurred elsewhere] in accordance with
921 Section 53A-11-911.~~

922 (4) The identity of persons making reports pursuant to this section shall be kept
923 confidential.

924 Section 16. Section **53A-11-1604** is amended to read:

925 **53A-11-1604. Contracts between an LEA and law enforcement for school**
926 **resource officer services -- Requirements.**

927 (1) An LEA may contract with a law enforcement agency or an individual to provide
928 school resource officer services at the LEA if the LEA's governing authority reviews and
929 approves the contract.

930 (2) If an LEA contracts with a law enforcement agency or an individual to provide
931 SRO services at the LEA, the LEA's governing authority shall require in the contract:

932 (a) an acknowledgment by the law enforcement agency or the individual that an SRO
933 hired under the contract shall:

934 (i) provide for and maintain a safe, healthy, and productive learning environment in a
935 school;

936 (ii) act as a positive role model to students;

937 (iii) work to create a cooperative, proactive, and problem-solving partnership between
938 law enforcement and the LEA;

939 (iv) emphasize the use of restorative approaches to address negative behavior; and

940 (v) at the request of the LEA, teach a vocational law enforcement class;

941 (b) a description of the shared understanding of the LEA and the law enforcement
942 agency or individual regarding the roles and responsibilities of law enforcement and the LEA
943 to:

944 (i) maintain safe schools;

945 (ii) improve school climate; and

946 (iii) support educational opportunities for students;

947 (c) a designation of student offenses that the SRO shall confer with the LEA to resolve,
948 including an offense that:

949 (i) is a minor violation of the law; and

950 (ii) would not violate the law if the offense was committed by an adult;

951 (d) a designation of student offenses that are administrative issues that an SRO shall
952 refer to a school administrator for resolution in accordance with Section [53A-11-911](#);

953 (e) a detailed description of the rights of a student under state and federal law with
954 regard to:

955 (i) searches;

- 956 (ii) questioning; and
- 957 (iii) information privacy;
- 958 (f) a detailed description of:
 - 959 (i) job duties;
 - 960 (ii) training requirements; and
 - 961 (iii) other expectations of the SRO and school administration in relation to law
 - 962 enforcement at the LEA;
- 963 (g) that an SRO who is hired under the contract and the principal at the school where
- 964 an SRO will be working, or the principal's designee, will jointly complete the SRO training
- 965 described in Section 53A-11-1603; and
- 966 (h) if the contract is between an LEA and a law enforcement agency, that:
 - 967 (i) both parties agree to jointly discuss SRO applicants; and
 - 968 (ii) the law enforcement agency will accept feedback from an LEA about an SRO's
 - 969 performance.

970 Section 17. Section 58-37-8 is amended to read:

971 **58-37-8. Prohibited acts -- Penalties.**

972 (1) Prohibited acts A -- Penalties and reporting:

973 (a) Except as authorized by this chapter, it is unlawful for any person to knowingly and

974 intentionally:

- 975 (i) produce, manufacture, or dispense, or to possess with intent to produce,
- 976 manufacture, or dispense, a controlled or counterfeit substance;
- 977 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
- 978 arrange to distribute a controlled or counterfeit substance;
- 979 (iii) possess a controlled or counterfeit substance with intent to distribute; or
- 980 (iv) engage in a continuing criminal enterprise where:

981 (A) the person participates, directs, or engages in conduct that results in any violation

982 of any provision of Title 58, Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug

983 Paraphernalia Act, 37b, Imitation Controlled Substances Act, 37c, Utah Controlled Substance

984 Precursor Act, or 37d, Clandestine Drug Lab Act, that is a felony; and

985 (B) the violation is a part of a continuing series of two or more violations of Title 58,

986 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,

987 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,
988 Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or
989 more persons with respect to whom the person occupies a position of organizer, supervisor, or
990 any other position of management.

991 (b) Any person convicted of violating Subsection (1)(a) with respect to:

992 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
993 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
994 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
995 subsequent conviction is guilty of a first degree felony;

996 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
997 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
998 upon a second or subsequent conviction is guilty of a second degree felony; or

999 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
1000 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
1001 felony.

1002 (c) Any person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii)
1003 may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier
1004 of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on [his]
1005 the person or in [his] the person's immediate possession during the commission or in
1006 furtherance of the offense, the court shall additionally sentence the person convicted for a term
1007 of one year to run consecutively and not concurrently; and the court may additionally sentence
1008 the person convicted for an indeterminate term not to exceed five years to run consecutively
1009 and not concurrently.

1010 (d) Any person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
1011 felony punishable by imprisonment for an indeterminate term of not less than seven years and
1012 which may be for life. Imposition or execution of the sentence may not be suspended, and the
1013 person is not eligible for probation.

1014 (e) The Administrative Office of the Courts shall report to the Division of
1015 Occupational and Professional Licensing the name, case number, date of conviction, and if
1016 known, the date of birth of each person convicted of violating Subsection (2)(a).

1017 (2) Prohibited acts B -- Penalties and reporting:

- 1018 (a) It is unlawful:
- 1019 (i) for any person knowingly and intentionally to possess or use a controlled substance
- 1020 analog or a controlled substance, unless it was obtained under a valid prescription or order,
- 1021 directly from a practitioner while acting in the course of the person's professional practice, or as
- 1022 otherwise authorized by this chapter;
- 1023 (ii) for any owner, tenant, licensee, or person in control of any building, room,
- 1024 tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to
- 1025 be occupied by persons unlawfully possessing, using, or distributing controlled substances in
- 1026 any of those locations; or
- 1027 (iii) for any person knowingly and intentionally to possess an altered or forged
- 1028 prescription or written order for a controlled substance.
- 1029 (b) Any person convicted of violating Subsection (2)(a)(i) with respect to:
- 1030 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;
- 1031 or
- 1032 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
- 1033 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
- 1034 conviction is guilty of a third degree felony.
- 1035 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
- 1036 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
- 1037 penalty than provided in this Subsection (2).
- 1038 (d) Any person who violates Subsection (2)(a)(i) with respect to all other controlled
- 1039 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
- 1040 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the
- 1041 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the
- 1042 person is guilty of a third degree felony.
- 1043 (e) Any person convicted of violating Subsection (2)(a)(i) while inside the exterior
- 1044 boundaries of property occupied by any correctional facility as defined in Section 64-13-1 or
- 1045 any public jail or other place of confinement shall be sentenced to a penalty one degree greater
- 1046 than provided in Subsection (2)(b), and if the conviction is with respect to controlled
- 1047 substances as listed in:
- 1048 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an

1049 indeterminate term as provided by law, and:

1050 (A) the court shall additionally sentence the person convicted to a term of one year to
1051 run consecutively and not concurrently; and

1052 (B) the court may additionally sentence the person convicted for an indeterminate term
1053 not to exceed five years to run consecutively and not concurrently; and

1054 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
1055 indeterminate term as provided by law, and the court shall additionally sentence the person
1056 convicted to a term of six months to run consecutively and not concurrently.

1057 (f) Any person convicted of violating Subsection (2)(a)(ii) or(iii) is:

1058 (i) on a first conviction, guilty of a class B misdemeanor;

1059 (ii) on a second conviction, guilty of a class A misdemeanor; and

1060 (iii) on a third or subsequent conviction, guilty of a third degree felony.

1061 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
1062 amounting to a violation of Section 76-5-207:

1063 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
1064 body any measurable amount of a controlled substance; and

1065 (ii) operates a motor vehicle as defined in Section 76-5-207 in a negligent manner,
1066 causing serious bodily injury as defined in Section 76-1-601 or the death of another.

1067 (h) A person who violates Subsection (2)(g) by having in the person's body:

1068 (i) a controlled substance classified under Schedule I, other than those described in

1069 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
1070 degree felony;

1071 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection

1072 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third
1073 degree felony; or

1074 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class
1075 A misdemeanor.

1076 (i) A person is guilty of a separate offense for each victim suffering serious bodily
1077 injury or death as a result of the person's negligent driving in violation of Subsection
1078 [58-37-8](2)(g) whether or not the injuries arise from the same episode of driving.

1079 (j) The Administrative Office of the Courts shall report to the Division of Occupational

1080 and Professional Licensing the name, case number, date of conviction, and if known, the date
1081 of birth of each person convicted of violating Subsection (2)(a).

1082 (3) Prohibited acts C -- Penalties:

1083 (a) It is unlawful for any person knowingly and intentionally:

1084 (i) to use in the course of the manufacture or distribution of a controlled substance a
1085 license number which is fictitious, revoked, suspended, or issued to another person or, for the
1086 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
1087 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
1088 person;

1089 (ii) to acquire or obtain possession of, to procure or attempt to procure the
1090 administration of, to obtain a prescription for, to prescribe or dispense to any person known to
1091 be attempting to acquire or obtain possession of, or to procure the administration of any
1092 controlled substance by misrepresentation or failure by the person to disclose receiving any
1093 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a
1094 prescription or written order for a controlled substance, or the use of a false name or address;

1095 (iii) to make any false or forged prescription or written order for a controlled substance,
1096 or to utter the same, or to alter any prescription or written order issued or written under the
1097 terms of this chapter; or

1098 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed
1099 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
1100 device of another or any likeness of any of the foregoing upon any drug or container or labeling
1101 so as to render any drug a counterfeit controlled substance.

1102 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
1103 misdemeanor.

1104 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
1105 degree felony.

1106 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

1107 (4) Prohibited acts D -- Penalties:

1108 (a) Notwithstanding other provisions of this section, a person not authorized under this
1109 chapter who commits any act that is unlawful under Subsection (1)(a), Section 58-37a-5, or
1110 Section 58-37b-4 is upon conviction subject to the penalties and classifications under this

1111 Subsection (4) if the trier of fact finds the act is committed:

1112 (i) in a public or private elementary or secondary school or on the grounds of any of
1113 those schools during the hours of 6 a.m. through 10 p.m.;

1114 (ii) in a public or private vocational school or postsecondary institution or on the
1115 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

1116 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or
1117 facility's hours of operation;

1118 (iv) in a public park, amusement park, arcade, or recreation center when the public or
1119 amusement park, arcade, or recreation center is open to the public;

1120 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

1121 (vi) in or on the grounds of a library when the library is open to the public;

1122 (vii) within any area that is within 100 feet of any structure, facility, or grounds
1123 included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

1124 (viii) in the presence of a person younger than 18 years of age, regardless of where the
1125 act occurs; or

1126 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
1127 distribution of a substance in violation of this section to an inmate or on the grounds of any
1128 correctional facility as defined in Section 76-8-311.3.

1129 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
1130 and shall be imprisoned for a term of not less than five years if the penalty that would
1131 otherwise have been established but for this Subsection (4) would have been a first degree
1132 felony.

1133 (ii) Imposition or execution of the sentence may not be suspended, and the person is
1134 not eligible for probation.

1135 (c) If the classification that would otherwise have been established would have been
1136 less than a first degree felony but for this Subsection (4), a person convicted under this
1137 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
1138 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

1139 (d) (i) If the violation is of Subsection (4)(a)(ix):

1140 (A) the person may be sentenced to imprisonment for an indeterminate term as
1141 provided by law, and the court shall additionally sentence the person convicted for a term of

1142 one year to run consecutively and not concurrently; and

1143 (B) the court may additionally sentence the person convicted for an indeterminate term
1144 not to exceed five years to run consecutively and not concurrently; and

1145 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with
1146 the mental state required for the commission of an offense, directly or indirectly solicits,
1147 requests, commands, coerces, encourages, or intentionally aids another person to commit a
1148 violation of Subsection (4)(a)(ix).

1149 (e) It is not a defense to a prosecution under this Subsection (4) that the actor
1150 mistakenly believed the individual to be 18 years of age or older at the time of the offense or
1151 was unaware of the individual's true age; nor that the actor mistakenly believed that the
1152 location where the act occurred was not as described in Subsection (4)(a) or was unaware that
1153 the location where the act occurred was as described in Subsection (4)(a).

1154 (5) Any violation of this chapter for which no penalty is specified is a class B
1155 misdemeanor.

1156 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
1157 guilty or no contest to a violation or attempted violation of this section or a plea which is held
1158 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
1159 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
1160 abeyance agreement.

1161 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
1162 conviction that is:

1163 (i) from a separate criminal episode than the current charge; and

1164 (ii) from a conviction that is separate from any other conviction used to enhance the
1165 current charge.

1166 (7) A person may be charged and sentenced for a violation of this section,
1167 notwithstanding a charge and sentence for a violation of any other section of this chapter.

1168 (8) (a) Any penalty imposed for violation of this section is in addition to, and not in
1169 lieu of, any civil or administrative penalty or sanction authorized by law.

1170 (b) Where violation of this chapter violates a federal law or the law of another state,
1171 conviction or acquittal under federal law or the law of another state for the same act is a bar to
1172 prosecution in this state.

1173 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
1174 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
1175 substance or substances, is prima facie evidence that the person or persons did so with
1176 knowledge of the character of the substance or substances.

1177 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
1178 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
1179 administering controlled substances or from causing the substances to be administered by an
1180 assistant or orderly under the veterinarian's direction and supervision.

1181 (11) Civil or criminal liability may not be imposed under this section on:

1182 (a) any person registered under this chapter who manufactures, distributes, or possesses
1183 an imitation controlled substance for use as a placebo or investigational new drug by a
1184 registered practitioner in the ordinary course of professional practice or research; or

1185 (b) any law enforcement officer acting in the course and legitimate scope of the
1186 officer's employment.

1187 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
1188 as defined in Subsection 58-37-2(1)(v), who uses, possesses, or transports peyote for bona fide
1189 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
1190 as defined in Subsection 58-37-2(1)(w).

1191 (b) In a prosecution alleging violation of this section regarding peyote as defined in
1192 Subsection 58-37-4(2)(a)(iii)(V), it is an affirmative defense that the peyote was used,
1193 possessed, or transported by an Indian for bona fide traditional ceremonial purposes in
1194 connection with the practice of a traditional Indian religion.

1195 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
1196 defense under this Subsection (12) as soon as practicable, but not later than 10 days [~~prior to~~]
1197 before trial.

1198 (ii) The notice shall include the specific claims of the affirmative defense.

1199 (iii) The court may waive the notice requirement in the interest of justice for good
1200 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

1201 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
1202 a preponderance of the evidence. If the defense is established, it is a complete defense to the
1203 charges.

1204 (13) (a) It is an affirmative defense that the person produced, possessed, or
1205 administered a controlled substance listed in Section 58-37-4.2 if the person:
1206 (i) was engaged in medical research; and
1207 (ii) was a holder of a valid license to possess controlled substances under Section
1208 58-37-6.

1209 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
1210 a controlled substance listed in Section 58-37-4.2.

1211 (14) It is an affirmative defense that the person possessed, in the person's body, a
1212 controlled substance listed in Section 58-37-4.2 if:
1213 (a) the person was the subject of medical research conducted by a holder of a valid
1214 license to possess controlled substances under Section 58-37-6; and
1215 (b) the substance was administered to the person by the medical researcher.

1216 (15) The application of any increase in penalty under this section to a violation of
1217 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
1218 Subsection (15) takes precedence over any conflicting provision of this section.

1219 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
1220 listed in Subsection (16)(b) that the person:
1221 (i) reasonably believes that the person or another person is experiencing an overdose
1222 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
1223 controlled substance or other substance;
1224 (ii) reports in good faith the overdose event to a medical provider, an emergency
1225 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911
1226 emergency call system, or an emergency dispatch system, or the person is the subject of a
1227 report made under this Subsection (16);
1228 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the
1229 actual location of the overdose event that facilitates responding to the person experiencing the
1230 overdose event;
1231 (iv) remains at the location of the person experiencing the overdose event until a
1232 responding law enforcement officer or emergency medical service provider arrives, or remains
1233 at the medical care facility where the person experiencing an overdose event is located until a
1234 responding law enforcement officer arrives;

1235 (v) cooperates with the responding medical provider, emergency medical service
1236 provider, and law enforcement officer, including providing information regarding the person
1237 experiencing the overdose event and any substances the person may have injected, inhaled, or
1238 otherwise introduced into the person's body; and

1239 (vi) is alleged to have committed the offense in the same course of events from which
1240 the reported overdose arose.

1241 (b) The offenses referred to in Subsection (16)(a) are:

1242 (i) the possession or use of less than 16 ounces of marijuana;

1243 (ii) the possession or use of a scheduled or listed controlled substance other than
1244 marijuana; and

1245 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
1246 Imitation Controlled Substances Act.

1247 (c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not
1248 include seeking medical assistance under this section during the course of a law enforcement
1249 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

1250 (17) If any provision of this chapter, or the application of any provision to any person
1251 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
1252 invalid provision or application.

1253 (18) A legislative body of a political subdivision may not enact an ordinance that is
1254 less restrictive than any provision of this chapter.

1255 (19) ~~[(a)]~~ If a minor who is under 18 years of age is found by a court to have violated
1256 this section ~~[and the violation is the minor's first violation of this section]~~, the court may order:

1257 ~~[(i) order]~~ (a) the minor to complete a screening as defined in Section 41-6a-501;

1258 ~~[(ii) order]~~ (b) the minor to complete an assessment as defined in Section 41-6a-501 if
1259 the screening indicates an assessment to be appropriate; and

1260 ~~[(iii) order]~~ (c) the minor to complete an educational series as defined in Section
1261 41-6a-501 or substance ~~[abuse]~~ use disorder treatment as indicated by an assessment.

1262 ~~[(b) If a minor who is under 18 years of age is found by a court to have violated this
1263 section and the violation is the minor's second or subsequent violation of this section, the court
1264 shall:]~~

1265 ~~[(i) order the minor to complete a screening as defined in Section 41-6a-501;]~~

1266 ~~[(ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the~~
1267 ~~screening indicates an assessment to be appropriate; and]~~

1268 ~~[(iii) order the minor to complete an educational series as defined in Section 41-6a-501~~
1269 ~~or substance abuse treatment as indicated by an assessment.]~~

1270 Section 18. Section 58-37a-7 is amended to read:

1271 **58-37a-7. Sentencing requirements for minors.**

1272 ~~[(1)]~~ If a minor who is under 18 years of age is found by a court to have violated this
1273 chapter ~~[and the violation is the minor's first violation of this chapter]~~, the court may order the
1274 minor to complete:

1275 ~~[(a) order the minor to complete]~~ (1) a screening as defined in Section 41-6a-501;

1276 ~~[(b) order the minor to complete]~~ (2) an assessment as defined in Section 41-6a-501 if
1277 the screening indicates an assessment to be appropriate; and

1278 ~~[(c) order the minor to complete]~~ (3) an educational series as defined in Section
1279 41-6a-501 or substance ~~[abuse]~~ use disorder treatment as indicated by an assessment.

1280 ~~[(2) If a minor who is under 18 years of age is found by a court to have violated this~~
1281 ~~chapter and the violation is the minor's second or subsequent violation of this chapter, the court~~
1282 ~~shall:]~~

1283 ~~[(a) order the minor to complete a screening as defined in Section 41-6a-501;]~~

1284 ~~[(b) order the minor to complete an assessment as defined in Section 41-6a-501 if the~~
1285 ~~screening indicates an assessment to be appropriate; and]~~

1286 ~~[(c) order the minor to complete an educational series as defined in Section 41-6a-501~~
1287 ~~or substance abuse treatment as indicated by an assessment.]~~

1288 Section 19. Section 58-37b-9 is amended to read:

1289 **58-37b-9. Sentencing requirements for minors.**

1290 ~~[(1)]~~ If a minor who is under 18 years of age is found by a court to have violated this
1291 chapter ~~[and the violation is the minor's first violation of this chapter]~~, the court may order the
1292 minor to complete:

1293 ~~[(a) order the minor to complete]~~ (1) a screening as defined in Section 41-6a-501;

1294 ~~[(b) order the minor to complete]~~ (2) an assessment as defined in Section 41-6a-501 if
1295 the screening indicates an assessment to be appropriate; and

1296 ~~[(c) order the minor to complete]~~ (3) an educational series as defined in Section

- 1297 ~~41-6a-501~~ or substance [~~abuse~~] use disorder treatment as indicated by an assessment.
- 1298 ~~[(2) If a minor is found by a court to have violated this chapter and the violation is the~~
- 1299 ~~minor's second or subsequent violation of this chapter, the court shall:]~~
- 1300 ~~[(a) order the minor to complete a screening as defined in Section ~~41-6a-501~~];~~
- 1301 ~~[(b) order the minor to complete an assessment as defined in Section ~~41-6a-501~~ if the~~
- 1302 ~~screening indicates an assessment to be appropriate; and]~~
- 1303 ~~[(c) order the minor to complete an educational series as defined in Section ~~41-6a-501~~~~
- 1304 ~~or substance abuse treatment as indicated by an assessment.]~~
- 1305 Section 20. Section **62A-4a-105** is amended to read:
- 1306 **62A-4a-105. Division responsibilities.**
- 1307 (1) The division shall:
- 1308 (a) administer services to minors and families, including:
- 1309 (i) child welfare services;
- 1310 (ii) domestic violence services; and
- 1311 (iii) all other responsibilities that the Legislature or the executive director may assign
- 1312 to the division;
- 1313 (b) provide the following services:
- 1314 (i) financial and other assistance to an individual adopting a child with special needs
- 1315 under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the
- 1316 child as a legal ward of the state;
- 1317 (ii) non-custodial and in-home services, including:
- 1318 (A) services designed to prevent family break-up; and
- 1319 (B) family preservation services;
- 1320 (iii) reunification services to families whose children are in substitute care in
- 1321 accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;
- 1322 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse
- 1323 or neglect of a child in that family;
- 1324 (v) shelter care in accordance with the requirements of this chapter and Title 78A,
- 1325 Chapter 6, Juvenile Court Act;
- 1326 (vi) domestic violence services, in accordance with the requirements of federal law;
- 1327 (vii) protective services to victims of domestic violence, as defined in Section ~~77-36-1~~,

1328 and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6,
1329 Part 3, Abuse, Neglect, and Dependency Proceedings;

1330 (viii) substitute care for dependent, abused, neglected, and delinquent children;

1331 [~~(ix)~~] ~~programs and services for minors who have been placed in the custody of the~~
1332 ~~division for reasons other than abuse or neglect, under Section 62A-4a-250;~~]

1333 [~~(x)~~] (ix) services for minors who are victims of human trafficking or human
1334 smuggling as described in Sections 76-5-308 through 76-5-310 or who have engaged in
1335 prostitution or sexual solicitation as defined in Section 76-10-1302; and

1336 [~~(xi)~~] (x) training for staff and providers involved in the administration and delivery of
1337 services offered by the division in accordance with this chapter;

1338 (c) establish standards for all:

1339 (i) contract providers of out-of-home care for minors and families;

1340 (ii) facilities that provide substitute care for dependent, abused, neglected, and
1341 delinquent children placed in the custody of the division; and

1342 (iii) direct or contract providers of domestic violence services described in Subsection
1343 (1)(b)(vi);

1344 (d) have authority to:

1345 (i) contract with a private, nonprofit organization to recruit and train foster care
1346 families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

1347 (ii) approve facilities that meet the standards established under Subsection (1)(c) to
1348 provide substitute care for dependent, abused, neglected, and delinquent children placed in the
1349 custody of the division;

1350 (e) cooperate with the federal government in the administration of child welfare and
1351 domestic violence programs and other human service activities assigned by the department;

1352 (f) in accordance with Subsection (2)(a), promote and enforce state and federal laws
1353 enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and
1354 runaway children, and status offenders, in accordance with the requirements of this chapter,
1355 unless administration is expressly vested in another division or department of the state;

1356 (g) cooperate with the Workforce Development Division in the Department of
1357 Workforce Services in meeting the social and economic needs of an individual who is eligible
1358 for public assistance;

- 1359 (h) compile relevant information, statistics, and reports on child and family service
1360 matters in the state;
- 1361 (i) prepare and submit to the department, the governor, and the Legislature reports of
1362 the operation and administration of the division in accordance with the requirements of
1363 Sections [62A-4a-117](#) and [62A-4a-118](#);
- 1364 (j) provide social studies and reports for the juvenile court in accordance with Section
1365 [78A-6-605](#);
- 1366 (k) within appropriations from the Legislature, provide or contract for a variety of
1367 domestic violence services and treatment methods;
- 1368 (l) ensure regular, periodic publication, including electronic publication, regarding the
1369 number of children in the custody of the division who:
- 1370 (i) have a permanency goal of adoption; or
1371 (ii) have a final plan of termination of parental rights, pursuant to Section [78A-6-314](#),
1372 and promote adoption of those children;
- 1373 (m) subject to Subsection (2)(b), refer an individual receiving services from the
1374 division to the local substance abuse authority or other private or public resource for a
1375 court-ordered drug screening test; and
- 1376 (n) perform other duties and functions required by law.
- 1377 (2) (a) In carrying out the requirements of Subsection (1)(f), the division shall:
- 1378 (i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and
1379 with all public and private licensed child welfare agencies and institutions, to develop and
1380 administer a broad range of services and support;
- 1381 (ii) take the initiative in all matters involving the protection of abused or neglected
1382 children, if adequate provisions have not been made or are not likely to be made; and
1383 (iii) make expenditures necessary for the care and protection of the children described
1384 in this Subsection (2)(a), within the division's budget.
- 1385 (b) When an individual is referred to a local substance abuse authority or other private
1386 or public resource for court-ordered drug screening under Subsection (1)(n), the court shall
1387 order the individual to pay all costs of the tests unless:
- 1388 (i) the cost of the drug screening is specifically funded or provided for by other federal
1389 or state programs;

- 1390 (ii) the individual is a participant in a drug court; or
- 1391 (iii) the court finds that the individual is impecunious.
- 1392 (3) Except to the extent provided by rule, the division is not responsible for
- 1393 investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.
- 1394 (4) The division may not require a parent who has a child in the custody of the division
- 1395 to pay for some or all of the cost of any drug testing the parent is required to undergo.

1396 Section 21. Section 62A-4a-201 is amended to read:

1397 **62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of**
1398 **state.**

1399 (1) (a) Under both the United States Constitution and the constitution of this state, a
1400 parent possesses a fundamental liberty interest in the care, custody, and management of the
1401 parent's children. A fundamentally fair process must be provided to parents if the state moves
1402 to challenge or interfere with parental rights. A governmental entity must support any actions
1403 or allegations made in opposition to the rights and desires of a parent regarding the parent's
1404 children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened
1405 protection against government interference with the parent's fundamental rights and liberty
1406 interests and, concomitantly, the right of the child to be reared by the child's natural parent.

1407 (b) The fundamental liberty interest of a parent concerning the care, custody, and
1408 management of the parent's children is recognized, protected, and does not cease to exist
1409 simply because a parent may fail to be a model parent or because the parent's child is placed in
1410 the temporary custody of the state. At all times, a parent retains a vital interest in preventing
1411 the irretrievable destruction of family life. Prior to an adjudication of unfitness, government
1412 action in relation to parents and their children may not exceed the least restrictive means or
1413 alternatives available to accomplish a compelling state interest. Until the state proves parental
1414 unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result,
1415 the child and the child's parents share a vital interest in preventing erroneous termination of
1416 their natural relationship and the state cannot presume that a child and the child's parents are
1417 adversaries.

1418 (c) It is in the best interest and welfare of a child to be raised under the care and
1419 supervision of the child's natural parents. A child's need for a normal family life in a
1420 permanent home, and for positive, nurturing family relationships is usually best met by the

1421 child's natural parents. Additionally, the integrity of the family unit and the right of parents to
1422 conceive and raise their children are constitutionally protected. The right of a fit, competent
1423 parent to raise the parent's child without undue government interference is a fundamental
1424 liberty interest that has long been protected by the laws and Constitution and is a fundamental
1425 public policy of this state.

1426 (d) The state recognizes that:

1427 (i) a parent has the right, obligation, responsibility, and authority to raise, manage,
1428 train, educate, provide and care for, and reasonably discipline the parent's children; and

1429 (ii) the state's role is secondary and supportive to the primary role of a parent.

1430 (e) It is the public policy of this state that parents retain the fundamental right and duty
1431 to exercise primary control over the care, supervision, upbringing, and education of their
1432 children.

1433 (f) Subsections (2) through (7) shall be interpreted and applied consistent with this
1434 Subsection (1).

1435 (2) It is also the public policy of this state that children have the right to protection
1436 from abuse and neglect, and that the state retains a compelling interest in investigating,
1437 prosecuting, and punishing abuse and neglect, as defined in this chapter, and in Title 78A,
1438 Chapter 6, Juvenile Court Act [~~of 1996~~]. Therefore, the state, as *parens patriae*, has an interest
1439 in and responsibility to protect children whose parents abuse them or do not adequately provide
1440 for their welfare. There may be circumstances where a parent's conduct or condition is a
1441 substantial departure from the norm and the parent is unable or unwilling to render safe and
1442 proper parental care and protection. Under those circumstances, the state may take action for
1443 the welfare and protection of the parent's children.

1444 (3) When the division intervenes on behalf of an abused, neglected, or dependent child,
1445 it shall take into account the child's need for protection from immediate harm and the extent to
1446 which the child's extended family may provide needed protection. Throughout its involvement,
1447 the division shall utilize the least intrusive and least restrictive means available to protect a
1448 child, in an effort to ensure that children are brought up in stable, permanent families, rather
1449 than in temporary foster placements under the supervision of the state.

1450 (4) When circumstances within the family pose a threat to the child's immediate safety
1451 or welfare, the division may seek custody of the child for a planned, temporary period and

1452 place the child in a safe environment, subject to the requirements of this section and in
1453 accordance with the requirements of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
1454 Dependency Proceedings, and:

1455 (a) when safe and appropriate, return the child to the child's parent; or

1456 (b) as a last resort, pursue another permanency plan.

1457 (5) In determining and making "reasonable efforts" with regard to a child, pursuant to
1458 the provisions of Section [62A-4a-203](#), both the division's and the court's paramount concern
1459 shall be the child's health, safety, and welfare. The desires of a parent for the parent's child,
1460 and the constitutionally protected rights of a parent, as described in this section, shall be given
1461 full and serious consideration by the division and the court.

1462 (6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe
1463 abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or
1464 to, in any other way, attempt to maintain a child in the child's home, provide reunification
1465 services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does
1466 not exempt the division from providing court-ordered services.

1467 (7) (a) In accordance with Subsection (1), the division shall strive to achieve
1468 appropriate permanency for children who are abused, neglected, or dependent. The division
1469 shall provide in-home services, where appropriate and safe, in an effort to help a parent to
1470 correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The
1471 division may pursue a foster placement only if in-home services fail or are otherwise
1472 insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services
1473 and kinship placement fail and cannot be corrected. The division shall also seek qualified
1474 extended family support or a kinship placement to maintain a sense of security and stability for
1475 the child.

1476 (b) If the use or continuation of "reasonable efforts," as described in Subsections (5)
1477 and (6), is determined to be inconsistent with the permanency plan for a child, then measures
1478 shall be taken, in a timely manner, to place the child in accordance with the permanency plan,
1479 and to complete whatever steps are necessary to finalize the permanent placement of the child.

1480 (c) Subject to the parental rights recognized and protected under this section, if,
1481 because of a parent's conduct or condition, the parent is determined to be unfit or incompetent
1482 based on the grounds for termination of parental rights described in Title 78A, Chapter 6, Part

1483 5, Termination of Parental Rights Act, the continuing welfare and best interest of the child is of
1484 paramount importance, and shall be protected in determining whether that parent's rights
1485 should be terminated.

1486 (8) The state's right to direct or intervene in the provision of medical or mental health
1487 care for a child is subject to Subsections 78A-6-105[(27)](35)(d) and 78A-6-117(2)(n) and
1488 Section 78A-6-301.5.

1489 Section 22. Section 62A-4a-202 is amended to read:

1490 **62A-4a-202. In-home services for the preservation of families.**

1491 (1) (a) Within appropriations from the Legislature and money obtained under
1492 Subsection (5), the division shall provide in-home services for the purpose of family
1493 preservation to any family with a child whose health and safety is not immediately endangered,
1494 when:

1495 (i) (A) the child is at risk of being removed from the home; or

1496 (B) the family is in crisis; and

1497 (ii) the division determines that it is reasonable and appropriate.

1498 (b) In determining whether in-home services are reasonable and appropriate, in keeping
1499 with ~~[the provisions of]~~ Subsection 62A-4a-201(1), the child's health, safety, and welfare shall
1500 be the paramount concern.

1501 (c) The division shall consider whether the services described in Subsection (1)(b):

1502 (i) will be effective within a six-month period; and

1503 (ii) are likely to prevent continued abuse or neglect of the child.

1504 (2) (a) The division shall maintain a statewide inventory of in-home services available
1505 through public and private agencies or individuals for use by caseworkers.

1506 (b) The inventory described in Subsection (2)(a) shall include:

1507 (i) the method of accessing each service;

1508 (ii) eligibility requirements for each service;

1509 (iii) the geographic areas and the number of families that can be served by each
1510 service; and

1511 (iv) information regarding waiting lists for each service.

1512 (3) (a) As part of its in-home services for the preservation of families, the division shall
1513 provide in-home services in varying degrees of intensity and contact that are specific to the

1514 needs of each individual family.

1515 (b) As part of its in-home services, the division shall:

1516 (i) provide customized assistance;

1517 (ii) provide support or interventions that are tailored to the needs of the family;

1518 (iii) discuss the family's needs with the parent;

1519 (iv) discuss an assistance plan for the family with the parent; and

1520 (v) address:

1521 (A) the safety of children;

1522 (B) the needs of the family; and

1523 (C) services necessary to aid in the preservation of the family and a child's ability to

1524 remain in the home.

1525 (c) In-home services shall be, as practicable, provided within the region that the family

1526 resides, using existing division staff.

1527 (4) (a) The division may use specially trained caseworkers, private providers, or other

1528 persons to provide the in-home services described in Subsection (3).

1529 (b) The division shall allow a caseworker to be flexible in responding to the needs of

1530 each individual family, including:

1531 (i) limiting the number of families assigned; and

1532 (ii) being available to respond to assigned families within 24 hours.

1533 (5) To provide, expand, and improve the delivery of in-home services to prevent the

1534 removal of children from their homes and promote the preservation of families, the division

1535 shall make substantial effort to obtain funding, including:

1536 (a) federal grants;

1537 (b) federal waivers; and

1538 (c) private money.

1539 (6) The division shall provide in-home family services pursuant to an order under

1540 Section 78A-6-117.

1541 Section 23. Section **62A-4a-208** is amended to read:

1542 **62A-4a-208. Child protection ombudsman -- Responsibility -- Authority.**

1543 (1) As used in this section:

1544 (a) "Complainant" means a person who initiates a complaint with the ombudsman.

1545 (b) "Ombudsman" means the child protection ombudsman appointed pursuant to this
1546 section.

1547 (2) (a) There is created within the department the position of child protection
1548 ombudsman. The ombudsman shall be appointed by and serve at the pleasure of the executive
1549 director.

1550 (b) The ombudsman shall be:

1551 (i) an individual of recognized executive and administrative capacity;

1552 (ii) selected solely with regard to qualifications and fitness to discharge the duties of
1553 ombudsman; and

1554 (iii) have experience in child welfare, and in state laws and policies governing abused,
1555 neglected, and dependent children.

1556 (c) The ombudsman shall devote full time to the duties of office.

1557 (3) (a) Except as provided in Subsection (3)(b), the ombudsman shall, upon receipt of a
1558 complaint from any person, investigate whether an act or omission of the division with respect
1559 to a particular child:

1560 (i) is contrary to statute, rule, or policy;

1561 (ii) places a child's health or safety at risk;

1562 (iii) is made without an adequate statement of reason; or

1563 (iv) is based on irrelevant, immaterial, or erroneous grounds.

1564 (b) The ombudsman may decline to investigate any complaint. If the ombudsman
1565 declines to investigate a complaint or continue an investigation, the ombudsman shall notify
1566 the complainant and the division of the decision and of the reasons for that decision.

1567 (c) The ombudsman may conduct an investigation on the ombudsman's own initiative.

1568 (4) The ombudsman shall:

1569 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1570 make rules that govern the following:

1571 (i) receiving and processing complaints;

1572 (ii) notifying complainants and the division regarding a decision to investigate or to
1573 decline to investigate a complaint;

1574 (iii) prioritizing workload;

1575 (iv) maximum time within which investigations shall be completed;

- 1576 (v) conducting investigations;
- 1577 (vi) notifying complainants and the division regarding the results of investigations; and
- 1578 (vii) making recommendations based on the findings and results of recommendations;
- 1579 (b) report findings and recommendations in writing to the complainant and the
- 1580 division, in accordance with the provisions of this section;
- 1581 (c) within appropriations from the Legislature, employ staff as may be necessary to
- 1582 carry out the ombudsman's duties under this part;
- 1583 (d) provide information regarding the role, duties, and functions of the ombudsman to
- 1584 public agencies, private entities, and individuals;
- 1585 (e) annually report to the:
- 1586 (i) Child Welfare Legislative Oversight Panel;
- 1587 (ii) governor;
- 1588 (iii) Division of Child and Family Services;
- 1589 (iv) executive director of the department; and
- 1590 (v) director of the division; and
- 1591 (f) as appropriate, make recommendations to the division regarding individual cases,
- 1592 and the rules, policies, and operations of the division.
- 1593 (5) (a) Upon rendering a decision to investigate a complaint, the ombudsman shall
- 1594 notify the complainant and the division of that decision.
- 1595 (b) The ombudsman may advise a complainant to pursue all administrative remedies or
- 1596 channels of complaint before pursuing a complaint with the ombudsman. Subsequent to
- 1597 processing a complaint, the ombudsman may conduct further investigations upon the request of
- 1598 the complainant or upon the ombudsman's own initiative. Nothing in this subsection precludes
- 1599 a complainant from making a complaint directly to the ombudsman before pursuing an
- 1600 administrative remedy.
- 1601 (c) If the ombudsman finds that an individual's act or omission violates state or federal
- 1602 criminal law, the ombudsman shall immediately report that finding to the appropriate county or
- 1603 district attorney or to the attorney general.
- 1604 (d) The ombudsman shall immediately notify the division if the ombudsman finds that
- 1605 a child needs protective custody~~[, as that term is defined in Section 78A-6-105]~~.
- 1606 (e) The ombudsman shall immediately comply with Part 4, Child Abuse or Neglect

1607 Reporting Requirements.

1608 (6) (a) All records of the ombudsman regarding individual cases shall be classified in
1609 accordance with federal law and the provisions of Title 63G, Chapter 2, Government Records
1610 Access and Management Act. The ombudsman may make public a report prepared pursuant to
1611 this section in accordance with the provisions of Title 63G, Chapter 2, Government Records
1612 Access and Management Act.

1613 (b) The ombudsman shall have access to all of the department's written and electronic
1614 records and databases, including those regarding individual cases. In accordance with Title
1615 63G, Chapter 2, Government Records Access and Management Act, all documents and
1616 information received by the ombudsman shall maintain the same classification that was
1617 designated by the department.

1618 (7) (a) The ombudsman shall prepare a written report of the findings and
1619 recommendations, if any, of each investigation.

1620 (b) The ombudsman shall make recommendations to the division if the ombudsman
1621 finds that:

- 1622 (i) a matter should be further considered by the division;
1623 (ii) an administrative act should be addressed, modified, or canceled;
1624 (iii) action should be taken by the division with regard to one of its employees; or
1625 (iv) any other action should be taken by the division.

1626 Section 24. Section **62A-4a-250** is amended to read:

1627 **62A-4a-250. Attorney general responsibility.**

1628 [~~(1) On or before July 1, 1998, the division shall have established programs designed~~
1629 ~~to meet the needs of minors who have not been adjudicated as abused or neglected, but who are~~
1630 ~~otherwise committed to the custody of the division by the juvenile court pursuant to Section~~
1631 ~~78A-6-117, and who are classified in the division's management information system as having~~
1632 ~~been placed in custody primarily on the basis of delinquent behavior or a status offense.]~~

1633 [~~(2) (a) The processes and procedures designed to meet the needs of children who are~~
1634 ~~abused or neglected, described in Part 2, Child Welfare Services, and in Title 78A, Chapter 6,~~
1635 ~~Part 3, Abuse, Neglect, and Dependency Proceedings, are not applicable to the minors~~
1636 ~~described in Subsection (1).]~~

1637 [(b) The procedures described in Subsection ~~78A-6-118~~(2)(a) are applicable to the

1638 ~~minors described in Subsection (1):]~~

1639 ~~[(3) As of July 1, 1998, the]~~

1640 The attorney general's office has the responsibility to represent the division with regard
1641 to actions involving minors [described in Subsection (1)] ordered to complete in-home family
1642 services under Section [78A-6-117](#). Nothing in this section may be construed to affect the
1643 responsibility of the county attorney or district attorney to represent the state in those matters,
1644 in accordance with Section [78A-6-115](#).

1645 Section 25. Section **62A-7-101** is amended to read:

1646 **62A-7-101. Definitions.**

1647 As used in this chapter:

1648 (1) "Authority" means the Youth Parole Authority, established in accordance with
1649 Section [62A-7-501](#).

1650 (2) "Board" means the Board of Juvenile Justice Services established in accordance
1651 with Section [62A-1-105](#).

1652 (3) "Community-based program" means a nonsecure residential or nonresidential
1653 program designated to supervise and rehabilitate youth offenders in accordance with
1654 Subsection [78A-6-117\(2\)\(c\)](#) that prioritizes the least restrictive nonresidential setting,
1655 consistent with public safety, and designated or operated by or under contract with the division.

1656 (4) "Control" means the authority to detain, restrict, and supervise a youth in a manner
1657 consistent with public safety and the well being of the youth and division employees.

1658 (5) "Court" means the juvenile court.

1659 (6) "Delinquent act" is an act which would constitute a felony or a misdemeanor if
1660 committed by an adult.

1661 (7) "Detention" means secure detention or home detention.

1662 (8) "Detention center" means a facility established in accordance with Title 62A,
1663 Chapter 7, Part 2, Detention Facilities.

1664 (9) "Director" means the director of the Division of Juvenile Justice Services.

1665 (10) "Discharge" means a written order of the Youth Parole Authority that removes a
1666 youth offender from its jurisdiction.

1667 (11) "Division" means the Division of Juvenile Justice Services.

1668 (12) "Home detention" means predispositional placement of a child in the child's home

1669 or a surrogate home with the consent of the child's parent, guardian, or custodian for conduct
1670 by a child who is alleged to have committed a delinquent act or postdispositional placement
1671 pursuant to Subsection [78A-6-117\(2\)\(f\)](#) or [78A-6-1101\(3\)](#).

1672 (13) "Observation and assessment program" means a nonresidential service program
1673 operated or purchased by the division[;] that is responsible [~~for temporary custody of youth~~
1674 ~~offenders for observation~~] only for diagnostic assessment of minors, including for substance
1675 use disorder, mental health, psychological, and sexual behavior risk assessments.

1676 (14) "Parole" means a conditional release of a youth offender from residency in a
1677 secure facility to live outside that facility under the supervision of the Division of Juvenile
1678 Justice Services or other person designated by the division.

1679 (15) "Performance-based contracting" means a system of contracting with service
1680 providers for the provision of residential or nonresidential services that:

1681 (a) provides incentives for the implementation of evidence-based juvenile justice
1682 programs or programs rated as effective for reducing recidivism by a standardized tool pursuant
1683 to Section [63M-7-208](#); and

1684 (b) provides a premium rate allocation for a minor who receives the evidence-based
1685 dosage of treatment and successfully completes the program within three months.

1686 [~~(15)~~] (16) "Receiving center" means a nonsecure, nonresidential program established
1687 by the division or under contract with the division that is responsible for juveniles taken into
1688 custody by a law enforcement officer for status offenses, infractions, or delinquent acts[~~but~~
1689 ~~who do not meet the criteria for admission to secure detention or shelter~~].

1690 [~~(16)~~] (17) "Rescission" means a written order of the Youth Parole Authority that
1691 rescinds a parole date.

1692 [~~(17)~~] (18) "Revocation of parole" means a written order of the Youth Parole Authority
1693 that terminates parole supervision of a youth offender and directs return of the youth offender
1694 to the custody of a secure facility [~~because of a violation of the conditions of parole~~] after a
1695 hearing and a determination that there has been a violation of law or of a condition of parole
1696 that warrants a return to a secure facility in accordance with Section [62A-7-504](#).

1697 [~~(18)~~] (19) "Runaway" means a youth who willfully leaves the residence of a parent or
1698 guardian without the permission of the parent or guardian.

1699 [~~(19)~~] (20) "Secure detention" means predisposition placement in a facility operated by

1700 or under contract with the division, for conduct by a child who is alleged to have committed a
1701 delinquent act.

1702 ~~[(20)]~~ (21) "Secure facility" means any facility operated by or under contract with the
1703 division, that provides 24-hour supervision and confinement for youth offenders committed to
1704 the division for custody and rehabilitation.

1705 ~~[(21)]~~ (22) "Shelter" means the temporary care of children in physically unrestricted
1706 facilities pending court disposition or transfer to another jurisdiction.

1707 ~~[(22)]~~ (23) (a) "Temporary custody" means control and responsibility of
1708 nonadjudicated youth until the youth can be released to the parent, guardian, a responsible
1709 adult, or to an appropriate agency.

1710 (b) "Temporary custody" does not include a placement in a secure facility, including
1711 secure detention, or a residential community-based program operated or contracted by the
1712 division, except pursuant to Subsection [78A-6-117\(2\)\(f\)\(iv\)\(B\)](#).

1713 ~~[(23)]~~ (24) "Termination" means a written order of the Youth Parole Authority that
1714 terminates a youth offender from parole.

1715 ~~[(24)]~~ (25) "Ungovernable" means a youth in conflict with a parent or guardian, and the
1716 conflict:

1717 (a) results in behavior that is beyond the control or ability of the youth, or the parent or
1718 guardian, to manage effectively;

1719 (b) poses a threat to the safety or well-being of the youth, the family, or others; or

1720 (c) results in the situations in both Subsections ~~[(24)]~~ (25)(a) and (b).

1721 ~~[(25)]~~ (26) "Work program" means a nonresidential public or private service work
1722 project established and administered by the division for youth offenders for the purpose of
1723 rehabilitation, education, and restitution to victims.

1724 ~~[(26)]~~ (27) "Youth offender" means a person 12 years of age or older, and who has not
1725 reached 21 years of age, committed or admitted by the juvenile court to the custody, care, and
1726 jurisdiction of the division, for confinement in a secure facility or supervision in the
1727 community, following adjudication for a delinquent act which would constitute a felony or
1728 misdemeanor if committed by an adult in accordance with Section [78A-6-117](#).

1729 ~~[(27)]~~ (28) (a) "Youth services" means services provided in an effort to resolve family
1730 conflict:

- 1731 (i) for families in crisis when a minor is ungovernable or runaway; or
- 1732 (ii) involving a minor and the minor's parent or guardian.
- 1733 (b) These services include efforts to:
- 1734 (i) resolve family conflict;
- 1735 (ii) maintain or reunite minors with their families; and
- 1736 (iii) divert minors from entering or escalating in the juvenile justice system[;].

1737 (c) The services may provide:

- 1738 (i) crisis intervention;
- 1739 (ii) short-term shelter;
- 1740 (iii) time out placement; and
- 1741 (iv) family counseling.

1742 Section 26. Section **62A-7-104** is amended to read:

1743 **62A-7-104. Division responsibilities.**

1744 (1) The division is responsible for all youth offenders committed to [it] the division by
1745 juvenile courts for secure confinement or supervision and treatment in the community in
1746 accordance with Section 78A-6-117.

1747 (2) The division shall:

- 1748 (a) establish and administer a continuum of community, secure, and nonsecure
- 1749 programs for all youth offenders committed to the division;
- 1750 (b) establish and maintain all detention and secure facilities and set minimum standards
- 1751 for those facilities;

1752 (c) establish and operate prevention and early intervention youth services programs for
1753 nonadjudicated youth placed with the division; and

1754 (d) establish observation and assessment programs necessary to serve youth offenders
1755 [~~committed by the juvenile court for short-term observation under Subsection 78A-6-117(2)(e),~~
1756 ~~and whenever possible, conduct the programs in settings separate and distinct from secure~~
1757 ~~facilities for youth offenders] in a nonresidential setting under Subsection 78A-6-117(2)(e).~~

1758 (3) The division shall place youth offenders committed to it in the most appropriate
1759 program for supervision and treatment.

1760 (4) In any order committing a youth offender to the division, the juvenile court shall
1761 [~~specify~~] find whether the youth offender is being committed for secure confinement under

1762 Subsection 78A-6-117(2)(c), or placement in a community-based program[-] under Subsection
1763 78A-6-117(2)(c), and specify the criteria under Subsection 78A-6-117(2)(c) or (d) underlying
1764 the commitment. The division shall place the youth offender in the most appropriate program
1765 within the category specified by the court.

1766 (5) The division shall employ staff necessary to:

1767 (a) supervise and control youth offenders in secure facilities or in the community;

1768 (b) supervise and coordinate treatment of youth offenders committed to the division for
1769 placement in community-based programs; and

1770 (c) control and supervise adjudicated and nonadjudicated youth placed with the
1771 division for temporary services in receiving centers, youth services, and other programs
1772 established by the division.

1773 (6) (a) Youth in the custody or temporary custody of the division are controlled or
1774 detained in a manner consistent with public safety and rules [~~promulgated~~] made by the
1775 division. In the event of an unauthorized leave from a secure facility, detention center,
1776 community-based program, receiving center, home, or any other designated placement,
1777 division employees have the authority and duty to locate and apprehend the youth, or to initiate
1778 action with local law enforcement agencies for assistance.

1779 (b) A rule made by the division under this Subsection (6) may not permit secure
1780 detention based solely on the existence of multiple status offenses, misdemeanors, or
1781 infractions alleged in the same criminal episode.

1782 (7) The division shall establish and operate compensatory-service work programs for
1783 youth offenders committed to the division by the juvenile court. The compensatory-service
1784 work program may not be residential and shall:

1785 (a) provide labor to help in the operation, repair, and maintenance of public facilities,
1786 parks, highways, and other programs designated by the division;

1787 (b) provide educational and prevocational programs in cooperation with the State
1788 Board of Education for youth offenders placed in the program; and

1789 (c) provide counseling to youth offenders.

1790 (8) The division shall establish minimum standards for the operation of all private
1791 residential and nonresidential rehabilitation facilities [~~which~~] that provide services to juveniles
1792 who have committed a delinquent act[-] or infraction in this state or in any other state.

1793 (9) In accordance with policies established by the board, the division shall provide
1794 regular training for staff of secure facilities, detention staff, case management staff, and staff of
1795 the community-based programs.

1796 (10) (a) The division is authorized to employ special function officers, as defined in
1797 Section [53-13-105](#), to locate and apprehend minors who have absconded from division
1798 custody, transport minors taken into custody pursuant to division policy, investigate cases, and
1799 carry out other duties as assigned by the division.

1800 (b) Special function officers may be employed through contract with the Department of
1801 Public Safety, any P.O.S.T. certified law enforcement agency, or directly hired by the division.

1802 (11) The division shall designate employees to obtain the saliva DNA specimens
1803 required under Section [53-10-403](#). The division shall ensure that the designated employees
1804 receive appropriate training and that the specimens are obtained in accordance with accepted
1805 protocol.

1806 (12) The division shall register with the Department of Corrections any person who:

1807 (a) has been adjudicated delinquent based on an offense listed in Subsection
1808 [77-41-102](#)(17)(a);

1809 (b) has been committed to the division for secure confinement; and

1810 (c) remains in the division's custody 30 days [~~prior to~~] before the person's 21st
1811 birthday.

1812 (13) The division shall ensure that a program delivered to a youth offender under this
1813 section is evidence based in accordance with Section [63M-7-208](#).

1814 Section 27. Section [62A-7-107.5](#) is amended to read:

1815 **[62A-7-107.5. Contracts with private providers.](#)**

1816 (1) This chapter does not prohibit the division from contracting with private providers
1817 or other agencies for the construction, operation, and maintenance of juvenile facilities or the
1818 provision of care, treatment, and supervision of youth offenders who have been committed to
1819 the care of the division.

1820 (2) All programs for the care, treatment, and supervision of youth offenders committed
1821 to the division shall be licensed in compliance with division standards within six months after
1822 commencing operation.

1823 (3) A contract for the care, treatment, and supervision of a youth offender committed to

1824 the division shall be executed in accordance with the performance-based contracting system
1825 developed under Section 63M-7-208.

1826 Section 28. Section **62A-7-109.5** is amended to read:

1827 **62A-7-109.5. Restitution by youth offender.**

1828 (1) The division shall make reasonable efforts to ensure that restitution is made to the
1829 victim of a youth offender. Restitution shall be made through the employment of youth
1830 offenders in work programs. However, reimbursement to the victim of a youth offender is
1831 conditional upon that youth offender's involvement in the work program.

1832 (2) Restitution ordered by the court may be made a condition of release, placement, or
1833 parole by the division. [~~In the event of parole revocation or, where there is no court order~~
1834 ~~requiring restitution to the victim and the loss to the victim has been determined, the division~~
1835 ~~shall evaluate whether restitution is appropriate and, if so, the amount or type of restitution to~~
1836 ~~which the victim is entitled.]~~

1837 (3) The division shall notify the juvenile court of all restitution paid to victims through
1838 the employment of youth offenders in work programs.

1839 Section 29. Section **62A-7-201** is amended to read:

1840 **62A-7-201. Confinement -- Facilities -- Restrictions.**

1841 (1) Children under 18 years of age, who are apprehended by any officer or brought
1842 before any court for examination under any provision of state law, may not be confined in jails,
1843 lockups, or cells used for persons 18 years of age or older who are charged with crime, or in
1844 secure postadjudication correctional facilities operated by the division, except as provided in
1845 Subsection (2), other specific statute, or in conformance with standards approved by the board.

1846 (2) (a) Children charged with crimes under Section 78A-6-701, as a serious youth
1847 offender under Section 78A-6-702 and bound over to the jurisdiction of the district court, or
1848 certified to stand trial as an adult pursuant to Section 78A-6-703, if detained, shall be detained
1849 as provided in these sections.

1850 (b) Children detained in adult facilities under Section 78A-6-702 or 78A-6-703 [~~prior~~
1851 ~~to~~] before a hearing before a magistrate, or under Subsection 78A-6-113(3), may only be held
1852 in certified juvenile detention accommodations in accordance with rules [~~promulgated~~] made
1853 by the [~~division~~] Commission on Criminal and Juvenile Justice. Those rules shall include
1854 standards for acceptable sight and sound separation from adult inmates. The [~~division~~]

1855 Commission on Criminal and Juvenile Justice certifies facilities that are in compliance with the
1856 [~~division's~~] Commission on Criminal and Juvenile Justice's standards. [~~The provisions of this~~]
1857 This Subsection (2)(b) [~~do~~] does not apply to juveniles held in an adult detention facility in
1858 accordance with Subsection (2)(a).

1859 (3) In areas of low density population, the [~~division~~] Commission on Criminal and
1860 Juvenile Justice may, by rule, approve juvenile holding accommodations within adult facilities
1861 that have acceptable sight and sound separation. Those facilities shall be used only for
1862 short-term holding purposes, with a maximum confinement of six hours, for children alleged to
1863 have committed an act which would be a criminal offense if committed by an adult.
1864 Acceptable short-term holding purposes are: identification, notification of juvenile court
1865 officials, processing, and allowance of adequate time for evaluation of needs and circumstances
1866 regarding release or transfer to a shelter or detention facility. [~~The provisions of this~~] This
1867 Subsection (3) [~~do~~] does not apply to juveniles held in an adult detention facility in accordance
1868 with Subsection (2)(a).

1869 (4) Children who are alleged to have committed an act [~~which~~] that would be a
1870 criminal offense if committed by an adult, may be detained in holding rooms in local law
1871 enforcement agency facilities for a maximum of two hours, for identification or interrogation,
1872 or while awaiting release to a parent or other responsible adult. Those rooms shall be certified
1873 by the division, according to the division's rules. Those rules shall include provisions for
1874 constant supervision and for sight and sound separation from adult inmates.

1875 (5) Willful failure to comply with [~~any of the provisions of~~] this section is a class B
1876 misdemeanor.

1877 (6) (a) The division is responsible for the custody and detention of children under 18
1878 years of age who require detention care [~~prior to~~] before trial or examination, or while awaiting
1879 assignment to a home or facility, as a dispositional placement under Subsection
1880 78A-6-117(2)(f)(i) [~~or 78A-6-1101(3)(a)~~], and of youth offenders under Subsection
1881 62A-7-504[(8). ~~The provisions of this~~](9). This Subsection (6)(a) [~~do~~] does not apply to
1882 juveniles held in an adult detention facility in accordance with Subsection (2)(a).

1883 (b) The division shall provide standards for custody or detention under Subsections
1884 (2)(b), (3), and (4), and shall determine and set standards for conditions of care and
1885 confinement of children in detention facilities.

1886 (c) All other custody or detention shall be provided by the division, or by contract with
1887 a public or private agency willing to undertake temporary custody or detention upon agreed
1888 terms, or in suitable premises distinct and separate from the general jails, lockups, or cells used
1889 in law enforcement and corrections systems. [~~The provisions of this~~] This Subsection (6)(c)
1890 [~~do~~] does not apply to juveniles held in an adult detention facility in accordance with
1891 Subsection (2)(a).

1892 Section 30. Section **62A-7-202** is amended to read:

1893 **62A-7-202. Location of detention facilities and services.**

1894 (1) The division shall provide detention facilities and services in each county, or group
1895 of counties, as the population demands, in accordance with [~~the provisions of~~] this chapter.

1896 (2) The division[~~, through its detention centers,~~] is responsible for development,
1897 implementation, and administration of home detention services available in every judicial
1898 district, and shall establish criteria for placement on home detention.

1899 (3) (a) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
1900 Administrative Rulemaking Act, establishing standards for admission to secure detention and
1901 home detention programs.

1902 (b) The rules made under this Subsection (3) shall prioritize use of home detention for
1903 a minor who might otherwise be held in secure detention.

1904 (4) The division shall provide training regarding implementation of the rules to law
1905 enforcement agencies, division employees, juvenile court employees, and other affected
1906 agencies and individuals upon their request.

1907 Section 31. Section **62A-7-404** is amended to read:

1908 **62A-7-404. Commitment -- Termination and review.**

1909 (1) A youth offender who has been committed to a secure facility shall remain until the
1910 offender reaches the age of 21, is paroled, or is discharged.

1911 (2) A youth offender who has been committed to a secure facility shall appear before
1912 the authority within [~~90~~] 45 days after commitment[~~;~~] for review of treatment plans and
1913 establishment of parole release guidelines.

1914 (3) (a) For a youth offender committed to a secure facility, except a youth offender
1915 excluded under Subsection (5), the authority shall set a presumptive term of commitment that
1916 does not exceed three to six months.

1917 (b) The authority shall release the minor onto parole at the end of the presumptive term
1918 of commitment unless at least one the following circumstances exists:

1919 (i) termination would interrupt the completion of a necessary treatment program; or

1920 (ii) the youth commits a new misdemeanor or felony offense.

1921 (c) Completion of a program under Subsection (3)(b)(i) shall be determined by a
1922 minor's consistent attendance and completing the goals of the necessary treatment program as
1923 determined by the Youth Parole Authority after consideration of the recommendations of a
1924 licensed service provider.

1925 (d) The authority may extend the length of commitment and delay parole release for the
1926 time needed to address the specific circumstance only if one of the circumstances under
1927 Subsection (3)(b) exists.

1928 (e) The length of the extension and the grounds for the extension shall be recorded and
1929 reported annually to the Commission on Criminal and Juvenile Justice.

1930 (4) (a) For a youth offender committed to a secure facility, except a youth offender
1931 excluded under Subsection (5), the authority shall set a presumptive term of parole supervision
1932 that does not exceed three to four months.

1933 (b) A minor whom the authority determines is unable to return home immediately upon
1934 release may serve the term of parole in the home of a qualifying relative or guardian, or at an
1935 independent living program contracted or operated by the division.

1936 (c) The authority shall release the minor from parole and terminate jurisdiction at the
1937 end of the presumptive term of parole unless at least one the following circumstances exists:

1938 (i) termination would interrupt the completion of a necessary treatment program;

1939 (ii) the youth commits a new misdemeanor or felony offense; or

1940 (iii) service hours have not been completed.

1941 (d) Completion of a program under Subsection (4)(c) shall be determined by a minor's
1942 consistent attendance and completing the goals of the necessary treatment program as
1943 determined by the Youth Parole Authority after consideration of the recommendations of a
1944 licensed service provider.

1945 (e) If one of the circumstances under Subsection (4)(c) exists, the authority may delay
1946 parole release only for the time needed to address the specific circumstance.

1947 (f) Grounds for extension of the presumptive length of parole and the length of the

1948 extension shall be recorded and reported annually to the Commission on Criminal and Juvenile
1949 Justice.

1950 (g) In the event of an unauthorized leave lasting more than 24 hours, the term of parole
1951 shall toll until the minor returns.

1952 (5) Subsections (3) and (4) do not apply to a youth offender committed to a secure
1953 facility for:

1954 (a) Section 76-5-202, attempted aggravated murder;

1955 (b) Section 76-5-203, murder or attempted murder;

1956 (c) Section 76-5-405, aggravated sexual assault;

1957 (d) a felony violation of:

1958 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

1959 (ii) Section 76-5-302, aggravated kidnapping; or

1960 (iii) Section 76-6-103, aggravated arson;

1961 (e) Section 76-6-203, aggravated burglary;

1962 (f) Section 76-6-302, aggravated robbery;

1963 (g) Section 76-10-508.1, felony discharge of a firearm; or

1964 (h) an offense other than those listed in Subsections (5)(a) through (g) involving the
1965 use of a dangerous weapon that would be a felony if committed by an adult, and the minor has
1966 been previously adjudicated or convicted of an offense involving the use of a dangerous
1967 weapon that also would have been a felony if committed by an adult.

1968 (6) (a) The division may continue to have responsibility for any minor discharged
1969 under this section from parole until 21 years of age for the purposes of specific educational or
1970 rehabilitative programs, under conditions agreed upon by both the division and the minor and
1971 terminable by either.

1972 (b) The division shall offer the educational or rehabilitative program before the minor's
1973 discharge date as provided in this section.

1974 (c) Notwithstanding Subsection (6)(b), a minor may request and the division shall
1975 consider any such request for the services described in this section, for up to 90 days after the
1976 minor's effective date of discharge, even when the minor has previously declined services or
1977 services were terminated for noncompliance, and may reach an agreement with the minor,
1978 terminable by either, to provide the services described in this section until the minor attains the

1979 age of 21.

1980 Section 32. Section **62A-7-501** is amended to read:

1981 **62A-7-501. Youth Parole Authority -- Expenses -- Responsibilities -- Procedures.**

1982 (1) There is created within the division a Youth Parole Authority.

1983 (2) (a) The authority is composed of 10 part-time members and five pro tempore
1984 members who are residents of this state. No more than three pro tempore members may serve
1985 on the authority at any one time.

1986 (b) Throughout this section, the term "member" refers to both part-time and pro
1987 tempore members of the Youth Parole Authority.

1988 (3) (a) Except as required by Subsection (3)(b), members shall be appointed to
1989 four-year terms by the governor with the consent of the Senate.

1990 (b) The governor shall, at the time of appointment or reappointment, adjust the length
1991 of terms to ensure that the terms of authority members are staggered so that approximately half
1992 of the authority is appointed every two years.

1993 (4) Each member shall have training or experience in social work, law, juvenile or
1994 criminal justice, or related behavioral sciences.

1995 (5) When a vacancy occurs in the membership for any reason, the replacement member
1996 shall be appointed for the unexpired term.

1997 (6) During the tenure of ~~[his]~~ the member's appointment, a member may not:

1998 (a) be an employee of the department, other than in ~~[his]~~ the member's capacity as a
1999 member of the authority;

2000 (b) hold any public office;

2001 (c) hold any position in the state's juvenile justice system; or

2002 (d) be an employee, officer, advisor, policy board member, or subcontractor of any
2003 juvenile justice agency or its contractor.

2004 (7) In extraordinary circumstances or when a regular member is absent or otherwise
2005 unavailable, the chair may assign a pro tempore member to act in the absent member's place.

2006 (8) A member may not receive compensation or benefits for the member's service, but
2007 may receive per diem and travel expenses in accordance with:

2008 (a) Section [63A-3-106](#);

2009 (b) Section [63A-3-107](#); and

2010 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
2011 [63A-3-107](#).

2012 (9) The authority shall determine appropriate parole dates for youth offenders, based on
2013 guidelines established by the board and in accordance with Section [62A-7-404](#). The board
2014 shall review and update policy guidelines annually.

2015 (10) Youth offenders may be paroled to their own homes, [~~to a residential~~
2016 ~~community-based program, to a nonresidential community-based treatment program~~] to an
2017 independent living program contracted or operated by the division, to an approved independent
2018 living setting, or to other appropriate residences of qualifying relatives or guardians, but shall
2019 remain on parole until parole is terminated by the authority in accordance with Section
2020 [62A-7-404](#).

2021 (11) The division's case management staff shall implement parole release plans and
2022 shall supervise youth offenders while on parole.

2023 (12) The division shall permit the authority to have reasonable access to youth
2024 offenders in secure facilities and shall furnish all pertinent data requested by the authority in
2025 matters of parole, revocation, and termination.

2026 Section 33. Section [62A-7-504](#) is amended to read:

2027 **[62A-7-504. Parole revocation -- Hearing -- Procedures.](#)**

2028 (1) The authority may revoke the parole of a youth offender only after a hearing and
2029 upon determination that there has been a violation of law or of a condition of parole by the
2030 youth offender [~~which~~] that warrants [his] the youth offender's return to a secure facility. The
2031 parole revocation hearing shall be held at a secure facility.

2032 (2) Before returning a youth offender to a secure facility for a parole revocation or
2033 rescission hearing, the division shall provide a prerevocation or prerescission hearing within
2034 the vicinity of the alleged violation, to determine whether there is probable cause to believe
2035 that the youth offender violated the conditions of [~~his~~] the youth offender's parole. Upon a
2036 finding of probable cause, the youth offender may be remanded to a secure facility, pending a
2037 revocation hearing.

2038 (3) The authority shall only proceed with the parole revocation or rescission process in
2039 accordance with the system of appropriate responses developed pursuant to Section [78A-6-123](#).

2040 [~~(3)~~] (4) A paroled youth offender is entitled to legal representation at the parole

2041 revocation hearing, and if the youth offender or ~~[his]~~ the youth offender's family has requested
2042 but cannot afford legal representation, the authority shall appoint legal counsel.

2043 ~~[(4)]~~ (5) The authority and the administrative officer have power to issue subpoenas,
2044 compel attendance of witnesses, compel production of books, papers and other documents,
2045 administer oaths, and take testimony under oath for the purposes of conducting the hearings.

2046 ~~[(5)]~~ (6) (a) A youth offender shall receive timely advance notice of the date, time,
2047 place, and reason for the hearing, and has the right to appear at the hearing.

2048 (b) The authority shall provide the youth offender an opportunity to be heard, to
2049 present witnesses and evidence, and to confront and cross-examine adverse witnesses, unless
2050 there is good cause for disallowing that confrontation.

2051 ~~[(6)]~~ (7) Decisions in parole revocation or rescission hearings shall be reached by a
2052 majority vote of the present members of the authority.

2053 ~~[(7)]~~ (8) The administrative officer shall maintain summary records of all hearings and
2054 provide written notice to the youth offender of the decision and reason for the decision.

2055 ~~[(8)]~~ (9) (a) The authority may issue a warrant to order any peace officer or division
2056 employee to take into custody a youth offender alleged to be in violation of parole conditions in
2057 accordance with Section 78A-6-123.

2058 (b) The division may issue a warrant to any peace officer or division employee to
2059 retake a youth offender who has escaped from a secure facility.

2060 (c) Based upon the warrant issued under this Subsection ~~[(8)]~~ (9), a youth offender may
2061 be held in a local detention facility for no longer than 48 hours, excluding weekends and legal
2062 holidays, to allow time for a prerevocation or prerecission hearing of the alleged parole
2063 violation, or in the case of an escapee, arrangement for transportation to the secure facility.

2064 Section 34. Section **62A-7-506** is amended to read:

2065 **62A-7-506. Discharge of youth offender.**

2066 (1) A youth offender may be discharged from the jurisdiction of the division at any
2067 time, by written order of the Youth Parole Authority, upon a finding that no further purpose
2068 would be served by secure confinement or supervision in a community setting.

2069 (2) Discharge of a youth offender shall be in accordance with policies approved by the
2070 board and Section 62A-7-404.

2071 (3) Discharge of a youth offender is a complete release of all penalties incurred by

2072 adjudication of the offense for which the youth offender was committed.

2073 Section 35. Section **62A-7-601** is amended to read:

2074 **62A-7-601. Youth services for prevention and early intervention -- Program**
2075 **standards -- Program services.**

2076 (1) The division shall establish and operate prevention and early intervention youth
2077 services programs.

2078 (2) The division shall adopt with the approval of the board statewide policies and
2079 procedures, including minimum standards for the organization and operation of youth services
2080 programs.

2081 (3) The division shall establish housing, programs, and procedures to ensure that youth
2082 who are receiving services under this section and who are not in the custody of the division are
2083 served separately from youth who are in custody of the division.

2084 (4) The division may enter into contracts with state and local governmental entities and
2085 private providers to provide the youth services.

2086 (5) The division shall establish and administer juvenile receiving centers and other
2087 programs to provide temporary custody, care, risk-needs assessments, evaluations, and control
2088 for nonadjudicated and adjudicated youth placed with the division.

2089 (6) The division shall prioritize use of evidence-based juvenile justice programs.

2090 Section 36. Section **62A-7-701** is amended to read:

2091 **62A-7-701. Community-based programs.**

2092 (1) (a) The division shall operate residential and nonresidential community-based
2093 programs to provide care, treatment, and supervision [~~for paroled youth offenders and~~] for
2094 youth offenders committed to the division by juvenile courts.

2095 (b) The division shall operate or contract for nonresidential community-based
2096 programs and independent living programs to provide care, treatment, and supervision of
2097 paroled youth offenders.

2098 (2) The division shall adopt, with the approval of the board, minimum standards for the
2099 organization and operation of community-based corrections programs for youth offenders.

2100 (3) The division shall place youth offenders committed to it for community-based
2101 programs in the most appropriate program based upon the division's evaluation of the youth
2102 offender's needs and the division's available resources in accordance with Sections [62A-7-404](#)

2103 and [78A-6-117](#).

2104 Section 37. Section **63M-7-204** is amended to read:

2105 **63M-7-204. Duties of commission.**

2106 (1) The State Commission on Criminal and Juvenile Justice administration shall:

2107 [~~(1)~~] (a) promote the commission's purposes as enumerated in Section [63M-7-201](#);

2108 [~~(2)~~] (b) promote the communication and coordination of all criminal and juvenile
2109 justice agencies;

2110 [~~(3)~~] (c) study, evaluate, and report on the status of crime in the state and on the
2111 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
2112 reduction of crime in the state;

2113 [~~(4)~~] (d) study, evaluate, and report on programs initiated by state and local agencies to
2114 address reducing recidivism, including changes in penalties and sentencing guidelines intended
2115 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and
2116 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an
2117 alternative to incarceration, as resources allow;

2118 [~~(5)~~] (e) study, evaluate, and report on policies, procedures, and programs of other
2119 jurisdictions which have effectively reduced crime;

2120 [~~(6)~~] (f) identify and promote the implementation of specific policies and programs the
2121 commission determines will significantly reduce crime in Utah;

2122 [~~(7)~~] (g) provide analysis and recommendations on all criminal and juvenile justice
2123 legislation, state budget, and facility requests, including program and fiscal impact on all
2124 components of the criminal and juvenile justice system;

2125 [~~(8)~~] (h) provide analysis, accountability, recommendations, and supervision for state
2126 and federal criminal justice grant money;

2127 [~~(9)~~] (i) provide public information on the criminal and juvenile justice system and
2128 give technical assistance to agencies or local units of government on methods to promote
2129 public awareness;

2130 [~~(10)~~] (j) promote research and program evaluation as an integral part of the criminal
2131 and juvenile justice system;

2132 [~~(11)~~] (k) provide a comprehensive criminal justice plan annually;

2133 [~~(12)~~] (l) review agency forecasts regarding future demands on the criminal and

2134 juvenile justice systems, including specific projections for secure bed space;

2135 ~~[(13)]~~ (m) promote the development of criminal and juvenile justice information

2136 systems that are consistent with common standards for data storage and are capable of

2137 appropriately sharing information with other criminal justice information systems by:

2138 ~~[(a)]~~ (i) developing and maintaining common data standards for use by all state

2139 criminal justice agencies;

2140 ~~[(b)]~~ (ii) annually performing audits of criminal history record information maintained

2141 by state criminal justice agencies to assess their accuracy, completeness, and adherence to

2142 standards;

2143 ~~[(c)]~~ (iii) defining and developing state and local programs and projects associated with

2144 the improvement of information management for law enforcement and the administration of

2145 justice; and

2146 ~~[(d)]~~ (iv) establishing general policies concerning criminal and juvenile justice

2147 information systems and making rules as necessary to carry out the duties under ~~[this]~~

2148 Subsection ~~[(13)]~~ (1)(k) and this Subsection ~~[(11)]~~ (1)(m);

2149 ~~[(14)]~~ (n) allocate and administer grants, from money made available, for approved

2150 education programs to help prevent the sexual exploitation of children;

2151 ~~[(15)]~~ (o) allocate and administer grants funded from money from the Law

2152 Enforcement Operations Account created in Section [51-9-411](#) for law enforcement operations

2153 and programs related to reducing illegal drug activity and related criminal activity;

2154 ~~[(16)]~~ (p) request, receive, and evaluate data and recommendations collected and

2155 reported by agencies and contractors related to policies recommended by the commission

2156 regarding recidivism reduction; ~~[and]~~

2157 ~~[(17)]~~ (q) establish and administer a performance incentive grant program that allocates

2158 funds appropriated by the Legislature to programs and practices implemented by counties that

2159 reduce recidivism and reduce the number of offenders per capita who are incarcerated~~[-]~~;

2160 (r) oversee or designate an entity to oversee the implementation of juvenile justice

2161 reforms; and

2162 (s) make rules and administer the juvenile holding room standards and juvenile jail

2163 standards to align with the Juvenile Justice and Delinquency Prevention Act requirements

2164 pursuant to 42 U.S.C. Sec. 5633.

2165 (2) If the commission designates an entity under Subsection (1)(r), the commission
2166 shall ensure that the membership of the entity include representation from the three branches of
2167 government and, as determined by the commission, representation from relevant stakeholder
2168 groups across all parts of the juvenile justice system.

2169 Section 38. Section **63M-7-208** is enacted to read:

2170 **63M-7-208. Juvenile justice oversight -- Delegation.**

2171 (1) The Commission on Criminal and Juvenile Justice shall:

2172 (a) support implementation of the expansion of evidence-based juvenile justice
2173 programs, including assistance regarding implementation fidelity, quality assurance, and
2174 ongoing evaluation;

2175 (b) examine and make recommendations on the use of third-party entities or an
2176 intermediary organization to assist with implementation and to support the performance-based
2177 contracting system authorized in Subsection (1)(m);

2178 (c) oversee the development of performance measures to track juvenile justice reforms,
2179 and ensure early and ongoing stakeholder engagement in identifying the relevant performance
2180 measures;

2181 (d) evaluate currently collected data elements throughout the juvenile justice system
2182 and contract reporting requirements to streamline reporting, reduce redundancies, eliminate
2183 inefficiencies, and ensure a focus on recidivism reduction;

2184 (e) review averted costs from reductions in out-of-home placements for juvenile justice
2185 youth placed with the Division of Juvenile Justice Services and the Division of Child and
2186 Family Services, and make recommendations to prioritize the reinvestment and realignment of
2187 resources into community-based programs for youth living at home, including the following:

2188 (i) statewide expansion of:

2189 (A) receiving centers;

2190 (B) mobile crisis outreach teams, as defined in Section [78A-6-105](#);

2191 (C) youth courts; and

2192 (D) victim-offender mediation;

2193 (ii) statewide implementation of nonresidential diagnostic assessment;

2194 (iii) statewide availability of evidence-based cognitive behavioral and family therapy
2195 programs for minors assessed by a validated risk and needs assessment as moderate or high

2196 risk;
2197 (iv) other evidence-based juvenile justice programs designed to reduce recidivism;
2198 (v) implementation and infrastructure to support the sustainability and fidelity of
2199 evidence-based juvenile justice programs, including resources for staffing, transportation, and
2200 flexible funds; and
2201 (vi) early intervention programs such as family strengthening programs, family
2202 wraparound services, and proven truancy interventions;
2203 (f) assist the Administrative Office of the Courts in the development of a statewide
2204 sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's
2205 family to pay;
2206 (g) analyze the alignment of resources and the roles and responsibilities of agencies,
2207 such as the operation of early intervention services, receiving centers, and diversion, and make
2208 recommendations to reallocate functions as appropriate, in accordance with Section
2209 [62A-7-601](#);
2210 (h) ensure that data reporting is expanded and routinely review data in additional areas,
2211 including:
2212 (i) referral and disposition data by judicial district;
2213 (ii) data on the length of time minors spend in the juvenile justice system, including the
2214 total time spent under court jurisdiction, on community supervision, and in each out-of-home
2215 placement;
2216 (iii) recidivism data for diversion types pursuant to Section [78A-6-602](#) and disposition
2217 types pursuant to Section [78A-6-117](#), including tracking minors into the adult corrections
2218 system;
2219 (iv) change in aggregate risk levels from the time minors receive services, are under
2220 supervision, and are in out-of-home placement; and
2221 (v) dosage of programming;
2222 (i) develop a reasonable time period within which all programming delivered to minors
2223 in the juvenile justice system must be evidence-based or rated as effective for reducing
2224 recidivism by a standardized program evaluation tool;
2225 (j) provide guidelines to be considered by the Administrative Office of the Courts and
2226 the Division of Juvenile Justice Services in developing tools considered by the Administrative

2227 Office of the Courts and the Division of Juvenile Justice Services in developing or selecting
2228 tools to be used for the evaluation of juvenile justice programs;

2229 (k) develop a timeline to support improvements to juvenile justice programs to achieve
2230 reductions in recidivism and review reports from relevant state agencies on progress toward
2231 reaching that timeline;

2232 (l) subject to Subsection (2), assist in the development of training for juvenile justice
2233 stakeholders, including educators, law enforcement officers, probation staff, judges, Division
2234 of Juvenile Justice Services staff, Division of Child and Family Services staff, and program
2235 providers;

2236 (m) subject to Subsection (3), assist in the development of a performance-based
2237 contracting system, which shall be developed by the Administrative Office of the Courts and
2238 the Division of Juvenile Justice Services for contracted services in the community and
2239 contracted out-of-home placement providers;

2240 (n) assist in the development of a validated detention risk assessment tool that shall be
2241 developed or adopted and validated by the Administrative Office of the Courts and the
2242 Division of Juvenile Justice Services as provided in Section [78A-6-124](#); and

2243 (o) annually issue and make public a report to the governor, president of the Senate,
2244 speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the
2245 progress of the reforms and any additional areas in need of review.

2246 (2) Training described in Subsection (1)(l) should be focused on evidence-based
2247 principles of juvenile justice, such as risk, needs, responsivity, and fidelity, and shall be
2248 supplemented by the following topics:

2249 (a) adolescent development;

2250 (b) identifying and using local behavioral health resources;

2251 (c) implicit bias;

2252 (d) cultural competency;

2253 (e) graduated responses;

2254 (f) Utah juvenile justice system data and outcomes; and

2255 (g) gangs.

2256 (3) The system described in Subsection (1)(m) shall provide incentives for:

2257 (a) the use of evidence-based juvenile justice programs and programs rated as effective

2258 by the tools selected in accordance with Subsection (1)(j);

2259 (b) the use of three-month timelines for program completion; and

2260 (c) evidence-based services for minors living at home in rural areas.

2261 (4) The Commission on Criminal and Juvenile Justice may delegate the duties imposed

2262 under this section to a subcommittee or board established by the Commission on Criminal and

2263 Juvenile Justice in accordance with Subsection [63M-7-204\(2\)](#).

2264 Section 39. Section **63M-7-404** is amended to read:

2265 **63M-7-404. Purpose -- Duties.**

2266 (1) The purpose of the commission shall be to develop guidelines and propose

2267 recommendations to the Legislature, the governor, and the Judicial Council about the

2268 sentencing and release of juvenile and adult offenders in order to:

2269 (a) respond to public comment;

2270 (b) relate sentencing practices and correctional resources;

2271 (c) increase equity in criminal sentencing;

2272 (d) better define responsibility in criminal sentencing; and

2273 (e) enhance the discretion of sentencing judges while preserving the role of the Board

2274 of Pardons and Parole and the Youth Parole Authority.

2275 (2) (a) The commission shall modify the sentencing guidelines for adult offenders to

2276 implement the recommendations of the Commission on Criminal and Juvenile Justice for

2277 reducing recidivism.

2278 (b) The modifications under Subsection (2)(a) shall be for the purposes of protecting

2279 the public and ensuring efficient use of state funds.

2280 (3) (a) The commission shall modify the criminal history score in the sentencing

2281 guidelines for adult offenders to implement the recommendations of the Commission on

2282 Criminal and Juvenile Justice for reducing recidivism.

2283 (b) The modifications to the criminal history score under Subsection (3)(a) shall

2284 include factors in an offender's criminal history that are relevant to the accurate determination

2285 of an individual's risk of offending again.

2286 (4) (a) The commission shall establish sentencing guidelines for periods of

2287 incarceration for individuals who are on probation and:

2288 (i) who have violated one or more conditions of probation; and

- 2289 (ii) whose probation has been revoked by the court.
- 2290 (b) The guidelines shall consider the seriousness of the violation of the conditions of
- 2291 probation, the probationer's conduct while on probation, and the probationer's criminal history.
- 2292 (5) (a) The commission shall establish sentencing guidelines for periods of
- 2293 incarceration for individuals who are on parole and:
- 2294 (i) who have violated a condition of parole; and
- 2295 (ii) whose parole has been revoked by the Board of Pardons and Parole.
- 2296 (b) The guidelines shall consider the seriousness of the violation of the conditions of
- 2297 parole, the individual's conduct while on parole, and the individual's criminal history.
- 2298 (6) The commission shall establish graduated sanctions to facilitate the prompt and
- 2299 effective response to an individual's violation of the terms of probation or parole by the adult
- 2300 probation and parole section of the Department of Corrections in order to implement the
- 2301 recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism,
- 2302 including:
- 2303 (a) sanctions to be used in response to a violation of the terms of probation or parole;
- 2304 (b) when violations should be reported to the court or the Board of Pardons and Parole;
- 2305 and
- 2306 (c) a range of sanctions that may not exceed a period of incarceration of more than:
- 2307 (i) three consecutive days; and
- 2308 (ii) a total of five days in a period of 30 days.
- 2309 (7) The commission shall establish graduated incentives to facilitate a prompt and
- 2310 effective response by the adult probation and parole section of the Department of Corrections
- 2311 to an offender's:
- 2312 (a) compliance with the terms of probation or parole; and
- 2313 (b) positive conduct that exceeds those terms.
- 2314 (8) (a) The commission shall establish guidelines, including sanctions and incentives,
- 2315 to appropriately respond to negative and positive behavior of juveniles who are:
- 2316 (i) nonjudicially adjudicated;
- 2317 (ii) placed on diversion;
- 2318 (iii) placed on probation;
- 2319 (iv) placed on community supervision;

- 2320 (v) placed in an out-of-home placement; or
- 2321 (vi) placed in a secure care facility.
- 2322 (b) In establishing guidelines under this Subsection (8), the commission shall consider:
- 2323 (i) the seriousness of the negative and positive behavior;
- 2324 (ii) the juvenile's conduct post-adjudication; and
- 2325 (iii) the delinquency history of the juvenile.
- 2326 (c) The guidelines shall include:
- 2327 (i) responses that are swift and certain;
- 2328 (ii) a continuum of community-based options for juveniles living at home;
- 2329 (iii) responses that target the individual's criminogenic risk and needs; and
- 2330 (iv) incentives for compliance, including earned discharge credits.

2331 Section 40. Section **76-5-413** is amended to read:

2332 **76-5-413. Custodial sexual relations or misconduct with youth receiving state**
2333 **services -- Definitions -- Penalties -- Defenses.**

2334 (1) As used in this section:

2335 (a) "Actor" means:

2336 (i) a person employed by the Department of Human Services, as created in Section
2337 [62A-1-102](#), or an employee of a private provider or contractor; or

2338 (ii) a person employed by the juvenile court of the state, or an employee of a private
2339 provider or contractor.

2340 (b) "Department" means the Department of Human Services created in Section
2341 [62A-1-102](#).

2342 (c) "Juvenile court" means the juvenile court of the state created in Section [78A-6-102](#).

2343 (d) "Private provider or contractor" means any person or entity that contracts with the:

2344 (i) department to provide services or functions that are part of the operation of the
2345 department; or

2346 (ii) juvenile court to provide services or functions that are part of the operation of the
2347 juvenile court.

2348 (e) "Youth receiving state services" means a person:

2349 (i) younger than 18 years of age, except as provided under Subsection (1)(e)(ii), who is:

2350 (A) in the custody of the department under Subsection [78A-6-117\(2\)\(c\)](#)~~(ii)~~; or

2351 (B) receiving services from any division of the department if any portion of the costs of
2352 these services is covered by public money as defined in Section 76-8-401; or

2353 (ii) younger than 21 years of age who is:

2354 (A) in the custody of the Division of Juvenile Justice Services, or the Division of Child
2355 and Family Services; or

2356 (B) under the jurisdiction of the juvenile court.

2357 (2) (a) An actor commits custodial sexual relations with a youth receiving state
2358 services if the actor commits any of the acts under Subsection (3):

2359 (i) under circumstances not amounting to commission of, or an attempt to commit, an
2360 offense under Subsection (6); and

2361 (ii) (A) the actor knows that the individual is a youth receiving state services; or

2362 (B) a reasonable person in the actor's position should have known under the
2363 circumstances that the individual was a youth receiving state services.

2364 (b) A violation of Subsection (2)(a) is a third degree felony, but if the youth receiving
2365 state services is younger than 18 years of age, a violation of Subsection (2)(a) is a second
2366 degree felony.

2367 (c) If the act committed under this Subsection (2) amounts to an offense subject to a
2368 greater penalty under another provision of state law than is provided under this Subsection (2),
2369 this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

2370 (3) Acts referred to in Subsection (2)(a) are:

2371 (a) having sexual intercourse with a youth receiving state services;

2372 (b) engaging in any sexual act with a youth receiving state services involving the
2373 genitals of one person and the mouth or anus of another person, regardless of the sex of either
2374 participant; or

2375 (c) causing the penetration, however slight, of the genital or anal opening of a youth
2376 receiving state services by any foreign object, substance, instrument, or device, including a part
2377 of the human body, with the intent to cause substantial emotional or bodily pain to any person,
2378 regardless of the sex of any participant or with the intent to arouse or gratify the sexual desire
2379 of any person, regardless of the sex of any participant.

2380 (4) (a) An actor commits custodial sexual misconduct with a youth receiving state
2381 services if the actor commits any of the acts under Subsection (5):

2382 (i) under circumstances not amounting to commission of, or an attempt to commit, an
2383 offense under Subsection (6); and

2384 (ii) (A) the actor knows that the individual is a youth receiving state services; or

2385 (B) a reasonable person in the actor's position should have known under the

2386 circumstances that the individual was a youth receiving state services.

2387 (b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth

2388 receiving state services is younger than 18 years of age, a violation of Subsection (4)(a) is a

2389 third degree felony.

2390 (c) If the act committed under this Subsection (4) amounts to an offense subject to a

2391 greater penalty under another provision of state law than is provided under this Subsection (4),

2392 this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

2393 (5) Acts referred to in Subsection (4)(a) are the following acts when committed with

2394 the intent to cause substantial emotional or bodily pain to any person or with the intent to

2395 arouse or gratify the sexual desire of any person, regardless of the sex of any participant:

2396 (a) touching the anus, buttocks, or any part of the genitals of a youth receiving state
2397 services;

2398 (b) touching the breast of a female youth receiving state services;

2399 (c) otherwise taking indecent liberties with a youth receiving state services; or

2400 (d) causing a youth receiving state services to take indecent liberties with the actor or
2401 another person.

2402 (6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

2403 (a) Section 76-5-401, unlawful sexual activity with a minor;

2404 (b) Section 76-5-402, rape;

2405 (c) Section 76-5-402.1, rape of a child;

2406 (d) Section 76-5-402.2, object rape;

2407 (e) Section 76-5-402.3, object rape of a child;

2408 (f) Section 76-5-403, forcible sodomy;

2409 (g) Section 76-5-403.1, sodomy on a child;

2410 (h) Section 76-5-404, forcible sexual abuse;

2411 (i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or

2412 (j) Section 76-5-405, aggravated sexual assault.

2413 (7) (a) It is not a defense to the commission of the offense of custodial sexual relations
2414 with a youth receiving state services under Subsection (2) or custodial sexual misconduct with
2415 a youth receiving state services under Subsection (4), or an attempt to commit either of these
2416 offenses, if the youth receiving state services is younger than 18 years of age, that the actor:

2417 (i) mistakenly believed the youth receiving state services to be 18 years of age or older
2418 at the time of the alleged offense; or

2419 (ii) was unaware of the true age of the youth receiving state services.

2420 (b) Consent of the youth receiving state services is not a defense to any violation or
2421 attempted violation of Subsection (2) or (4).

2422 (8) It is a defense that the commission by the actor of an act under Subsection (2) or (4)
2423 is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

2424 Section 41. Section 76-9-701 is amended to read:

2425 **76-9-701. Intoxication -- Release of arrested person or placement in detoxification**
2426 **center.**

2427 (1) A person is guilty of intoxication if the person is under the influence of alcohol, a
2428 controlled substance, or any substance having the property of releasing toxic vapors, to a
2429 degree that the person may endanger the person or another, in a public place or in a private
2430 place where the person unreasonably disturbs other persons.

2431 (2) (a) A peace officer or a magistrate may release from custody a person arrested
2432 under this section if the peace officer or magistrate believes imprisonment is unnecessary for
2433 the protection of the person or another.

2434 (b) A peace officer may take the arrested person to a detoxification center or other
2435 special facility as an alternative to incarceration or release from custody.

2436 (3) (a) If a minor is found by a court to have violated this section and the violation is
2437 the minor's first violation of this section, the court may:

2438 (i) order the minor to complete a screening as defined in Section 41-6a-501;

2439 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
2440 screening indicates an assessment to be appropriate; and

2441 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
2442 or substance [abuse] use disorder treatment as indicated by an assessment.

2443 (b) If a minor is found by a court to have violated this section and the violation is the

2444 minor's second or subsequent violation of this section, the court shall:

2445 (i) order the minor to complete a screening as defined in Section 41-6a-501;

2446 (ii) order the minor to complete an assessment as defined in Section 41-6a-501 if the
2447 screening indicates an assessment to be appropriate; and

2448 (iii) order the minor to complete an educational series as defined in Section 41-6a-501
2449 or substance [abuse] use disorder treatment as indicated by an assessment.

2450 (4) (a) When a minor who is at least 18 years old, but younger than 21 years old, is
2451 found by a court to have violated this section, the court hearing the case shall suspend the
2452 minor's driving privileges under Section 53-3-219.

2453 (b) Notwithstanding the requirement in Subsection (4)(a), the court may reduce the
2454 suspension period required under Section 53-3-219 if:

2455 (i) the violation is the minor's first violation of this section; and

2456 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

2457 (B) the minor demonstrates substantial progress in substance [abuse] use disorder
2458 treatment.

2459 (c) Notwithstanding the requirement in Subsection (4)(a) and in accordance with the
2460 requirements of Section 53-3-219, the court may reduce the suspension period required under
2461 Section 53-3-219 if:

2462 (i) the violation is the minor's second or subsequent violation of this section;

2463 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
2464 demonstrated substantial progress in substance [abuse] use disorder treatment; and

2465 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
2466 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
2467 consecutive period during the suspension period imposed under Subsection (4)(a); or

2468 (B) the person is under 18 years of age and has the person's parent or legal guardian
2469 provide an affidavit or sworn statement to the court certifying that to the parent or legal
2470 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
2471 one-year consecutive period during the suspension period imposed under Subsection (4)(a).

2472 (5) When a person who is [~~at least 13 years old, but~~] younger than 18 years old[;] is
2473 found by a court to have violated this section, the provisions regarding suspension of the
2474 driver's license under Section 78A-6-606 apply to the violation.

2475 (6) Notwithstanding Subsections (3)(a) and (b), if a minor is adjudicated under Section
2476 78A-6-117, the court may only order substance use disorder treatment or an educational series
2477 if the minor has an assessed need for the intervention based on the results of a validated
2478 assessment.

2479 [~~(6)~~] (7) When the court issues an order suspending a person's driving privileges for a
2480 violation of this section, the person's driver license shall be suspended under Section 53-3-219.

2481 [~~(7)~~] (8) An offense under this section is a class C misdemeanor.

2482 Section 42. Section 76-10-105 is amended to read:

2483 **76-10-105. Buying or possessing a cigar, cigarette, electronic cigarette, or tobacco**
2484 **by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.**

2485 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's
2486 possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C
2487 misdemeanor and subject to:

2488 (a) a minimum fine or penalty of \$60; and

2489 (b) participation in a court-approved tobacco education program, which may include a
2490 participation fee.

2491 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
2492 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject
2493 to the jurisdiction of the juvenile court and subject to Section 78A-6-602, unless the violation
2494 is committed on school property. If a violation under this section is adjudicated under Section
2495 78A-6-117, the minor may be subject to the following:

2496 (a) a [~~minimum~~] fine or penalty [~~of \$60~~] in accordance with Section 78A-6-117; and

2497 (b) participation in a court-approved tobacco education program, which may include a
2498 participation fee.

2499 (3) A compliance officer appointed by a board of education under Section 53A-3-402
2500 may not issue [~~citations~~] a citation for [~~violations~~] a violation of this section committed on
2501 school property. [~~Cited violations shall be reported to the appropriate juvenile court.~~] A cited
2502 violation committed on school property shall be addressed in accordance with Section
2503 53A-11-911.

2504 Section 43. Section 77-32-804 is amended to read:

2505 **77-32-804. Duties of the commission -- Annual report.**

2506 (1) The commission shall:
2507 (a) develop and adopt guiding principles for the assessment and oversight of criminal
2508 defense systems with the state that, at a minimum, address the following:
2509 (i) indigent defense service providers shall have independent judgment without fear of
2510 retaliation[-];
2511 (ii) service providers shall provide conflict-free representation, including the need for a
2512 separate contract for conflict counsel[-];
2513 (iii) the state may not interfere with the service provider's access to clients and the
2514 service provider is free to defend the client based on the service provider's own independent
2515 judgment[-];
2516 (iv) accused persons shall be provided counsel at all critical stages of the criminal
2517 process[-];
2518 (v) counsel shall be free to provide meaningful, adversarial testing of the evidence,
2519 including:
2520 (A) adequate access to defense resources; and
2521 (B) workloads that allow for time to meet with clients, investigate cases, and file
2522 appropriate motions[-];
2523 (vi) service providers shall be fairly compensated and incentivized to represent clients
2524 fully through:
2525 (A) compensation, that shall be independent from prosecutors' compensation;
2526 (B) incentives that are structured to represent criminal defendants well; and
2527 (C) separate contracts that are offered to ensure the right to appeal[-]; and
2528 (vii) the commission may maintain oversight to collect data, audit attorney
2529 performance, establish standards, and enforce the principles listed [~~above~~] in this Subsection
2530 (1)(a);
2531 (b) identify and collect data necessary for the commission to:
2532 (i) review compliance by criminal defense systems of minimum principles for effective
2533 representation;
2534 (ii) establish procedures for the collection and analysis of the data; and
2535 (iii) provide reports regarding the operation of the commission and the provision of
2536 indigent criminal defense services by each indigent criminal defense system;

2537 (c) develop and oversee the establishment of advisory caseload principles and
2538 guidelines to aid indigent criminal defense systems in delivering effective representation in the
2539 state consistent with the safeguards of the United States Constitution, the Utah Constitution,
2540 and this chapter;

2541 (d) review all contracts and interlocal agreements in the state for the provision of
2542 indigent criminal defense services and provide assistance and recommendations regarding
2543 compliance with minimum principles for effective representation;

2544 (e) investigate, audit, and review the provision of indigent criminal defense services for
2545 compliance with minimum principles;

2546 (f) establish procedures for the receipt, acceptance, and resolution of complaints
2547 regarding the provision of indigent criminal defense services;

2548 (g) establish procedures that enable indigent criminal defense systems to apply for state
2549 funding as provided under Section [77-32-805](#);

2550 (h) establish procedures for annually reporting to the governor, Legislature, Judicial
2551 Council, and indigent criminal defense systems throughout the state that include reporting the
2552 following:

2553 (i) the operations of the commission;

2554 (ii) the operations of each indigent criminal defense system; and

2555 (iii) each indigent criminal defense system's compliance with minimum standards for
2556 the provision of indigent criminal defense services for effective representation;

2557 (i) award grants to indigent criminal defense systems consistent with metrics
2558 established by the commission under this part and appropriations by the state;

2559 (j) encourage and aid in the regionalization of indigent criminal defense services within
2560 the state for effective representation and for efficiency and cost savings to local systems;

2561 (k) submit to legislative, executive, and judicial leadership, from time to time,
2562 proposed recommendations for improvement in the provision of indigent criminal defense
2563 services to ensure effective representation in the state, consistent with the safeguards of the
2564 United States Constitution and the Utah Constitution; and

2565 (1) identify and encourage best practices for effective representation to indigent
2566 defendants charged with crimes.

2567 (2) The commission shall emphasize the importance of indigent criminal defense

2568 services provided to defendants, whether charged with a misdemeanor or felony.

2569 (3) The commission shall establish procedures for the conduct of the commission's
2570 affairs and internal policies necessary to carry out the commission's duties and responsibilities
2571 under this part.

2572 (4) Commission policies shall be placed in an appropriate manual, made publicly
2573 available on a website, and made available to all attorneys and professionals providing indigent
2574 criminal defense services, the Judicial Council, the governor, and the Legislature.

2575 (5) The delivery of indigent criminal defense services shall be independent of the
2576 judiciary, but the commission shall ensure that judges are permitted and encouraged to
2577 contribute information and advice concerning the delivery of indigent criminal defense
2578 services.

2579 (6) An indigent criminal defense system that is in compliance with minimum principles
2580 and procedures may not be required to provide indigent criminal defense services in excess of
2581 those principles and procedures.

2582 (7) The commission shall submit a report annually to the Judiciary Interim Committee
2583 on the commission's efforts to improve the provision of indigent criminal defense services
2584 statewide.

2585 (8) The commission shall oversee or create a statewide entity to oversee matters related
2586 to juvenile defense representation in any action initiated by the state or a political subdivision
2587 of the state under Part 6, Delinquency and Criminal Actions, or Part 7, Transfer of Jurisdiction,
2588 or against a minor under Section [78A-6-1101](#), including:

2589 (a) providing model contracts for juvenile defense;

2590 (b) training of juvenile defense attorneys;

2591 (c) technical assistance on juvenile defense to counties; and

2592 (d) the development of cost-sharing partnerships between the state and counties for
2593 costs related to juvenile defense, under which counties are responsible for costs of cases
2594 prosecuted by the counties and may receive financial assistance in the form of grants for costs
2595 incurred by the counties in prosecuting juvenile cases.

2596 Section 44. Section **78A-6-103** is amended to read:

2597 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

2598 (1) Except as otherwise provided by law, the juvenile court has exclusive original

2599 jurisdiction in proceedings concerning:

2600 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
2601 person younger than 21 years of age who has violated any law or ordinance before becoming
2602 18 years of age, regardless of where the violation occurred, excluding offenses:

2603 (i) in Section 53A-11-911 until such time that the child is referred to the courts under
2604 Section 53A-11-911; and

2605 (ii) in Subsection 78A-7-106(2);

2606 ~~[(b) a person 21 years of age or older who has failed or refused to comply with an order~~
2607 ~~of the juvenile court to pay a fine or restitution, if the order was imposed before the person's~~
2608 ~~21st birthday; however, the continuing jurisdiction is limited to causing compliance with~~
2609 ~~existing orders;]~~

2610 ~~[(c)]~~ (b) a child who is an abused child, neglected child, or dependent child, as those
2611 terms are defined in Section 78A-6-105;

2612 ~~[(d)]~~ (c) a protective order for a child pursuant to ~~[the provisions of]~~ Title 78B, Chapter
2613 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district court if
2614 the juvenile court has entered an ex parte protective order and finds that:

2615 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
2616 parent of the child who is the object of the petition;

2617 (ii) the district court has a petition pending or an order related to custody or parent-time
2618 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,
2619 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
2620 respondent are parties; and

2621 (iii) the best interests of the child will be better served in the district court;

2622 ~~[(e)]~~ (d) appointment of a guardian of the person or other guardian of a minor who
2623 comes within the court's jurisdiction under other provisions of this section;

2624 ~~[(f)]~~ (e) the emancipation of a minor in accordance with Part 8, Emancipation;

2625 ~~[(g)]~~ (f) the termination of the legal parent-child relationship in accordance with Part 5,
2626 Termination of Parental Rights Act, including termination of residual parental rights and
2627 duties;

2628 ~~[(h)]~~ (g) the treatment or commitment of a minor who has an intellectual disability;

2629 ~~[(i) a minor who is a habitual truant from school;]~~

2630 [fj] (h) the judicial consent to the marriage of a child under age 16 upon a
2631 determination of voluntariness or where otherwise required by law, employment, or enlistment
2632 of a child when consent is required by law;

2633 [fk] (i) any parent or parents of a child committed to a secure youth [corrections]
2634 facility, to order, at the discretion of the court and on the recommendation of a secure facility,
2635 the parent or parents of a child committed to a secure facility for a custodial term, to undergo
2636 group rehabilitation therapy under the direction of a secure facility therapist, who has
2637 supervision of that parent's or parents' child, or any other therapist the court may direct, for a
2638 period directed by the court as recommended by a secure facility;

2639 [ft] (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

2640 [fm] (k) subject to Subsection (8), the treatment or commitment of a child with a
2641 mental illness~~[- The court may commit a child to the physical custody of a local mental health~~
2642 ~~authority in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7,~~
2643 ~~Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, but~~
2644 ~~not directly to the Utah State Hospital];~~

2645 [fn] (l) the commitment of a child to a secure drug or alcohol facility in accordance
2646 with Section [62A-15-301](#);

2647 [fo] (m) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);

2648 [fp] (n) de novo review of final agency actions resulting from an informal adjudicative
2649 proceeding as provided in Section [63G-4-402](#); and

2650 [fq] (o) adoptions conducted in accordance with the procedures described in Title
2651 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an
2652 order terminating the rights of a parent and finds that adoption is in the best interest of the
2653 child.

2654 (2) (a) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102\(9\)](#), the juvenile
2655 court has exclusive jurisdiction over the following offenses committed by a child:

2656 [fa] (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless
2657 Driving;

2658 [fb] (ii) Section [73-18-12](#), reckless operation; and

2659 [fc] (iii) class B and C misdemeanors, infractions, or violations of ordinances that are
2660 part of a single criminal episode filed in a petition that contains an offense over which the court

2661 has jurisdiction.

2662 (b) A juvenile court may only order substance use disorder treatment or an educational
2663 series if the minor has an assessed need for the intervention on the basis of the results of a
2664 validated assessment.

2665 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is
2666 referred to it by the Division of Child and Family Services or by public or private agencies that
2667 contract with the division to provide services to that child [~~where~~] when, despite earnest and
2668 persistent efforts by the division or agency, the child has demonstrated that the child:

2669 (a) is beyond the control of the child's parent, guardian, or lawful custodian[~~or school~~
2670 ~~authorities~~] to the extent that the child's behavior or condition endangers the child's own
2671 welfare or the welfare of others; or

2672 (b) has run away from home.

2673 (4) This section does not restrict the right of access to the juvenile court by private
2674 agencies or other persons.

2675 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
2676 arising under Section [78A-6-702](#).

2677 (6) The juvenile court has jurisdiction to make a finding of substantiated,
2678 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

2679 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
2680 pursuant to Subsection [78A-7-106](#)[~~(7)~~](5) and subject to Section [53A-11-911](#).

2681 (8) The court may commit a child to the physical custody of a local mental health
2682 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age
2683 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State
2684 Hospital.

2685 Section 45. Section **78A-6-105** is amended to read:

2686 **78A-6-105. Definitions.**

2687 As used in this chapter:

2688 (1) (a) "Abuse" means:

2689 (i) (A) nonaccidental harm of a child;

2690 [~~(ii)~~] (B) threatened harm of a child;

2691 [~~(iii)~~] (C) sexual exploitation;

2692 ~~[(iv)]~~ (D) sexual abuse; or
2693 ~~[(v)]~~ (E) human trafficking of a child in violation of Section 76-5-308.5~~[-];~~ or
2694 ~~[(b)]~~ (ii) that a child's natural parent:
2695 ~~[(i)]~~ (A) intentionally, knowingly, or recklessly causes the death of another parent of
2696 the child;
2697 ~~[(ii)]~~ (B) is identified by a law enforcement agency as the primary suspect in an
2698 investigation for intentionally, knowingly, or recklessly causing the death of another parent of
2699 the child; or
2700 ~~[(iii)]~~ (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
2701 recklessly causing the death of another parent of the child.
2702 ~~[(e)]~~ (b) "Abuse" does not include:
2703 (i) reasonable discipline or management of a child, including withholding privileges;
2704 (ii) conduct described in Section 76-2-401; or
2705 (iii) the use of reasonable and necessary physical restraint or force on a child:
2706 (A) in self-defense;
2707 (B) in defense of others;
2708 (C) to protect the child; or
2709 (D) to remove a weapon in the possession of a child for any of the reasons described in
2710 Subsections (1)(b)(iii)(A) through (C).
2711 (2) "Abused child" means a child who has been subjected to abuse.
2712 (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts
2713 alleged in the petition have been proved. A finding of not competent to proceed pursuant to
2714 Section 78A-6-1302 is not an adjudication.
2715 (4) "Adult" means a person 18 years of age or over, except that a person 18 years or
2716 over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall
2717 be referred to as a minor.
2718 (5) "Board" means the Board of Juvenile Court Judges.
2719 (6) "Child" means a person under 18 years of age.
2720 (7) "Child placement agency" means:
2721 (a) a private agency licensed to receive a child for placement or adoption under this
2722 code; or

2723 (b) a private agency that receives a child for placement or adoption in another state,
2724 which agency is licensed or approved where such license or approval is required by law.

2725 (8) "Clandestine laboratory operation" means the same as that term is defined in
2726 Section [58-37d-3](#).

2727 (9) "Commit" means, unless specified otherwise:

2728 (a) with respect to a child, to transfer legal custody; and

2729 (b) with respect to a minor who is at least 18 years of age, to transfer custody.

2730 (10) "Court" means the juvenile court.

2731 (11) "Criminogenic risk factors" means evidence-based factors that are associated with
2732 a minor's likelihood of reoffending.

2733 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if
2734 committed by an adult.

2735 [~~(11)~~] (13) "Dependent child" includes a child who is homeless or without proper care
2736 through no fault of the child's parent, guardian, or custodian.

2737 [~~(12)~~] (14) "Deprivation of custody" means transfer of legal custody by the court from
2738 a parent or the parents or a previous legal custodian to another person, agency, or institution.

2739 [~~(13)~~] (15) "Detention" means home detention and secure detention as defined in
2740 Section [62A-7-101](#) for the temporary care of a minor who requires secure custody in a
2741 physically restricting facility:

2742 (a) pending court disposition or transfer to another jurisdiction; or

2743 (b) while under the continuing jurisdiction of the court.

2744 (16) "Detention risk assessment tool" means an evidence-based tool established under
2745 Section [78A-6-124](#) that assesses a minor's risk of failing to appear in court or reoffending
2746 pre-adjudication and designed to assist in making detention determinations.

2747 [~~(14)~~] (17) "Division" means the Division of Child and Family Services.

2748 (18) "Evidence-based" means a program or practice that has had multiple randomized
2749 control studies or a meta-analysis demonstrating that the program or practice is effective for a
2750 specific population.

2751 (19) "Formal probation" means a minor is under field supervision by the probation
2752 department or other agency designated by the court and subject to return to the court in
2753 accordance with Section [78A-6-123](#).

2754 [~~(15)~~] (20) "Formal referral" means a written report from a peace officer or other
2755 person informing the court that a minor is or appears to be within the court's jurisdiction and
2756 that a [~~petition may be filed~~] case must be reviewed.

2757 [~~(16)~~] (21) "Group rehabilitation therapy" means psychological and social counseling
2758 of one or more persons in the group, depending upon the recommendation of the therapist.

2759 [~~(17)~~] (22) "Guardianship of the person" includes the authority to consent to:

2760 (a) marriage;

2761 (b) enlistment in the armed forces;

2762 (c) major medical, surgical, or psychiatric treatment; or

2763 (d) legal custody, if legal custody is not vested in another person, agency, or institution.

2764 [~~(18)~~] (23) "Habitual truant" means the same as that term is defined in Section
2765 [53A-11-101](#).

2766 [~~(19)~~] (24) "Harm" means:

2767 (a) physical or developmental injury or damage;

2768 (b) emotional damage that results in a serious impairment in the child's growth,
2769 development, behavior, or psychological functioning;

2770 (c) sexual abuse; or

2771 (d) sexual exploitation.

2772 [~~(20)~~] (25) (a) "Incest" means engaging in sexual intercourse with a person whom the
2773 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
2774 nephew, niece, or first cousin.

2775 (b) The relationships described in Subsection [~~(20)~~] (25)(a) include:

2776 (i) blood relationships of the whole or half blood, without regard to legitimacy;

2777 (ii) relationships of parent and child by adoption; and

2778 (iii) relationships of stepparent and stepchild while the marriage creating the
2779 relationship of a stepparent and stepchild exists.

2780 (26) "Intake probation" means a period of court monitoring that does not include field
2781 supervision, but is overseen by a juvenile probation officer, during which a minor is subject to
2782 return to the court in accordance with Section [78A-6-123](#).

2783 [~~(21)~~] (27) "Intellectual disability" means:

2784 (a) significantly subaverage intellectual functioning, an IQ of approximately 70 or

2785 below on an individually administered IQ test, for infants, a clinical judgment of significantly
2786 subaverage intellectual functioning;

2787 (b) concurrent deficits or impairments in present adaptive functioning, the person's
2788 effectiveness in meeting the standards expected for [~~his or her~~] the person's age by the person's
2789 cultural group, in at least two of the following areas: communication, self-care, home living,
2790 social/interpersonal skills, use of community resources, self-direction, functional academic
2791 skills, work, leisure, health, and safety; and

2792 (c) the onset is before the person reaches the age of 18 years.

2793 [~~(22)~~] (28) "Legal custody" means a relationship embodying the following rights and
2794 duties:

2795 (a) the right to physical custody of the minor;

2796 (b) the right and duty to protect, train, and discipline the minor;

2797 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
2798 medical care;

2799 (d) the right to determine where and with whom the minor shall live; and

2800 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

2801 (29) "Material loss" means an uninsured:

2802 (a) property loss;

2803 (b) out-of-pocket monetary loss;

2804 (c) lost wages; or

2805 (d) medical expenses.

2806 [~~(23)~~] (30) "Mental disorder" means a serious emotional and mental disturbance that
2807 severely limits a minor's development and welfare over a significant period of time.

2808 [~~(24)~~] (31) "Minor" means:

2809 (a) a child; or

2810 (b) a person who is:

2811 (i) at least 18 years of age and younger than 21 years of age; and

2812 (ii) under the jurisdiction of the juvenile court.

2813 (32) "Mobile crisis outreach team" means a crisis intervention service for minors or
2814 families of minors experiencing behavioral health or psychiatric emergencies.

2815 [~~(25)~~] (33) "Molestation" means that a person, with the intent to arouse or gratify the

2816 sexual desire of any person:

2817 (a) touches the anus or any part of the genitals of a child;

2818 (b) takes indecent liberties with a child; or

2819 (c) causes a child to take indecent liberties with the perpetrator or another.

2820 [(26)] (34) "Natural parent" means a minor's biological or adoptive parent, and
2821 includes the minor's noncustodial parent.

2822 [(27)] (35) (a) "Neglect" means action or inaction causing:

2823 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
2824 Relinquishment of a Newborn Child;

2825 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
2826 guardian, or custodian;

2827 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
2828 subsistence, education, or medical care, or any other care necessary for the child's health,
2829 safety, morals, or well-being; or

2830 (iv) a child to be at risk of being neglected or abused because another child in the same
2831 home is neglected or abused.

2832 (b) The aspect of neglect relating to education, described in Subsection [(27)]
2833 (35)(a)(iii), means that, after receiving a notice of compulsory education violation under
2834 Section 53A-11-101.5, [~~or notice that a parent or guardian has failed to cooperate with school~~
2835 ~~authorities in a reasonable manner as required under Subsection 53A-11-101.7(5)(a);~~] the
2836 parent or guardian fails to make a good faith effort to ensure that the child receives an
2837 appropriate education.

2838 (c) A parent or guardian legitimately practicing religious beliefs and who, for that
2839 reason, does not provide specified medical treatment for a child, is not guilty of neglect.

2840 (d) (i) Notwithstanding Subsection [(27)] (35)(a), a health care decision made for a
2841 child by the child's parent or guardian does not constitute neglect unless the state or other party
2842 to the proceeding shows, by clear and convincing evidence, that the health care decision is not
2843 reasonable and informed.

2844 (ii) Nothing in Subsection [(27)] (35)(d)(i) may prohibit a parent or guardian from
2845 exercising the right to obtain a second health care opinion and from pursuing care and
2846 treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

2847 [(28)] (36) "Neglected child" means a child who has been subjected to neglect.

2848 [(29)] (37) "Nonjudicial adjustment" means closure of the case by the assigned

2849 probation officer without judicial determination upon the consent in writing of:

2850 (a) the assigned probation officer; and

2851 (b) (i) the minor; or

2852 (ii) the minor and the minor's parent, legal guardian, or custodian.

2853 [(30)] (38) "Not competent to proceed" means that a minor, due to a mental disorder,

2854 intellectual disability, or related condition as defined, lacks the ability to:

2855 (a) understand the nature of the proceedings against them or of the potential disposition

2856 for the offense charged; or

2857 (b) consult with counsel and participate in the proceedings against them with a

2858 reasonable degree of rational understanding.

2859 [(31)] (39) "Physical abuse" means abuse that results in physical injury or damage to a

2860 child.

2861 [(32)] (40) "Probation" means a legal status created by court order following an

2862 adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the

2863 minor is permitted to remain in the minor's home under prescribed conditions [~~and under~~

2864 ~~supervision by the probation department or other agency designated by the court, subject to~~

2865 ~~return to the court for violation of any of the conditions prescribed].~~

2866 [(33)] (41) "Protective supervision" means a legal status created by court order

2867 following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor

2868 is permitted to remain in the minor's home, and supervision and assistance to correct the abuse,

2869 neglect, or dependency is provided by the probation department or other agency designated by

2870 the court.

2871 [(34)] (42) "Related condition" means a condition closely related to intellectual

2872 disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3,

2873 Utah Administrative Code.

2874 [(35)] (43) (a) "Residual parental rights and duties" means those rights and duties

2875 remaining with the parent after legal custody or guardianship, or both, have been vested in

2876 another person or agency, including:

2877 (i) the responsibility for support;

2878 (ii) the right to consent to adoption;

2879 (iii) the right to determine the child's religious affiliation; and

2880 (iv) the right to reasonable parent-time unless restricted by the court.

2881 (b) If no guardian has been appointed, "residual parental rights and duties" also include

2882 the right to consent to:

2883 (i) marriage;

2884 (ii) enlistment; and

2885 (iii) major medical, surgical, or psychiatric treatment.

2886 ~~[(36)]~~ (44) "Secure facility" means any facility operated by or under contract with the

2887 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for

2888 youth offenders committed to the division for custody and rehabilitation pursuant to Subsection

2889 78A-6-117(2)(d).

2890 ~~[(37)]~~ (45) "Severe abuse" means abuse that causes or threatens to cause serious harm

2891 to a child.

2892 ~~[(38)]~~ (46) "Severe neglect" means neglect that causes or threatens to cause serious

2893 harm to a child.

2894 ~~[(39)]~~ (47) "Sexual abuse" means:

2895 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an

2896 adult directed towards a child;

2897 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation

2898 committed by a child towards another child if:

2899 (i) there is an indication of force or coercion;

2900 (ii) the children are related, as defined in Subsections ~~[(20)]~~ (25)(a) and ~~[(20)]~~ (b);

2901 (iii) there have been repeated incidents of sexual contact between the two children,

2902 unless the children are 14 years of age or older; or

2903 (iv) there is a disparity in chronological age of four or more years between the two

2904 children; or

2905 (c) engaging in any conduct with a child that would constitute an offense under any of

2906 the following, regardless of whether the person who engages in the conduct is actually charged

2907 with, or convicted of, the offense:

2908 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the

- 2909 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
- 2910 (ii) child bigamy, Section 76-7-101.5;
- 2911 (iii) incest, Section 76-7-102;
- 2912 (iv) lewdness, Section 76-9-702;
- 2913 (v) sexual battery, Section 76-9-702.1;
- 2914 (vi) lewdness involving a child, Section 76-9-702.5; or
- 2915 (vii) voyeurism, Section 76-9-702.7.
- 2916 ~~[(40)]~~ (48) "Sexual exploitation" means knowingly:
- 2917 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 2918 (i) pose in the nude for the purpose of sexual arousal of any person; or
- 2919 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
- 2920 filming, recording, or displaying in any way the sexual or simulated sexual conduct;
- 2921 (b) displaying, distributing, possessing for the purpose of distribution, or selling
- 2922 material depicting a child:
- 2923 (i) in the nude, for the purpose of sexual arousal of any person; or
- 2924 (ii) engaging in sexual or simulated sexual conduct; or
- 2925 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
- 2926 sexual exploitation of a minor, regardless of whether the person who engages in the conduct is
- 2927 actually charged with, or convicted of, the offense.
- 2928 ~~[(41)]~~ (49) "Shelter" means the temporary care of a child in a physically unrestricted
- 2929 facility pending court disposition or transfer to another jurisdiction.
- 2930 ~~[(42)] "State supervision" means a disposition that provides a more intensive level of~~
- 2931 ~~intervention than standard probation but is less intensive or restrictive than a community~~
- 2932 ~~placement with the Division of Juvenile Justice Services.]~~
- 2933 (50) "Status offense" means a violation of the law that would not be a violation but for
- 2934 the age of the offender.
- 2935 ~~[(43)]~~ (51) "Substance abuse" means the misuse or excessive use of alcohol or other
- 2936 drugs or substances.
- 2937 ~~[(44)]~~ (52) "Substantiated" means the same as that term is defined in Section
- 2938 62A-4a-101.
- 2939 ~~[(45)]~~ (53) "Supported" means the same as that term is defined in Section 62A-4a-101.

2940 [(46)] (54) "Termination of parental rights" means the permanent elimination of all
2941 parental rights and duties, including residual parental rights and duties, by court order.

2942 [(47)] (55) "Therapist" means:

2943 (a) a person employed by a state division or agency for the purpose of conducting
2944 psychological treatment and counseling of a minor in its custody; or

2945 (b) any other person licensed or approved by the state for the purpose of conducting
2946 psychological treatment and counseling.

2947 [(48)] (56) "Unsubstantiated" means the same as that term is defined in Section

2948 [62A-4a-101](#).

2949 (57) "Validated risk and needs assessment" means an evidence-based tool that assesses
2950 a minor's risk of reoffending and a minor's criminogenic needs.

2951 [(49)] (58) "Without merit" means the same as that term is defined in Section

2952 [62A-4a-101](#).

2953 Section 46. Section **78A-6-106** is amended to read:

2954 **78A-6-106. Search warrants and subpoenas -- Authority to issue -- Protective**
2955 **custody -- Expedited hearing -- Exception -- Pick up order.**

2956 (1) [~~The court has authority to~~] A court may issue search warrants, subpoenas, or
2957 investigative subpoenas in criminal cases, delinquency, and abuse, neglect, and dependency
2958 proceedings for the same purposes, in the same manner and pursuant to the same procedures
2959 set forth in the code of criminal procedure for the issuance of search warrants, subpoenas, or
2960 investigative subpoenas in other trial courts in the state.

2961 (2) A peace officer or child welfare worker may not enter the home of a child who is
2962 not under the jurisdiction of the court, remove a child from the child's home or school, or take a
2963 child into protective custody unless:

2964 (a) there exist exigent circumstances sufficient to relieve the peace officer or child
2965 welfare worker of the requirement to obtain a warrant;

2966 (b) the peace officer or child welfare worker obtains a search warrant under Subsection
2967 (3);

2968 (c) the peace officer or child welfare worker obtains a court order after the parent or
2969 guardian of the child is given notice and an opportunity to be heard; or

2970 (d) the peace officer or child welfare worker obtains the consent of the child's parent or

2971 guardian.

2972 (3) (a) The court may issue a warrant authorizing a child protective services worker or
2973 peace officer to search for a child and take the child into protective custody if it appears to the
2974 court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace
2975 officer or any other person, and upon the examination of other witnesses, if required by the
2976 judge, that there is probable cause to believe that:

2977 (i) there is a threat of substantial harm to the child's health or safety;

2978 (ii) it is necessary to take the child into protective custody to avoid the harm described
2979 in Subsection (3)(a)(i); and

2980 (iii) it is likely that the child will suffer substantial harm if the parent or guardian of the
2981 child is given notice and an opportunity to be heard before the child is taken into protective
2982 custody.

2983 (b) Pursuant to Section 77-23-210, a peace officer making the search may enter a house
2984 or premises by force, if necessary, in order to remove the child.

2985 (c) The person executing the warrant shall then take the child to the place of shelter
2986 designated by the court or the division.

2987 (4) (a) Consistent with Subsection (5), the court shall hold an expedited hearing to
2988 determine whether a child should be placed in protective custody if:

2989 (i) a person files a petition under Section 78A-6-304;

2990 (ii) a party to the proceeding files a "Motion for Expedited Placement in Temporary
2991 Custody"; and

2992 (iii) notice of the hearing described in this Subsection (4)(a) is served consistent with
2993 the requirements for notice of a shelter hearing under Section 78A-6-306.

2994 (b) The hearing described in Subsection (4)(a):

2995 (i) shall be held within 72 hours, excluding weekends and holidays, of the filing of the
2996 motion described in Subsection (4)(a)(ii); and

2997 (ii) shall be considered a shelter hearing under Section 78A-6-306 and Utah Rules of
2998 Juvenile Procedure, Rule 13.

2999 (5) (a) The hearing and notice described in Subsection (4) are subject to:

3000 (i) Section 78A-6-306;

3001 (ii) Section 78A-6-307; and

- 3002 (iii) the Utah Rules of Juvenile Procedure.
- 3003 (b) After the hearing described in Subsection (4), a court may order a child placed in
- 3004 the temporary custody of the division.
- 3005 (6) When notice to a parent or guardian is required by this section:
- 3006 (a) the parent or guardian to be notified must be:
- 3007 (i) the child's primary caregiver; or
- 3008 (ii) the parent or guardian who has custody of the child, when the order is sought; and
- 3009 (b) the person required to provide notice shall make a good faith effort to provide
- 3010 notice to a parent or guardian who:
- 3011 (i) is not required to be notified under Subsection (6)(a); and
- 3012 (ii) has the right to parent-time with the child.

3013 Section 47. Section **78A-6-106.5** is enacted to read:

3014 **78A-6-106.5. Warrants related to minors.**

3015 (1) Except as otherwise provided in this section, a court may not issue a warrant of

3016 arrest for a minor for:

3017 (a) a status offense; or

3018 (b) an infraction.

3019 (2) A court may issue a warrant that directs the minor to be returned home, to the court,

3020 or to a shelter or other nonsecure facility for a minor not eligible for a warrant under

3021 Subsection (1). A warrant under this Subsection (2) may not direct placement in a secure

3022 facility, including secure detention.

3023 (3) Subsection (1) does not apply to a minor who is under Title 55, Chapter 12,

3024 Interstate Compact for Juveniles.

3025 Section 48. Section **78A-6-109** is amended to read:

3026 **78A-6-109. Summons -- Service and process -- Issuance and contents -- Notice to**

3027 **absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory**

3028 **process for attendance of witnesses when authorized.**

3029 (1) After a petition is filed the court shall promptly issue a summons, unless the judge

3030 directs that a further investigation is needed. No summons is required as to any person who

3031 appears voluntarily or who files a written waiver of service with the clerk of the court at or

3032 [~~prior to~~] before the hearing.

3033 (2) The summons shall contain:

3034 (a) the name of the court;

3035 (b) the title of the proceedings; and

3036 (c) except for a published summons, a brief statement of the substance of the

3037 allegations in the petition.

3038 (3) A published summons shall state:

3039 (a) that a proceeding concerning the minor is pending in the court; and

3040 (b) an adjudication will be made.

3041 (4) The summons shall require the person or persons who have physical custody of the

3042 minor to appear personally and bring the minor before the court at a time and place stated. If

3043 the person or persons summoned are not the parent, parents, or guardian of the minor, the

3044 summons shall also be issued to the parent, parents, or guardian, as the case may be, notifying

3045 them of the pendency of the case and of the time and place set for the hearing.

3046 (5) Summons may be issued requiring the appearance of any other person whose

3047 presence the court finds necessary.

3048 (6) If it appears to the court that the welfare of the minor or of the public requires that

3049 the minor be taken into custody, and it does not conflict with Section 78A-6-106.5, the court

3050 may by endorsement upon the summons direct that the person serving the summons take the

3051 minor into custody at once.

3052 (7) Subject to Subsection 78A-6-117(2)(n)(iii), upon the sworn testimony of one or

3053 more reputable physicians, the court may order emergency medical or surgical treatment that is

3054 immediately necessary for a minor concerning whom a petition has been filed pending the

3055 service of summons upon the minor's parents, guardian, or custodian.

3056 (8) A parent or guardian is entitled to the issuance of compulsory process for the

3057 attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor. A

3058 guardian ad litem or a probation officer is entitled to compulsory process for the attendance of

3059 witnesses on behalf of the minor.

3060 (9) Service of summons and process and proof of service shall be made in the manner

3061 provided in the Utah Rules of Civil Procedure.

3062 (10) (a) Service of summons or process shall be made by the sheriff of the county

3063 where the service is to be made, or by [his] the sheriff's deputy~~[-but]~~.

3064 (b) Notwithstanding Subsection (10)(a), upon request of the court, service shall be
3065 made by any other peace officer, or by another suitable person selected by the court.

3066 (11) Service of summons in the state shall be made personally, by delivering a copy to
3067 the person summoned; provided, however, that parents of a minor living together at their usual
3068 place of abode may both be served by personal delivery to either parent of copies of the
3069 summons, one copy for each parent.

3070 (12) If the judge makes a written finding that ~~he~~ the judge has reason to believe that
3071 personal service of the summons will be unsuccessful, or will not accomplish notification
3072 within a reasonable time after issuance of the summons, ~~he~~ the judge may order service by
3073 registered mail, with a return receipt to be signed by the addressee only, to be addressed to the
3074 last-known address of the person to be served in the state. Service shall be complete upon
3075 return to the court of the signed receipt.

3076 (13) If the parents, parent, or guardian required to be summoned under Subsection (4)
3077 cannot be found within the state, the fact of their minor's presence within the state shall confer
3078 jurisdiction on the court in proceedings in a minor's case under this chapter as to any absent
3079 parent or guardian, provided that due notice has been given in the following manner:

3080 (a) If the address of the parent or guardian is known, due notice is given by sending
3081 ~~him~~ the parent or guardian a copy of the summons by registered mail with a return receipt to
3082 be signed by the addressee only, or by personal service outside the state, as provided in the
3083 Utah Rules of Civil Procedure. Service by registered mail shall be complete upon return to the
3084 court of the signed receipt.

3085 (b) (i) If the address or whereabouts of the parent or guardian outside the state cannot
3086 after diligent inquiry be ascertained, due notice is given by publishing a summons:

3087 (A) in a newspaper having general circulation in the county in which the proceeding is
3088 pending once a week for four successive weeks; and

3089 (B) in accordance with Section [45-1-101](#) for four weeks.

3090 (ii) Service shall be complete on the day of the last publication.

3091 (c) Service of summons as provided in this subsection shall vest the court with
3092 jurisdiction over the parent or guardian served in the same manner and to the same extent as if
3093 the person served was served personally within the state.

3094 (14) In the case of service in the state, service completed not less than 48 hours before

3095 the time set in the summons for the appearance of the person served, shall be sufficient to
3096 confer jurisdiction. In the case of service outside the state, service completed not less than five
3097 days before the time set in the summons for appearance of the person served, shall be sufficient
3098 to confer jurisdiction.

3099 (15) Computation of periods of time under this chapter shall be made in accordance
3100 with the Utah Rules of Civil Procedure.

3101 Section 49. Section **78A-6-111** is amended to read:

3102 **78A-6-111. Appearances -- Parents, guardian, or legal custodian to appear with**
3103 **minor or child -- Failure to appear -- Contempt -- Warrant of arrest, when authorized --**
3104 **Parent's employer to grant time off -- Appointment of guardian ad litem.**

3105 (1) Any person required to appear who, without reasonable cause, fails to appear may
3106 be proceeded against for contempt of court, and the court may cause a bench warrant to ~~issue~~
3107 be issued to produce the person in court.

3108 (2) In ~~[all cases]~~ a case when a minor is required to appear in court, the parents,
3109 guardian, or other person with legal custody of the minor shall appear with the minor unless
3110 excused by the judge.

3111 (a) An employee may request permission to leave the workplace for the purpose of
3112 attending court if the employee has been notified by the juvenile court that ~~[his]~~ the employee's
3113 minor is required to appear before the court.

3114 (b) An employer must grant permission to leave the workplace with or without pay if
3115 the employee has requested permission at least seven days in advance or within 24 hours of the
3116 employee receiving notice of the hearing.

3117 (3) If a parent or other person who signed a written promise to appear and bring the
3118 child to court under Section **78A-6-112** or **78A-6-113** fails to appear and bring the child to
3119 court on the date set in the promise, or, if the date was to be set, after notification by the court,
3120 a warrant may be issued for the apprehension of that person ~~[or the child, or both]~~.

3121 (4) Willful failure to perform the promise is a misdemeanor if, at the time of the
3122 execution of the promise, the promisor is given a copy of the promise which clearly states that
3123 failure to appear and have the child appear as promised is a misdemeanor. The juvenile court
3124 shall have jurisdiction to proceed against the promisor in adult proceedings pursuant to Part 10,
3125 Adult Offenses.

3126 (5) The court shall endeavor, through use of the warrant of arrest if necessary, as
3127 provided in Subsection (6), or by other means, to ensure the presence at all hearings of one or
3128 both parents or of the guardian of a child. If neither a parent nor guardian is present at the
3129 court proceedings, the court may appoint a guardian ad litem to protect the interest of a minor.
3130 A guardian ad litem may also be appointed whenever necessary for the welfare of a minor,
3131 whether or not a parent or guardian is present.

3132 (6) A warrant may be issued for a parent, a guardian, a custodian, or a minor if:

3133 (a) a summons is issued but cannot be served;

3134 (b) it is made to appear to the court that the person to be served will not obey the
3135 summons; or

3136 (c) serving the summons will be ineffectual[; ~~or~~].

3137 [~~(d) the welfare of the minor requires that he be brought immediately into the custody~~
3138 ~~of the court.~~]

3139 Section 50. Section **78A-6-112** is amended to read:

3140 **78A-6-112. Minor taken into custody by peace officer, private citizen, or**
3141 **probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds**
3142 **for peace officer to take adult into custody.**

3143 (1) A minor may be taken into custody by a peace officer without order of the court if:

3144 (a) in the presence of the officer the minor has violated a state law, federal law, local
3145 law, or municipal ordinance;

3146 (b) there are reasonable grounds to believe the minor has committed an act which if
3147 committed by an adult would be a felony;

3148 (c) the minor:

3149 (i) (A) is seriously endangered in the minor's surroundings; or

3150 (B) seriously endangers others; and

3151 (ii) immediate removal appears to be necessary for the minor's protection or the
3152 protection of others;

3153 (d) there are reasonable grounds to believe the minor has run away or escaped from the
3154 minor's parents, guardian, or custodian; or

3155 (e) there is reason to believe that the minor is:

3156 (i) subject to the state's compulsory education law; and

3157 (ii) absent from school without legitimate or valid excuse, subject to Section
3158 [53A-11-105](#).

3159 (2) (a) A private citizen or a probation officer may take a minor into custody if under
3160 the circumstances ~~[he]~~ the private citizen or probation officer could make a citizen's arrest if
3161 the minor was an adult.

3162 (b) A probation officer may also take a minor into custody under Subsection (1) or if
3163 the minor has violated the conditions of probation, if the minor is under the continuing
3164 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not
3165 immediately available.

3166 (3) (a) (i) If an officer or other person takes a minor into temporary custody~~[, he]~~ under
3167 Subsection (1) or (2), the officer or person shall without unnecessary delay notify the parents,
3168 guardian, or custodian.

3169 (ii) The minor shall then be released to the care of the minor's parent or other
3170 responsible adult, unless the minor's immediate welfare or the protection of the community
3171 requires the minor's detention.

3172 (b) If the minor is taken into custody under Subsection (1) or (2) or placed in detention
3173 under Subsection (4) for a violent felony, as defined in Section [76-3-203.5](#), or an offense in
3174 violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent
3175 taking the minor into custody shall, as soon as practicable or as established under Subsection
3176 [53A-11-1001\(2\)](#), notify the school superintendent of the district in which the minor resides or
3177 attends school for the purposes of the minor's supervision and student safety.

3178 (i) The notice shall disclose only:

3179 (A) the name of the minor;

3180 (B) the offense for which the minor was taken into custody or detention; and

3181 (C) if available, the name of the victim, if the victim:

3182 (I) resides in the same school district as the minor; or

3183 (II) attends the same school as the minor.

3184 (ii) The notice shall be classified as a protected record under Section [63G-2-305](#).

3185 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government
3186 Records Access and Management Act, and the federal Family Educational Rights and Privacy
3187 Act.

3188 (c) Employees of a governmental agency are immune from any criminal liability for
3189 providing or failing to provide the information required by this section unless the person acts or
3190 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

3191 (d) Before the minor is released, the parent or other person to whom the minor is
3192 released shall be required to sign a written promise on forms supplied by the court to bring the
3193 minor to the court at a time set or to be set by the court.

3194 (4) (a) A child may not be held in temporary custody by law enforcement any longer
3195 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
3196 information and to contact the child's parents, guardian, or custodian.

3197 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place
3198 of detention or shelter without unnecessary delay.

3199 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
3200 file with the detention or shelter facility a written report on a form provided by the division
3201 stating:

3202 (i) the details of the presently alleged offense[;];

3203 (ii) the facts [~~which~~] that bring the minor within the jurisdiction of the juvenile court[;
3204 ~~and~~];

3205 (iii) the reason the minor was not released by law enforcement[;]; and

3206 (iv) the eligibility of the minor under the division guidelines for detention admissions
3207 established by the Division of Juvenile Justice Services under Section 62A-7-202 if the minor
3208 is under consideration for detention.

3209 (b) (i) The designated [~~youth corrections~~] facility staff person shall immediately review
3210 the form and determine, based on the guidelines for detention admissions established by the
3211 Division of Juvenile Justice Services under Section 62A-7-202, the results of the detention risk
3212 assessment, and the criteria for detention eligibility under Section 78A-6-113, whether to:

3213 (A) admit the minor to secure detention[;];

3214 (B) admit the minor to home detention[;];

3215 (C) place the minor in [~~a placement other than detention,~~] another alternative to
3216 detention; or

3217 (D) return the minor home upon written promise to bring the minor to the court at a
3218 time set, or without restriction.

3219 (ii) If the designated [~~youth corrections~~] facility staff person determines to admit the
3220 minor to home detention, that staff person shall notify the juvenile court of that determination.
3221 The court shall order that notice be provided to the designated persons in the local law
3222 enforcement agency and the school or transferee school, if applicable, which the minor attends
3223 of the home detention. The designated persons may receive the information for purposes of the
3224 minor's supervision and student safety.

3225 (iii) Any employee of the local law enforcement agency and the school which the
3226 minor attends who discloses the notification of home detention is not:

3227 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as
3228 provided in Section 63G-7-202; and

3229 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
3230 of Section 63G-2-801.

3231 (iv) The person who takes a minor to a detention facility or the designated facility staff
3232 person may release a minor to a less restrictive alternative even if the minor is eligible for
3233 secure detention under this Subsection (5).

3234 (c) A minor may not be admitted to detention unless the minor is detainable based on
3235 the guidelines or the minor has been brought to detention pursuant to a judicial order or
3236 division warrant pursuant to Section 62A-7-504.

3237 (d) If a minor taken to detention does not qualify for admission under the guidelines
3238 established by the division under Section 62A-7-104 or the eligibility criteria under Subsection
3239 (4) and this Subsection (5), detention staff shall arrange an appropriate [~~placement~~] alternative.

3240 (e) If a minor is taken into custody and admitted to a secure detention or shelter
3241 facility, facility staff shall:

3242 (i) immediately notify the minor's parents, guardian, or custodian; and

3243 (ii) promptly notify the court of the placement.

3244 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
3245 the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3)
3246 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of
3247 the minor's residence to transport the minor to a detention or shelter facility as provided in this
3248 section.

3249 (6) A person may be taken into custody by a peace officer without a court order if the

3250 person is in apparent violation of a protective order or if there is reason to believe that a child is
3251 being abused by the person and any of the situations outlined in Section [77-7-2](#) exist.

3252 Section 51. Section **78A-6-113** is amended to read:

3253 **78A-6-113. Placement of minor in detention or shelter facility -- Grounds --**
3254 **Detention hearings -- Period of detention -- Notice -- Confinement for criminal**
3255 **proceedings -- Bail laws inapplicable -- Exception.**

3256 (1) (a) A minor may not be placed or kept in a secure detention facility pending court
3257 proceedings [~~unless it is unsafe for the public to leave the minor with the minor's parents,~~
3258 ~~guardian, or custodian and the minor is detainable based on guidelines promulgated by the~~
3259 ~~Division of Juvenile Justice Services]~~ except in accordance with Section [78A-6-112](#).

3260 [~~(b) A child who must be taken from the child's home but who does not require~~
3261 ~~physical restriction shall be given temporary care in a shelter facility and may not be placed in a~~
3262 ~~detention facility.]~~

3263 [~~(c)~~] (b) A child may not be placed or kept in a shelter facility pending court
3264 proceedings unless it is unsafe to leave the child with the child's parents, guardian, or
3265 custodian.

3266 (2) After admission of a child to a detention facility pursuant to [~~the guidelines~~
3267 ~~established by the Division of Juvenile Justice Services]~~ Section [78A-6-112](#) and immediate
3268 investigation by an authorized officer of the court, the judge or the officer shall order the
3269 release of the child to the child's parents, guardian, or custodian if it is found the child can be
3270 safely returned to their care, either upon written promise to bring the child to the court at a time
3271 set or without restriction.

3272 (a) If a child's parent, guardian, or custodian fails to retrieve the child from a facility
3273 within 24 hours after notification of release, the parent, guardian, or custodian is responsible
3274 for the cost of care for the time the child remains in the facility.

3275 (b) The facility shall determine the cost of care.

3276 (c) Any money collected under this Subsection (2) shall be retained by the Division of
3277 Juvenile Justice Services to recover the cost of care for the time the child remains in the
3278 facility.

3279 (3) (a) When a child is detained in a detention or shelter facility, the parents or
3280 guardian shall be informed by the person in charge of the facility that [~~they have~~] the parent's

3281 or guardian's child has the right to a prompt hearing in court, with defense representation, to
3282 determine whether the child is to be further detained or released.

3283 (b) When a minor is detained in a detention facility, the minor shall be informed by the
3284 person in charge of the facility that the minor has the right to a prompt hearing in court, with
3285 defense representation, to determine whether the minor is to be further detained or released.

3286 (c) Detention hearings shall be held by the judge or by a commissioner.

3287 (d) The court may, at any time, order the release of the minor, whether a detention
3288 hearing is held or not.

3289 (e) If a child is released, and the child remains in the facility, because the parents,
3290 guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be
3291 responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).

3292 (4) (a) A minor may not be held in a detention facility longer than 48 hours [~~prior to~~]
3293 before a detention hearing, excluding weekends and holidays, unless the court has entered an
3294 order for continued detention.

3295 (b) A child may not be held in a shelter facility longer than 48 hours [~~prior to~~] before a
3296 shelter hearing, excluding weekends and holidays, unless a court order for extended shelter has
3297 been entered by the court after notice to all parties described in Section [78A-6-306](#).

3298 (c) A hearing for detention or shelter may not be waived. Detention staff shall provide
3299 the court with all information received from the person who brought the minor to the detention
3300 facility.

3301 (d) [~~If the court finds at a detention hearing that it is not safe to release the minor, the~~]
3302 The judge or commissioner may only order [the] a minor to be held in the facility or be placed
3303 in another appropriate facility, subject to further order of the court, if the court finds and makes
3304 a record at a detention hearing that:

3305 (i) releasing the minor to the minor's parent, guardian, or custodian presents an
3306 unreasonable risk to public safety;

3307 (ii) less restrictive nonresidential alternatives to detention have been considered and,
3308 where appropriate, attempted; and

3309 (iii) the minor is eligible for detention under the division guidelines for detention
3310 admissions established by the Division of Juvenile Justice Services, under Section [62A-7-202](#)
3311 and under Section [78A-6-112](#).

3312 (e) (i) After a detention hearing has been held, only the court may release a minor from
3313 detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to
3314 the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued
3315 detention is necessary.

3316 (ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or
3317 an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that
3318 notice of its decision, including any disposition, order, or no contact orders, be provided to
3319 designated persons in the appropriate local law enforcement agency and district superintendent
3320 or the school or transferee school, if applicable, that the minor attends. The designated persons
3321 may receive the information for purposes of the minor's supervision and student safety.

3322 (iii) Any employee of the local law enforcement agency, school district, and the school
3323 that the minor attends who discloses the court's order of probation is not:

3324 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
3325 provided in Section 63G-7-202; and

3326 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
3327 of Section 63G-2-801.

3328 (5) A minor may not be held in a detention facility, following a dispositional order of
3329 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for
3330 community-based placement under Section 62A-7-101.

3331 (6) (a) Except as otherwise provided in this section, a minor may not be held in a
3332 detention facility following a disposition order of the court for longer than 72 hours, excluding
3333 weekends and holidays.

3334 (b) The period of detention may be extended by the court for [~~one period~~] a cumulative
3335 total of seven calendar days if:

3336 [(a)] (i) the Division of Juvenile Justice Services or another agency responsible for
3337 placement files a written petition with the court requesting the extension and setting forth good
3338 cause; and

3339 [(b)] (ii) the court enters a written finding that it is in the best interests of both the
3340 minor and the community to extend the period of detention.

3341 (c) The court may extend the period of detention beyond the seven calendar days if the
3342 court finds by clear and convincing evidence that:

3343 (i) the Division of Juvenile Justice Services or another agency responsible for
3344 placement does not have space for the minor; and

3345 (ii) the safety of the minor and community requires an extension of the period of
3346 detention.

3347 (d) The Division of Juvenile Justice Services shall report to the court every 48 hours,
3348 excluding weekends and holidays, regarding the status of whether the Division of Juvenile
3349 Justice Services or another agency responsible for placement has space for the minor.

3350 [~~(6)~~] (7) The agency requesting an extension shall promptly notify the detention facility
3351 that a written petition has been filed.

3352 [~~(7)~~] (8) The court shall promptly notify the detention facility regarding its initial
3353 disposition and any ruling on a petition for an extension, whether granted or denied.

3354 [~~(8)~~] (9) (a) A child under 16 years of age may not be held in a jail, lockup, or other
3355 place for adult detention except as provided by Section 62A-7-201 or unless certified as an
3356 adult pursuant to Section 78A-6-703. [~~The provisions of~~] Section 62A-7-201 regarding
3357 confinement facilities [~~apply~~] applies to this Subsection [~~(8)~~] (9).

3358 (b) A child 16 years of age or older whose conduct or condition endangers the safety or
3359 welfare of others in the detention facility for children may, by court order that specifies the
3360 reasons, be detained in another place of confinement considered appropriate by the court,
3361 including a jail or other place of confinement for adults. However, a secure [~~youth corrections~~]
3362 facility is not an appropriate place of confinement for detention purposes under this section.

3363 [~~(9)~~] (10) A sheriff, warden, or other official in charge of a jail or other facility for the
3364 detention of adult offenders or persons charged with crime shall immediately notify the
3365 juvenile court when a person who is or appears to be under 18 years of age is received at the
3366 facility and shall make arrangements for the transfer of the person to a detention facility, unless
3367 otherwise ordered by the juvenile court.

3368 [~~(10)~~] (11) This section does not apply to a minor who is brought to the adult facility
3369 under charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for
3370 criminal proceedings in the district court under Section 78A-6-702 or 78A-6-703.

3371 [~~(11)~~] (12) A minor held for criminal proceedings under Section 78A-6-701,
3372 78A-6-702, or 78A-6-703 may be detained in a jail or other place of detention used for adults
3373 charged with crime.

3374 [~~(12)~~] (13) Provisions of law regarding bail are not applicable to minors detained or
3375 taken into custody under this chapter, except that bail may be allowed:

3376 (a) if a minor who need not be detained lives outside this state; or

3377 (b) when a minor who need not be detained comes within one of the classes in

3378 Subsection 78A-6-603(11).

3379 [~~(13)~~] (14) Section 76-8-418 is applicable to a child who willfully and intentionally
3380 commits an act against a jail or other place of confinement, including a Division of Juvenile
3381 Justice Services detention, shelter, or secure confinement facility which would be a third
3382 degree felony if committed by an adult.

3383 Section 52. Section 78A-6-115 is amended to read:

3384 **78A-6-115. Hearings -- Record -- County attorney or district attorney**
3385 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**
3386 **evidence.**

3387 (1) (a) A verbatim record of the proceedings shall be taken in all cases that might result
3388 in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall
3389 also be made unless dispensed with by the court.

3390 (b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2,
3391 Government Records Access and Management Act, a record of a proceeding made under
3392 Subsection (1)(a) shall be released by the court to any person upon a finding on the record for
3393 good cause.

3394 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the
3395 court shall:

3396 (A) provide notice to all subjects of the record that a request for release of the record
3397 has been made; and

3398 (B) allow sufficient time for the subjects of the record to respond before making a
3399 finding on the petition.

3400 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the
3401 court's jurisdiction over the subjects of the proceeding ended more than 12 months [~~prior to~~]
3402 before the request.

3403 (iv) For purposes of this Subsection (1)(b):

3404 (A) "record of a proceeding" does not include documentary materials of any type

3405 submitted to the court as part of the proceeding, including items submitted under Subsection
3406 (4)(a); and

3407 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal
3408 guardian, the Division of Child and Family Services, and any other party to the proceeding.

3409 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a
3410 prosecution district, the district attorney shall represent the state in any proceeding in a minor's
3411 case.

3412 (b) The attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child
3413 and Family Services, and this chapter, relating to:

3414 (i) protection or custody of an abused, neglected, or dependent child; and

3415 (ii) petitions for termination of parental rights.

3416 (c) The attorney general shall represent the Division of Child and Family Services in
3417 actions involving a minor who is not adjudicated as abused or neglected, but who is [~~otherwise~~
3418 ~~committed to the custody of that division by the juvenile court, and who is classified in the~~
3419 ~~division's management information system as having been placed in custody primarily on the~~
3420 ~~basis of delinquent behavior or a status offense~~] receiving in-home family services under
3421 Section 78A-6-117. Nothing in this Subsection (2)(c) may be construed to affect the
3422 responsibility of the county attorney or district attorney to represent the state in those matters,
3423 in accordance with [~~the provisions of~~] Subsection (2)(a).

3424 (3) The board may adopt special rules of procedure to govern proceedings involving
3425 violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings
3426 involving offenses under Section 78A-6-606 are governed by that section regarding suspension
3427 of driving privileges.

3428 (4) (a) For the purposes of determining proper disposition of the minor in dispositional
3429 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and
3430 in hearings upon petitions for termination of parental rights, written reports and other material
3431 relating to the minor's mental, physical, and social history and condition may be received in
3432 evidence and may be considered by the court along with other evidence. The court may require
3433 that the person who wrote the report or prepared the material appear as a witness if the person
3434 is reasonably available.

3435 (b) For the purpose of determining proper disposition of a minor alleged to be or

3436 adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division
3437 under Section 78A-6-315 may be received in evidence and may be considered by the court
3438 along with other evidence. The court may require any person who participated in preparing the
3439 dispositional report to appear as a witness, if the person is reasonably available.

3440 (5) (a) In an abuse, neglect, or dependency proceeding occurring after the
3441 commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under
3442 Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or
3443 their counsel any information which the party:

3444 (i) plans to report to the court at the proceeding; or

3445 (ii) could reasonably expect would be requested of the party by the court at the
3446 proceeding.

3447 (b) The disclosure required under Subsection (5)(a) shall be made:

3448 (i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than
3449 five days before the proceeding;

3450 (ii) for proceedings under [~~Title 78A,~~] Chapter 6, Part 5, Termination of Parental
3451 Rights Act, in accordance with Utah Rules of Civil Procedure; and

3452 (iii) for all other proceedings, no less than five days before the proceeding.

3453 (c) If a party to a proceeding obtains information after the deadline in Subsection
3454 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the
3455 party certifies to the court that the information was obtained after the deadline.

3456 (d) Subsection (5)(a) does not apply to:

3457 (i) pretrial hearings; and

3458 (ii) the frequent, periodic review hearings held in a dependency drug court case to
3459 assess and promote the parent's progress in substance [~~abuse~~] use disorder treatment.

3460 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court
3461 may, in its discretion, consider evidence of statements made by a child under eight years of age
3462 to a person in a trust relationship.

3463 Section 53. Section 78A-6-117 is amended to read:

3464 **78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
3465 **Enumeration of possible court orders -- Considerations of court.**

3466 (1) (a) When a minor is found to come within [~~the provisions of~~] Section 78A-6-103,

3467 the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
3468 jurisdiction over the minor. However, in cases within ~~[the provisions of]~~ Subsection
3469 78A-6-103(1), findings of fact are not necessary.

3470 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
3471 Title 76, Chapter 10, Part 5, Weapons, ~~[it shall]~~ the court may order that notice of the
3472 adjudication be provided to the school superintendent of the district in which the minor resides
3473 or attends school. Notice shall be made to the district superintendent within three days of the
3474 adjudication and shall include:

3475 (i) the specific offenses for which the minor was adjudicated; and

3476 (ii) if available, if the victim:

3477 (A) resides in the same school district as the minor; or

3478 (B) attends the same school as the minor.

3479 (c) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk
3480 and needs assessment. Results of the screening or assessment shall be used to inform
3481 disposition decisions and case planning. Assessment results, if available, may not be shared
3482 with the court before adjudication.

3483 (2) Upon adjudication the court may make the following dispositions by court order:

3484 (a) (i) the court may place the minor on probation or under protective supervision in
3485 the minor's own home and upon conditions determined by the court, including compensatory
3486 service ~~[as provided in Subsection (2)(m)(iii).];~~

3487 ~~[(ii) The court may place the minor in state supervision with the probation department~~
3488 ~~of the court, under the legal custody of:]~~

3489 ~~[(A) the minor's parent or guardian;]~~

3490 ~~[(B) the Division of Juvenile Justice Services; or]~~

3491 ~~[(C) the Division of Child and Family Services.]~~

3492 (ii) a condition ordered by the court under Subsection (2)(a)(i):

3493 (A) shall be individualized and address a specific risk or need;

3494 (B) shall be based on information provided to the court, including the results of a
3495 validated risk and needs assessment conducted under Subsection (1)(c); and

3496 (C) if the court orders treatment, be based on a validated risk and needs assessment
3497 conducted under Subsection (1)(c);

3498 (iii) a court may not issue a standard order that contains control-oriented conditions;

3499 (iv) prohibitions on weapon possession, where appropriate, shall be specific to the
3500 minor and not the minor's family;

3501 ~~[(iii)]~~ (v) if the court orders probation ~~[or state supervision]~~, the court ~~[shall]~~ may
3502 direct that notice of ~~[its]~~ the court's order be provided to designated persons in the local law
3503 enforcement agency and the school or transferee school, if applicable, that the minor attends.
3504 The designated persons may receive the information for purposes of the minor's supervision
3505 and student safety~~[-];~~ and

3506 ~~[(iv) Any]~~ (vi) an employee of the local law enforcement agency and the school that
3507 the minor attends who discloses the court's order of probation is not:

3508 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
3509 provided in Section [63G-7-202](#); and

3510 (B) civilly or criminally liable except when the disclosure constitutes a knowing
3511 violation of Section [63G-2-801](#).

3512 (b) The court may place the minor in the legal custody of a relative or other suitable
3513 person, with or without probation or protective supervision, but the juvenile court may not
3514 assume the function of developing foster home services.

3515 (c) (i) The court ~~[may: (A)]~~ shall only vest legal custody of the minor in the ~~[Division~~
3516 ~~of Child and Family Services;]~~ Division of Juvenile Justice Services~~[-or the Division of~~
3517 ~~Substance Abuse and Mental Health; and (B) order the Department of Human Services]~~ and
3518 order the Division of Juvenile Justice Services to provide dispositional recommendations and
3519 services~~[-]~~ if:

3520 ~~[(ii) For minors who may qualify for services from two or more divisions within the~~
3521 ~~Department of Human Services, the court may vest legal custody with the department.]~~

3522 ~~[(iii) (A) A minor who is committed to the custody of the Division of Child and Family~~
3523 ~~Services on grounds other than abuse or neglect is subject to the provisions of Title 78A,~~
3524 ~~Chapter 6, Part 4, Minors in Custody on Grounds Other than Abuse or Neglect, and Title 62A,~~
3525 ~~Chapter 4a, Part 2a, Minors in Custody on Grounds other than Abuse or Neglect.]~~

3526 ~~[(B) Before the court entering an order to place a minor in the custody of the Division~~
3527 ~~of Child and Family Services on grounds other than abuse or neglect, the court shall provide~~
3528 ~~the division with notice of the hearing no later than five days before the time specified for the~~

3529 ~~hearing so the division may attend the hearing.]~~

3530 ~~[(C) Before committing a child to the custody of the Division of Child and Family~~
3531 ~~Services, the court shall make a finding as to what reasonable efforts have been attempted to~~
3532 ~~prevent the child's removal from the child's home.]~~

3533 (A) nonresidential treatment options have been exhausted or nonresidential treatment
3534 options are not appropriate; and

3535 (B) the minor is adjudicated under this section for a felony offense, a misdemeanor
3536 when the minor has five prior misdemeanors or felony adjudications arising from separate
3537 criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in
3538 Section [76-1-601](#).

3539 (ii) The court may not vest legal custody of a minor in the Division of Juvenile Justice
3540 Services for:

3541 (A) contempt of court except to the extent permitted under Section [78A-6-1101](#);

3542 (B) a violation of probation;

3543 (C) failure to pay a fine, fee, restitution, or other financial obligation;

3544 (D) unfinished compensatory or community service hours;

3545 (E) an infraction; or

3546 (F) a status offense.

3547 ~~[(iv)]~~ (iii) (A) A minor who is 18 years old or older, but younger than 21 years old,
3548 may petition the court to express the minor's desire to be removed from the jurisdiction of the
3549 juvenile court and from the custody of the Division of Child and Family Services if the minor
3550 is in the division's custody on grounds of abuse, neglect, or dependency.

3551 (B) If the minor's parent's rights have not been terminated in accordance with Part 5,
3552 Termination of Parental Rights Act, the minor's petition shall contain a statement from the
3553 minor's parent or guardian agreeing that the minor should be removed from the custody of the
3554 Division of Child and Family Services.

3555 (C) The minor and the minor's parent or guardian shall sign the petition.

3556 (D) The court shall review the petition within 14 days.

3557 (E) The court shall remove the minor from the custody of the Division of Child and
3558 Family Services if the minor and the minor's parent or guardian have met the requirements
3559 described in Subsections (2)(c)(iv)(B) and (C) and if the court finds, based on input from the

3560 Division of Child and Family Services, the minor's guardian ad litem, and the Office of the
3561 Attorney General, that the minor does not pose an imminent threat to self or others.

3562 (F) A minor removed from custody under Subsection (2)(c)(iv)(E) may, within 90 days
3563 of the date of removal, petition the court to re-enter custody of the Division of Child and
3564 Family Services.

3565 (G) Upon receiving a petition under Subsection (2)(c)(iv)(F), the court shall order the
3566 Division of Child and Family Services to take custody of the minor based on the findings the
3567 court entered when the court originally vested custody in the Division of Child and Family
3568 Services.

3569 (d) (i) The court [~~may~~] shall only commit a minor to the Division of Juvenile Justice
3570 Services for secure confinement[-] if the court finds that the minor poses a risk of harm to
3571 others and is adjudicated under this section for:

3572 (A) a felony offense;

3573 (B) a misdemeanor if the minor has five prior misdemeanor or felony adjudications
3574 arising from separate criminal episodes; or

3575 (C) a misdemeanor involving use of a dangerous weapon as defined in Section
3576 [76-1-601](#).

3577 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
3578 or dependency under Subsection [78A-6-103\(1\)](#)~~(a)~~(b) may not be committed to the Division of
3579 Juvenile Justice Services.

3580 (iii) The court may not commit a minor to the Division of Juvenile Justice Services for
3581 secure confinement for:

3582 (A) contempt of court;

3583 (B) a violation of probation;

3584 (C) failure to pay a fine, fee, restitution, or other financial obligation;

3585 (D) unfinished compensatory or community service hours;

3586 (E) an infraction; or

3587 (F) a status offense.

3588 (e) The court may [~~commit a minor, subject to the court retaining continuing~~
3589 ~~jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice~~
3590 ~~Services for observation and evaluation for a period not to exceed 45 days, which period may~~

3591 ~~be extended up to 15 days at the request of the director of the Division of Juvenile Justice~~
3592 ~~Services] order nonresidential, diagnostic assessment, including substance use disorder, mental~~
3593 ~~health, psychological, or sexual behavior risk assessment.~~

3594 (f) (i) The court may commit a minor to a place of detention or an alternative to
3595 detention for a period not to exceed 30 cumulative days per adjudication subject to the court
3596 retaining continuing jurisdiction over the minor. This commitment may not be [~~stayed or~~]
3597 suspended upon conditions ordered by the court.

3598 (ii) This Subsection (2)(f) applies only to a minor adjudicated for:

3599 (A) an act which if committed by an adult would be a criminal offense; or

3600 (B) contempt of court under Section [78A-6-1101](#).

3601 (iii) The court may not commit a minor to a place of detention for:

3602 (A) contempt of court except to the extent allowed under Section [78A-6-1101](#);

3603 (B) a violation of probation;

3604 (C) failure to pay a fine, fee, restitution, or other financial obligation;

3605 (D) unfinished compensatory or community service hours;

3606 (E) an infraction; or

3607 (F) a status offense.

3608 (iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30
3609 cumulative days eligible as a disposition under Subsection (2)(f)(i). If the minor spent more
3610 than 30 days in a place of detention before disposition, the court may not commit a minor to
3611 detention under this section.

3612 (B) Notwithstanding Subsection (2)(f)(iv)(A), the court may commit a minor for a
3613 maximum of seven days while a minor is awaiting placement under Subsection (2)(c)(i). Only
3614 the seven days under this Subsection (2)(f)(iv)(B) may be combined with a nonsecure
3615 placement.

3616 (v) Notwithstanding Subsection (2)(u), no more than seven days of detention may be
3617 ordered in combination with an order under Subsection (2)(c)(i).

3618 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
3619 the Division of Child and Family Services or any other appropriate person in accordance with
3620 the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
3621 Dependency Proceedings.

3622 ~~[(h) The court may place a minor on a ranch or forestry camp, or similar facility for~~
3623 ~~care and also for work, if possible, if the person, agency, or association operating the facility~~
3624 ~~has been approved or has otherwise complied with all applicable state and local laws. A minor~~
3625 ~~placed in a forestry camp or similar facility may be required to work on fire prevention,~~
3626 ~~forestation and reforestation, recreational works, forest roads, and on other works on or off the~~
3627 ~~grounds of the facility and may be paid wages, subject to the approval of and under conditions~~
3628 ~~set by the court.]~~

3629 (h) If the court finds that the child is at risk of being removed from the home or that the
3630 family is in crises, the court may order the Division of Child and Family Services to conduct an
3631 assessment to determine if provision of in-home family preservation services is appropriate. If
3632 considered appropriate by the Division of Child and Family Services, services shall be
3633 provided pursuant to Section [62A-4a-202](#).

3634 (i) (i) The court may order a minor to repair, replace, or otherwise make restitution for
3635 ~~[damage or]~~ material loss caused by the minor's wrongful act~~[, including costs of treatment as~~
3636 ~~stated in Section [78A-6-321](#) and impose fines in limited amounts.]~~ or for conduct for which the
3637 minor agrees to make restitution.

3638 (ii) A victim has the meaning defined under Subsection [77-38a-102](#)(14). A victim of an
3639 offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity,
3640 includes any person directly harmed by the minor's delinquency conduct in the course of the
3641 scheme, conspiracy, or pattern.

3642 (iii) If the victim and the minor agree to participate, the court may refer the case to a
3643 restorative justice program such as victim offender mediation to address how loss resulting
3644 from the adjudicated act may be addressed.

3645 (iv) For the purpose of determining whether and how much restitution is appropriate,
3646 the court shall consider the following:

3647 (A) restitution shall only be ordered for the victim's material loss;

3648 (B) restitution may not be ordered if the court finds that the minor is unable to pay or
3649 acquire the means to pay; and

3650 (C) any amount paid by the minor to the victim in civil penalty shall be credited against
3651 restitution owed.

3652 (v) Any amount paid to the victim in restitution shall be credited against liability in a

3653 civil suit.

3654 [~~(ii)~~] (vi) The court may also require a minor to reimburse an individual, entity, or
3655 governmental agency who offered and paid a reward to a person or persons for providing
3656 information resulting in a court adjudication that the minor is within the jurisdiction of the
3657 juvenile court due to the commission of a criminal offense.

3658 [~~(iii)~~] (vii) If a minor is returned to this state under the Interstate Compact on Juveniles,
3659 the court may order the minor to make restitution for costs expended by any governmental
3660 entity for the return.

3661 (viii) The prosecutor shall submit a request for restitution to the court at the time of
3662 disposition, if feasible, otherwise within three months after disposition.

3663 (ix) A financial disposition ordered shall prioritize the payment of restitution.

3664 (j) The court may issue orders necessary for the collection of restitution and fines
3665 ordered by the court, including garnishments, wage withholdings, and executions, except for an
3666 order that changes the custody of the minor, including detention or other secure or nonsecure
3667 residential placements.

3668 (k) (i) The court may through its probation department encourage the development of
3669 nonresidential employment or work programs to enable minors to fulfill their obligations under
3670 Subsection (2)(i) and for other purposes considered desirable by the court.

3671 (ii) Consistent with the order of the court, the probation officer may permit a minor
3672 found to be within the jurisdiction of the court to participate in a program of work restitution or
3673 compensatory service in lieu of paying part or all of the fine imposed by the court.

3674 (iii) The court may order the minor to:

3675 (A) pay a fine, fee, restitution, or other cost; or

3676 (B) complete service hours.

3677 (iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to
3678 complete service hours, those dispositions shall be considered collectively to ensure that the
3679 order is reasonable and prioritizes restitution.

3680 (v) If the court orders a minor to pay a fine, fee, or other cost, or complete service
3681 hours, the cumulative order shall be limited per criminal episode as follows:

3682 (A) for children under age 16 at adjudication, the court may impose up to \$180 or up to
3683 24 hours of service; and

3684 (B) for minors 16 and older at adjudication, the court may impose up to \$270 or up to
3685 36 hours of service.

3686 (vi) The cumulative order under Subsection (2)(k)(v) does not include restitution.

3687 (vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of
3688 conversion shall be no less than the minimum wage.

3689 (l) (i) In violations of traffic laws within the court's jurisdiction, when the court finds
3690 that as part of the commission of the violation the minor was in actual physical control of a
3691 motor vehicle, the court may, in addition to any other disposition authorized by this section:

3692 (A) restrain the minor from driving for periods of time the court considers necessary;
3693 and

3694 (B) take possession of the minor's driver license.

3695 (ii) The court may enter any other eligible disposition under Subsection (2)(l)(i) except
3696 for a disposition under Subsection (2)(c), (d), or (f). However, the suspension of driving
3697 privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

3698 ~~[(m) (i) When a minor is found within the jurisdiction of the juvenile court under~~
3699 ~~Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug~~
3700 ~~Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court~~
3701 ~~shall, in addition to any fines or fees otherwise imposed, order that the minor perform a~~
3702 ~~minimum of 20 hours, but no more than 100 hours, of compensatory service.]~~

3703 (m) (i) The court may order a minor to complete community or compensatory service
3704 hours in accordance with Subsections (2)(k)(iv) and (v).

3705 (ii) When community service is ordered, the presumptive service order shall include
3706 between five and 10 hours of service.

3707 (iii) Satisfactory completion of an approved substance [abuse] use disorder prevention
3708 or treatment program or other court-ordered condition may be credited by the court as
3709 compensatory service hours.

3710 ~~[(ii) When a minor is found within the jurisdiction of the juvenile court under Section~~
3711 ~~78A-6-103 because of a violation of Section 32B-4-409 or Subsection 76-9-701(1), the court~~
3712 ~~may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order~~
3713 ~~that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory~~
3714 ~~service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an~~

3715 ~~approved substance abuse prevention or treatment program may be credited by the court as~~
3716 ~~compensatory service hours.]~~

3717 ~~[(iii)]~~ (iv) When a minor is found within the jurisdiction of the juvenile court under
3718 Section ~~78A-6-103~~ because of a violation of Section ~~76-6-106~~ or ~~76-6-206~~ using graffiti, the
3719 court may order the minor to clean up graffiti created by the minor or any other person at a time
3720 and place within the jurisdiction of the court. Compensatory service [~~required~~] ordered under
3721 this section may be performed in the presence and under the direct supervision of the minor's
3722 parent or legal guardian. The parent or legal guardian shall report completion of the order to
3723 the court. [~~The minor or the minor's parent or legal guardian, if applicable, shall be responsible~~
3724 ~~for removal costs as determined under Section 76-6-107, unless waived by the court for good~~
3725 ~~cause:]~~ The court may also require the minor to perform other alternative forms of restitution
3726 or repair to the damaged property pursuant to [~~Subsection 77-18-1(8)~~] Subsection (2)(i).

3727 ~~[(A) For a first adjudication, the court may require the minor to clean up graffiti for not~~
3728 ~~less than eight hours:]~~

3729 ~~[(B) For a second adjudication, the court may require the minor to clean up graffiti for~~
3730 ~~not less than 16 hours:]~~

3731 ~~[(C) For a third adjudication, the court may require the minor to clean up graffiti for~~
3732 ~~not less than 24 hours:]~~

3733 (n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:

3734 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

3735 (B) receive other special care.

3736 (ii) For purposes of receiving the examination, treatment, or care described in
3737 Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility that is
3738 not a secure facility or secure detention.

3739 (iii) In determining whether to order the examination, treatment, or care described in
3740 Subsection (2)(n)(i), the court shall consider:

3741 (A) the desires of the minor;

3742 (B) if the minor is under the age of 18, the desires of the parents or guardian of the
3743 minor; and

3744 (C) whether the potential benefits of the examination, treatment, or care outweigh the
3745 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain

3746 function impairment, or emotional or physical harm resulting from the compulsory nature of
3747 the examination, treatment, or care.

3748 (iv) The Division of Child and Family Services shall take reasonable measures to
3749 notify a parent or guardian of any non-emergency health treatment or care scheduled for a
3750 child, shall include the parent or guardian as fully as possible in making health care decisions
3751 for the child, and shall defer to the parent's or guardian's reasonable and informed decisions
3752 regarding the child's health care to the extent that the child's health and well being are not
3753 unreasonably compromised by the parent's or guardian's decision.

3754 (v) The Division of Child and Family Services shall notify the parent or guardian of a
3755 child within five business days after a child in the custody of the Division of Child and Family
3756 Services receives emergency health care or treatment.

3757 (vi) The Division of Child and Family Services shall use the least restrictive means to
3758 accomplish a compelling interest in the care and treatment of a child described in this
3759 Subsection (2)(n).

3760 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the
3761 interest of the minor, and may appoint as guardian a public or private institution or agency, but
3762 not a nonsecure residential placement provider, in which legal custody of the minor is vested.

3763 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
3764 private agency or institution, the court shall give primary consideration to the welfare of the
3765 minor. When practicable, the court may take into consideration the religious preferences of the
3766 minor and of a child's parents.

3767 (p) (i) In support of a decree under Section 78A-6-103, the court may order reasonable
3768 conditions to be complied with by a minor's parents or guardian, [~~a minor,~~] a minor's custodian,
3769 or any other person who has been made a party to the proceedings. Conditions may include:

3770 (A) parent-time by the parents or one parent;

3771 (B) restrictions on the minor's associates;

3772 (C) restrictions on the minor's occupation and other activities; and

3773 (D) requirements to be observed by the parents or custodian.

3774 (ii) A minor whose parents or guardians successfully complete a family or other
3775 counseling program may be credited by the court for detention, confinement, or probation time.

3776 (q) The court may order the child to be committed to the physical custody of a local

3777 mental health authority, in accordance with the procedures and requirements of Title 62A,
3778 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
3779 Mental Health.

3780 (r) (i) The court may make an order committing a minor within the court's jurisdiction
3781 to the Utah State Developmental Center if the minor has an intellectual disability in accordance
3782 with ~~[the provisions of]~~ Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care
3783 Facility for People with an Intellectual Disability.

3784 (ii) The court shall follow the procedure applicable in the district courts with respect to
3785 judicial commitments to the Utah State Developmental Center when ordering a commitment
3786 under Subsection (2)(r)(i).

3787 (s) The court may terminate all parental rights upon a finding of compliance with ~~[the~~
3788 ~~provisions of]~~ Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

3789 (t) The court may make ~~[any]~~ other reasonable orders for the best interest of the minor
3790 ~~[or]~~ and as required for the protection of the public, except that a child may not be committed
3791 to jail ~~[or]~~, prison, secure detention, or the custody of the Division of Juvenile Justice Services
3792 under Subsections (2)(c) and (d).

3793 (u) The court may combine the dispositions listed in this section if it is permissible and
3794 they are compatible.

3795 (v) Before depriving any parent of custody, the court shall give due consideration to the
3796 rights of parents concerning their child. The court may transfer custody of a minor to another
3797 person, agency, or institution in accordance with the requirements and procedures of Title 78A,
3798 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

3799 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
3800 probation or placement of a minor with an individual or an agency shall include a date certain
3801 for a review and presumptive termination of the case by the court in accordance with
3802 Subsection (6) and Section 62A-7-404. A new date shall be set upon each review.

3803 (x) In reviewing foster home placements, special attention shall be given to making
3804 adoptable children available for adoption without delay.

3805 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
3806 with an individual or relative of a child where the court has previously acquired jurisdiction as
3807 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an

3808 order for child support on behalf of the child against the natural or adoptive parents of the
3809 child.

3810 (ii) Orders under Subsection (2)(y)(i):

3811 (A) shall remain in effect until the child reaches majority;

3812 (B) are not subject to review under Section 78A-6-118; and

3813 (C) may be modified by petition or motion as provided in Section 78A-6-1103.

3814 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
3815 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
3816 of the juvenile court.

3817 (3) In addition to the dispositions described in Subsection (2), when a minor comes
3818 within the court's jurisdiction, the minor may be given a choice by the court to serve in the
3819 National Guard in lieu of other sanctions, provided:

3820 (a) the minor meets the current entrance qualifications for service in the National
3821 Guard as determined by a recruiter, whose determination is final;

3822 (b) the minor is not under the jurisdiction of the court for any act that:

3823 (i) would be a felony if committed by an adult;

3824 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

3825 (iii) was committed with a weapon; and

3826 (c) the court retains jurisdiction over the minor under conditions set by the court and
3827 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

3828 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
3829 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
3830 designated employees of the court or, if the minor is in the legal custody of the Division of
3831 Juvenile Justice Services, then by designated employees of the division under Subsection
3832 53-10-404(5)(b).

3833 (b) The responsible agency shall ensure that employees designated to collect the saliva
3834 DNA specimens receive appropriate training and that the specimens are obtained in accordance
3835 with accepted protocol.

3836 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
3837 Specimen Restricted Account created in Section 53-10-407.

3838 (d) Payment of the reimbursement is second in priority to payments the minor is

3839 ordered to make for restitution under this section and treatment under Section [78A-6-321](#).

3840 (5) (a) A disposition made by the court pursuant to this section may not be suspended,
3841 except for the following:

3842 (i) If a minor qualifies for commitment to the Division of Juvenile Justice Services
3843 under Subsection (2)(c) or (d), the court may suspend a custody order pursuant to Subsection
3844 (2)(c) or (d) in lieu of immediate commitment, upon the condition that the minor commit no
3845 new misdemeanor or felony offense during the three months following the day of disposition.

3846 (ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not
3847 exceed three months post-disposition and may not be extended under any circumstance.

3848 (iii) The court may only impose a custody order suspended under Subsection (5)(a)(i)
3849 following adjudication of a new misdemeanor or felony offense committed by the minor during
3850 the period of suspension set out under Subsection (5)(a)(ii).

3851 (b) The court pursuant to Subsection (5)(a) shall terminate jurisdiction over the minor
3852 at the end of the presumptive time frame unless at least one the following circumstances exists:

3853 (i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a
3854 program determined to be necessary by the results of a validated risk and needs assessment
3855 with completion found by the court after considering the recommendation of a licensed service
3856 provider on the basis of the minor completing the goals of the necessary treatment program;

3857 (ii) the minor commits a new misdemeanor or felony offense;

3858 (iii) service hours have not been completed; or

3859 (iv) there is an outstanding fine.

3860 (6) When the court places a minor on probation under Subsection (2)(a) or vests legal
3861 custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the
3862 court shall do so for a defined period of time pursuant to this section.

3863 (a) For the purposes of placing a minor on probation under Subsection (2)(a), the court
3864 shall establish a presumptive term of probation as specified in this Subsection (6):

3865 (i) the presumptive maximum length of intake probation may not exceed three months;
3866 and

3867 (ii) the presumptive maximum length of formal probation may not exceed four to six
3868 months.

3869 (b) For the purposes of vesting legal custody of the minor in the Division of Juvenile

3870 Justice Services under Subsection (2)(c), the court shall establish a maximum term of custody
3871 and a maximum term of aftercare as specified in this Subsection (6):

3872 (i) the presumptive maximum length of out-of-home placement may not exceed three
3873 to six months; and

3874 (ii) the presumptive maximum length of aftercare supervision, for those previously
3875 placed out-of-home, may not exceed three to four months, and minors may serve the term of
3876 aftercare in the home of a qualifying relative or guardian or at an independent living program
3877 contracted or operated by the Division of Juvenile Justice Services.

3878 (c) The court pursuant to Subsections (6)(a) and (b), and the Youth Parole Authority
3879 pursuant to Subsection (6)(b), shall terminate jurisdiction over the minor at the end of the
3880 presumptive time frame unless at least one of the following circumstances exists:

3881 (i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a
3882 court ordered program determined to be necessary by the results of a validated assessment, with
3883 completion found by the court after considering the recommendations of a licensed service
3884 provider on the basis of the minor completing the goals of the necessary treatment program;

3885 (ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the
3886 completion of a program determined to be necessary by the results of a validated assessment,
3887 with completion determined on the basis of whether the minor has regularly and consistently
3888 attended the treatment program and completed the goals of the necessary treatment program as
3889 determined by the Youth Parole Authority after considering the recommendation of a licensed
3890 service provider;

3891 (iii) the minor commits a new misdemeanor or felony offense;

3892 (iv) service hours have not been completed; or

3893 (v) there is an outstanding fine.

3894 (d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection
3895 (6)(c)(i), (ii), (iii), or (iv) exists, the court may extend jurisdiction for the time needed to
3896 address the specific circumstance.

3897 (ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)(i),
3898 (ii), (iii), or (iv) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole
3899 Authority may extend jurisdiction for the time needed to address the specific circumstance.

3900 (e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth

3901 Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one
3902 time for up to three months.

3903 (f) Grounds for extension of the presumptive length of supervision or placement and
3904 the length of any extension shall be recorded in the court record or records of the Youth Parole
3905 Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by
3906 the Administrative Office of the Courts and the Division of Juvenile Justice Services.

3907 (g) (i) For a minor who is under the supervision of the juvenile court and whose
3908 supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may
3909 only be continued under the supervision of intake probation.

3910 (ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose
3911 supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may
3912 only be continued on parole and not in secure confinement.

3913 (h) In the event of an unauthorized leave lasting more than 24 hours, the supervision
3914 period shall toll until the minor returns.

3915 (7) Subsection (6) does not apply to any minor adjudicated under this section for:

3916 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

3917 (b) Section 76-5-202, attempted aggravated murder;

3918 (c) Section 76-5-203, murder or attempted murder;

3919 (d) Section 76-5-302, aggravated kidnapping;

3920 (e) Section 76-5-405, aggravated sexual assault;

3921 (f) a felony violation of Section 76-6-103, aggravated arson;

3922 (g) Section 76-6-203, aggravated burglary;

3923 (h) Section 76-6-302, aggravated robbery;

3924 (i) Section 76-10-508.1, felony discharge of a firearm; or

3925 (j) an offense other than those listed in Subsections (7)(a) through (i) involving the use
3926 of a dangerous weapon, as defined in Section 76-1-601, that is a felony, and the minor has been
3927 previously adjudicated or convicted of an offense involving the use of a dangerous weapon.

3928 Section 54. Section 78A-6-118 is amended to read:

3929 **78A-6-118. Period of operation of judgment, decree, or order.**

3930 ~~[†]~~ A judgment, order, or decree of the juvenile court does not operate after the minor
3931 becomes 21 years of age, except for:

3932 [(a)] (1) orders of commitment to the Utah State Developmental Center or to the
3933 custody of the Division of Substance Abuse and Mental Health;

3934 [(b)] (2) adoption orders under Subsection 78A-6-103(1); and

3935 [(c)] (3) orders permanently terminating the rights of a parent, guardian, or custodian,
3936 and permanent orders of custody and guardianships~~[, and]~~.

3937 [~~(d) unless terminated by the court, orders to pay any fine or restitution.~~]

3938 [(2) (a) Except as provided in Part 3, Abuse, Neglect, and Dependency Proceedings, an
3939 order vesting legal custody or guardianship of a minor in an individual, agency, or institution
3940 may be for an indeterminate period. A review hearing shall be held, however, upon the
3941 expiration of 12 months, and, with regard to petitions filed by the Division of Child and Family
3942 Services, no less than once every six months thereafter. The individual, agency, or institution
3943 involved shall file the petition for that review hearing. The court may terminate the order, or
3944 after notice and hearing, continue the order if it finds continuation of the order necessary to
3945 safeguard the welfare of the minor or the public interest. The findings of the court and its
3946 reasons shall be entered with the continuation order or with the order denying continuation.]

3947 [(b) Subsection (2)(a) does not apply to minors who are in the custody of the Division
3948 of Child and Family Services, and who are placed in foster care, a secure youth corrections
3949 facility, the Division of Substance Abuse and Mental Health, the Utah State Developmental
3950 Center, or any agency licensed for child placements and adoptions, in cases where all parental
3951 rights of the natural parents have been terminated by the court under Part 5, Termination of
3952 Parental Rights Act, and custody of the minor has been granted to the agency for adoption or
3953 other permanent placement.]

3954 [(3) (a) An agency granted legal custody may determine where and with whom the
3955 minor will live, provided that placement of the minor does not remove him from the state
3956 without court approval.]

3957 [(b) An individual granted legal custody shall personally exercise the rights and
3958 responsibilities involved in legal custody, unless otherwise authorized by the court.]

3959 Section 55. Section 78A-6-119 is amended to read:

3960 **78A-6-119. Modification of order or decree -- Requirements for changing or**
3961 **terminating custody, probation, or protective supervision.**

3962 (1) The court may modify or set aside any order or decree made by [it] the court in

3963 accordance with Sections 78A-6-117 and 78A-6-123, however a modification of an order
 3964 placing a minor on probation may not ~~[be made upon an alleged violation of the terms of~~
 3965 ~~probation unless there has been a hearing in accordance with the procedures in Section~~
 3966 ~~78A-6-1103.]~~ include an order:

3967 (a) under Subsection 78A-6-117(2)(c), (d), or (f); or

3968 (b) extending supervision, except pursuant to Subsection 78A-6-117(7).

3969 (2) Notice of the hearing shall be required in any case in which the effect of modifying
 3970 or setting aside an order or decree may be to make any change in the minor's legal custody
 3971 under Section 78A-6-1103 and pursuant to Section 78A-6-117.

3972 (3) (a) Notice of an order terminating probation or protective supervision of a child
 3973 shall be given to the child's:

3974 (i) parents;

3975 (ii) guardian;

3976 (iii) custodian; and

3977 (iv) where appropriate, to the child.

3978 (b) Notice of an order terminating probation or protective supervision of a minor who
 3979 is at least 18 years of age shall be given to the minor.

3980 Section 56. Section **78A-6-120** is amended to read:

3981 **78A-6-120. Continuing jurisdiction of juvenile court -- Period of and termination**
 3982 **of jurisdiction -- Notice of discharge from custody of local mental health authority or**
 3983 **Utah State Developmental Center -- Transfer of continuing jurisdiction to other district.**

3984 (1) Jurisdiction of a minor obtained by the court through adjudication under Section
 3985 78A-6-117 continues for purposes of this chapter until ~~[he]~~ the minor becomes 21 years of age,
 3986 unless terminated earlier~~[- However, the court, subject to Section 78A-6-121, retains~~
 3987 ~~jurisdiction beyond the age of 21 of a person who has refused or failed to pay any fine or victim~~
 3988 ~~restitution ordered by the court, but only for the purpose of causing compliance with existing~~
 3989 ~~orders]~~ in accordance with Sections 62A-7-404 and 78A-6-117.

3990 (2) (a) The continuing jurisdiction of the court terminates:

3991 (i) upon order of the court;

3992 (ii) upon commitment to a secure ~~[youth corrections]~~ facility; ~~[or]~~

3993 (iii) upon commencement of proceedings in adult cases under Section 78A-6-1001~~[-];~~

3994 or

3995 (iv) in accordance with Sections [62A-7-404](#) and [78A-6-117](#).

3996 (b) The continuing jurisdiction of the court is not terminated by marriage.

3997 (c) Notwithstanding Subsection (2)(a)(ii), the court retains jurisdiction to make and
3998 enforce orders related to restitution until the youth parole authority discharges the youth
3999 offender.

4000 (3) When a minor has been committed by the court to the physical custody of a local
4001 mental health authority or its designee or to the Utah State Developmental Center, the local
4002 mental health authority or its designee or the superintendent of the Utah State Developmental
4003 Center shall give the court written notice of its intention to discharge, release, or parole the
4004 minor not fewer than five days [~~prior to~~] before the discharge, release, or parole.

4005 (4) Jurisdiction over a minor on probation or under protective supervision, or of a
4006 minor who is otherwise under the continuing jurisdiction of the court, may be transferred by the
4007 court to the court of another district, if the receiving court consents, or upon direction of the
4008 chair of the Board of Juvenile Court Judges. The receiving court has the same powers with
4009 respect to the minor that it would have if the proceedings originated in that court.

4010 (5) A minor adjudicated under Section [78A-6-117](#) and who underwent a validated risk
4011 and needs assessment under Subsection [78A-6-117\(1\)\(c\)](#) shall undergo a validated risk and
4012 needs assessment within seven days of the day on which an order terminating jurisdiction is
4013 issued.

4014 Section 57. Section **78A-6-121** is amended to read:

4015 **78A-6-121. Entry of judgment for fine, fee, surcharge, or restitution.**

4016 (1) If, [~~prior to~~] before the entry of any order terminating jurisdiction of a juvenile,
4017 there remains any unpaid balance for any fine, fee, or restitution ordered by the court, the court
4018 shall record all pertinent information in the juvenile's file [~~and~~].

4019 (2) The court may not transfer responsibility to collect [all] unpaid fines, fees,
4020 surcharges, and restitution to the Office of State Debt Collection.

4021 [~~(2) Before transferring the responsibility to collect any past due fines, the court shall~~
4022 ~~reduce the order to a judgment listing the Office of State Debt Collection as the judgment~~
4023 ~~creditor.]~~

4024 [~~(3) Before transferring the responsibility to collect any past due accounts receivable~~

4025 ~~for restitution to a victim, the court shall reduce the restitution order to a judgment listing the~~
4026 ~~victim, or the estate of the victim, as the judgment creditor.]~~

4027 Section 58. Section **78A-6-123** is enacted to read:

4028 **78A-6-123. Case planning and appropriate responses.**

4029 (1) For a minor adjudicated and placed on probation or into the custody of the Division
4030 of Juvenile Justice Services under Section [78A-6-117](#), a case plan shall be created and shall be:

4031 (a) developed in collaboration with the minor and the minor's family;

4032 (b) individualized to the minor;

4033 (c) informed by the results of a validated risk and needs assessment; and

4034 (d) tailored to the minor's offense and history.

4035 (2) (a) The Administrative Office of the Courts and the Division of Juvenile Justice
4036 Services shall develop a statewide system of appropriate responses to guide responses to the
4037 behaviors of minors:

4038 (i) undergoing nonjudicial adjustments;

4039 (ii) under the jurisdiction of the juvenile court; and

4040 (iii) in the custody of the Division of Juvenile Justice Services.

4041 (b) The system of responses shall include both sanctions and incentives that:

4042 (i) are swift and certain;

4043 (ii) include a continuum of community based responses for minors living at home;

4044 (iii) target a minor's criminogenic risks and needs, as determined by the results of a
4045 validated risk and needs assessment, and the severity of the violation; and

4046 (iv) authorize earned discharge credits as one incentive for compliance.

4047 (c) After considering the guidelines established by the Sentencing Commission,
4048 pursuant to Section [63M-7-404](#), the system of appropriate responses under Subsections (2)(a)
4049 and (b) shall be developed.

4050 (3) A response to a compliant or noncompliant behavior under Subsection (2) shall be
4051 documented in the minor's case plan. Documentation shall include:

4052 (a) positive behaviors and incentives offered;

4053 (b) violations and corresponding sanctions; and

4054 (c) whether the minor has a subsequent violation after a sanction.

4055 (4) Before referring a minor to court for judicial review or to the Youth Parole

4056 Authority if the minor is under the jurisdiction of the Youth Parole Authority in response to a
4057 violation, either through a contempt filing under Section 78A-6-1101 or an order to show
4058 cause, pursuant to Subsections (2)(a) and (b), a pattern of appropriate responses shall be
4059 documented in the minor's case plan.

4060 (5) Notwithstanding Subsection (4), violations of protective orders or ex parte
4061 protection orders listed in Subsection 77-36-2.7(3) with victims and violations that constitute
4062 new delinquency offenses may be filed directly with the court.

4063 Section 59. Section 78A-6-124 is enacted to read:

4064 **78A-6-124. Detention risk assessment tool.**

4065 (1) The Division of Juvenile Justice Services, in conjunction with the Administrative
4066 Office of the Courts, shall develop or adopt, and validate on the Utah juvenile population, a
4067 statewide detention risk assessment tool.

4068 (2) The Division of Juvenile Justice Services shall administer the detention risk
4069 assessment tool for each youth under consideration for detention. The detention risk assessment
4070 tool shall be administered by a designated individual who has completed training to conduct
4071 the detention risk assessment tool.

4072 (3) The Division of Juvenile Justice Services and the Administrative Office of the
4073 Courts shall establish a scoring system to inform eligibility for placement in a juvenile
4074 detention facility or for referral to an alternative to detention.

4075 Section 60. Section 78A-6-302 is amended to read:

4076 **78A-6-302. Court-ordered protective custody of a child following petition filing --**
4077 **Grounds.**

4078 (1) After a petition has been filed under Section 78A-6-304, if the child who is the
4079 subject of the petition is not in the protective custody of the division, a court may order that the
4080 child be removed from the child's home or otherwise taken into protective custody if the court
4081 finds, by a preponderance of the evidence, that any one or more of the following circumstances
4082 exist:

4083 (a) (i) there is an imminent danger to the physical health or safety of the child; and

4084 (ii) the child's physical health or safety may not be protected without removing the
4085 child from the custody of the child's parent or guardian;

4086 (b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct

- 4087 that causes the child to suffer harm; and
- 4088 (ii) there are no less restrictive means available by which the child's emotional health
4089 may be protected without removing the child from the custody of the child's parent or guardian;
- 4090 (c) the child or another child residing in the same household has been, or is considered
4091 to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a
4092 parent or guardian, a member of the parent's or guardian's household, or other person known to
4093 the parent or guardian;
- 4094 (d) the parent or guardian is unwilling to have physical custody of the child;
- 4095 (e) the child is abandoned or left without any provision for the child's support;
- 4096 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged
4097 or cannot arrange for safe and appropriate care for the child;
- 4098 (g) (i) a relative or other adult custodian with whom the child is left by the parent or
4099 guardian is unwilling or unable to provide care or support for the child;
- 4100 (ii) the whereabouts of the parent or guardian are unknown; and
- 4101 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
- 4102 (h) subject to the provisions of Subsections 78A-6-105[(27)](35)(d) and
4103 78A-6-117(2)(n) and Section 78A-6-301.5, the child is in immediate need of medical care;
- 4104 (i) (i) a parent's or guardian's actions, omissions, or habitual action create an
4105 environment that poses a serious risk to the child's health or safety for which immediate
4106 remedial or preventive action is necessary; or
- 4107 (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose
4108 a threat to the child's health or safety;
- 4109 (j) the child or another child residing in the same household has been neglected;
- 4110 (k) the child's natural parent:
- 4111 (i) intentionally, knowingly, or recklessly causes the death of another parent of the
4112 child;
- 4113 (ii) is identified by a law enforcement agency as the primary suspect in an investigation
4114 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 4115 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or
4116 recklessly causing the death of another parent of the child;
- 4117 (l) an infant has been abandoned, as defined in Section 78A-6-316;

4118 (m) (i) the parent or guardian, or an adult residing in the same household as the parent
4119 or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab
4120 Act; and

4121 (ii) any clandestine laboratory operation was located in the residence or on the property
4122 where the child resided; or

4123 (n) the child's welfare is otherwise endangered.

4124 (2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as
4125 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency
4126 occurs involving the same substantiated abuser or under similar circumstance as the previous
4127 abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the
4128 custody of the child's parent.

4129 (b) For purposes of Subsection (1)(c):

4130 (i) another child residing in the same household may not be removed from the home
4131 unless that child is considered to be at substantial risk of being physically abused, sexually
4132 abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

4133 (ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse,
4134 or sexual exploitation by a person known to the parent has occurred, and there is evidence that
4135 the parent or guardian failed to protect the child, after having received the notice, by allowing
4136 the child to be in the physical presence of the alleged abuser, that fact constitutes prima facie
4137 evidence that the child is at substantial risk of being physically abused, sexually abused, or
4138 sexually exploited.

4139 (3) (a) For purposes of Subsection (1), if the division files a petition under Section
4140 [78A-6-304](#), the court shall consider the division's safety and risk assessments described in
4141 Section [62A-4a-203.1](#) to determine whether a child should be removed from the custody of the
4142 child's parent or guardian or should otherwise be taken into protective custody.

4143 (b) The division shall make a diligent effort to provide the safety and risk assessments
4144 described in Section [62A-4a-203.1](#) to the court, guardian ad litem, and counsel for the parent or
4145 guardian, as soon as practicable before the shelter hearing described in Section [78A-6-306](#).

4146 (4) In the absence of one of the factors described in Subsection (1), a court may not
4147 remove a child from the parent's or guardian's custody on the basis of:

4148 (a) educational neglect, truancy, or failure to comply with a court order to attend

4149 school;

4150 (b) mental illness or poverty of the parent or guardian; or

4151 (c) disability of the parent or guardian, as defined in Section 57-21-2.

4152 (5) A child removed from the custody of the child's parent or guardian under this

4153 section may not be placed or kept in a secure detention facility pending further court

4154 proceedings unless the child is detainable based on guidelines promulgated by the Division of

4155 Juvenile Justice Services.

4156 (6) This section does not preclude removal of a child from the child's home without a

4157 warrant or court order under Section 62A-4a-202.1.

4158 (7) (a) Except as provided in Subsection (7)(b), a court or the Division of Child and

4159 Family Services may not remove a child from the custody of the child's parent or guardian on

4160 the sole or primary basis that the parent or guardian refuses to consent to:

4161 (i) the administration of a psychotropic medication to a child;

4162 (ii) a psychiatric, psychological, or behavioral treatment for a child; or

4163 (iii) a psychiatric or behavioral health evaluation of a child.

4164 (b) Notwithstanding Subsection (7)(a), a court or the Division of Child and Family

4165 Services may remove a child under conditions that would otherwise be prohibited under

4166 Subsection (7)(a) if failure to take an action described under Subsection (7)(a) would present a

4167 serious, imminent risk to the child's physical safety or the physical safety of others.

4168 Section 61. Section 78A-6-306 is amended to read:

4169 **78A-6-306. Shelter hearing.**

4170 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays

4171 after any one or all of the following occur:

4172 (a) removal of the child from the child's home by the division;

4173 (b) placement of the child in the protective custody of the division;

4174 (c) emergency placement under Subsection 62A-4a-202.1(4);

4175 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter

4176 at the request of the division; or

4177 (e) a "Motion for Expedited Placement in Temporary Custody" is filed under

4178 Subsection 78A-6-106(4).

4179 (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the

- 4180 division shall issue a notice that contains all of the following:
- 4181 (a) the name and address of the person to whom the notice is directed;
 - 4182 (b) the date, time, and place of the shelter hearing;
 - 4183 (c) the name of the child on whose behalf a petition is being brought;
 - 4184 (d) a concise statement regarding:
 - 4185 (i) the reasons for removal or other action of the division under Subsection (1); and
 - 4186 (ii) the allegations and code sections under which the proceeding has been instituted;
 - 4187 (e) a statement that the parent or guardian to whom notice is given, and the child, are
 - 4188 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is
 - 4189 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be
 - 4190 provided in accordance with the provisions of Section [78A-6-1111](#); and
 - 4191 (f) a statement that the parent or guardian is liable for the cost of support of the child in
 - 4192 the protective custody, temporary custody, and custody of the division, and the cost for legal
 - 4193 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial
 - 4194 ability of the parent or guardian.
- 4195 (3) The notice described in Subsection (2) shall be personally served as soon as
- 4196 possible, but no later than one business day after removal of the child from the child's home, or
- 4197 the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection
- 4198 [78A-6-106](#)(4), on:
- 4199 (a) the appropriate guardian ad litem; and
 - 4200 (b) both parents and any guardian of the child, unless the parents or guardians cannot
 - 4201 be located.
- 4202 (4) The following persons shall be present at the shelter hearing:
- 4203 (a) the child, unless it would be detrimental for the child;
 - 4204 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
 - 4205 fail to appear in response to the notice;
 - 4206 (c) counsel for the parents, if one is requested;
 - 4207 (d) the child's guardian ad litem;
 - 4208 (e) the caseworker from the division who is assigned to the case; and
 - 4209 (f) the attorney from the attorney general's office who is representing the division.
- 4210 (5) (a) At the shelter hearing, the court shall:

- 4211 (i) provide an opportunity to provide relevant testimony to:
4212 (A) the child's parent or guardian, if present; and
4213 (B) any other person having relevant knowledge; and
4214 (ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.
4215 (b) The court:
4216 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
4217 Procedure;
4218 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
4219 the requesting party, or their counsel; and
4220 (iii) may in its discretion limit testimony and evidence to only that which goes to the
4221 issues of removal and the child's need for continued protection.
4222 (6) If the child is in the protective custody of the division, the division shall report to
4223 the court:
4224 (a) the reason why the child was removed from the parent's or guardian's custody;
4225 (b) any services provided to the child and the child's family in an effort to prevent
4226 removal;
4227 (c) the need, if any, for continued shelter;
4228 (d) the available services that could facilitate the return of the child to the custody of
4229 the child's parent or guardian; and
4230 (e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the
4231 child or friends of the child's parents may be able and willing to accept temporary placement of
4232 the child.
4233 (7) The court shall consider all relevant evidence provided by persons or entities
4234 authorized to present relevant evidence pursuant to this section.
4235 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good
4236 cause shown, the court may grant no more than one continuance, not to exceed five judicial
4237 days.
4238 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for
4239 a continuance under Subsection (8)(a).
4240 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice
4241 described in Subsection (2) within the time described in Subsection (3), the court may grant the

4242 request of a parent or guardian for a continuance, not to exceed five judicial days.

4243 (9) (a) If the child is in the protective custody of the division, the court shall order that
4244 the child be returned to the custody of the parent or guardian unless it finds, by a
4245 preponderance of the evidence, consistent with the protections and requirements provided in
4246 Subsection 62A-4a-201(1), that any one of the following exists:

4247 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
4248 safety of the child and the child's physical health or safety may not be protected without
4249 removing the child from the custody of the child's parent;

4250 (ii) (A) the child is suffering emotional damage that results in a serious impairment in
4251 the child's growth, development, behavior, or psychological functioning;

4252 (B) the parent or guardian is unwilling or unable to make reasonable changes that
4253 would sufficiently prevent future damage; and

4254 (C) there are no reasonable means available by which the child's emotional health may
4255 be protected without removing the child from the custody of the child's parent or guardian;

4256 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
4257 not removed from the custody of the child's parent or guardian;

4258 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
4259 household has been, or is considered to be at substantial risk of being, physically abused,
4260 sexually abused, or sexually exploited by a:

4261 (A) parent or guardian;

4262 (B) member of the parent's household or the guardian's household; or

4263 (C) person known to the parent or guardian;

4264 (v) the parent or guardian is unwilling to have physical custody of the child;

4265 (vi) the child is without any provision for the child's support;

4266 (vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe
4267 and appropriate care for the child;

4268 (viii) (A) a relative or other adult custodian with whom the child is left by the parent or
4269 guardian is unwilling or unable to provide care or support for the child;

4270 (B) the whereabouts of the parent or guardian are unknown; and

4271 (C) reasonable efforts to locate the parent or guardian are unsuccessful;

4272 (ix) subject to Subsections 78A-6-105[(27)](35)(d) and 78A-6-117(2)(n) and Section

4273 78A-6-301.5, the child is in immediate need of medical care;

4274 (x) (A) the physical environment or the fact that the child is left unattended beyond a
4275 reasonable period of time poses a threat to the child's health or safety; and

4276 (B) the parent or guardian is unwilling or unable to make reasonable changes that
4277 would remove the threat;

4278 (xi) (A) the child or a minor residing in the same household has been neglected; and

4279 (B) the parent or guardian is unwilling or unable to make reasonable changes that
4280 would prevent the neglect;

4281 (xii) the parent, guardian, or an adult residing in the same household as the parent or
4282 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act,
4283 and any clandestine laboratory operation was located in the residence or on the property where
4284 the child resided;

4285 (xiii) (A) the child's welfare is substantially endangered; and

4286 (B) the parent or guardian is unwilling or unable to make reasonable changes that
4287 would remove the danger; or

4288 (xiv) the child's natural parent:

4289 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
4290 child;

4291 (B) is identified by a law enforcement agency as the primary suspect in an investigation
4292 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

4293 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
4294 recklessly causing the death of another parent of the child.

4295 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
4296 established if:

4297 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
4298 involving the parent; and

4299 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

4300 (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly
4301 allowed the child to be in the physical care of a person after the parent received actual notice
4302 that the person physically abused, sexually abused, or sexually exploited the child, that fact
4303 constitutes prima facie evidence that there is a substantial risk that the child will be physically

4304 abused, sexually abused, or sexually exploited.

4305 (10) (a) (i) The court shall also make a determination on the record as to whether
4306 reasonable efforts were made to prevent or eliminate the need for removal of the child from the
4307 child's home and whether there are available services that would prevent the need for continued
4308 removal.

4309 (ii) If the court finds that the child can be safely returned to the custody of the child's
4310 parent or guardian through the provision of those services, the court shall place the child with
4311 the child's parent or guardian and order that those services be provided by the division.

4312 (b) In making the determination described in Subsection (10)(a), and in ordering and
4313 providing services, the child's health, safety, and welfare shall be the paramount concern, in
4314 accordance with federal law.

4315 (11) Where the division's first contact with the family occurred during an emergency
4316 situation in which the child could not safely remain at home, the court shall make a finding that
4317 any lack of preplacement preventive efforts was appropriate.

4318 (12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe
4319 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
4320 "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home,
4321 return a child to the child's home, provide reunification services, or attempt to rehabilitate the
4322 offending parent or parents.

4323 (13) The court may not order continued removal of a child solely on the basis of
4324 educational neglect as described in Subsection ~~78A-6-105[(27)](35)~~(b), truancy, or failure to
4325 comply with a court order to attend school.

4326 (14) (a) Whenever a court orders continued removal of a child under this section, the
4327 court shall state the facts on which that decision is based.

4328 (b) If no continued removal is ordered and the child is returned home, the court shall
4329 state the facts on which that decision is based.

4330 (15) If the court finds that continued removal and temporary custody are necessary for
4331 the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal
4332 regardless of:

4333 (a) any error in the initial removal of the child;

4334 (b) the failure of a party to comply with notice provisions; or

4335 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
4336 and Family Services.

4337 Section 62. Section **78A-6-312** is amended to read:

4338 **78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.**

4339 (1) The court may:

4340 (a) make any of the dispositions described in Section **78A-6-117**;

4341 (b) place the minor in the custody or guardianship of any:

4342 (i) individual; or

4343 (ii) public or private entity or agency; or

4344 (c) order:

4345 (i) protective supervision;

4346 (ii) family preservation;

4347 (iii) subject to Subsections (12)(b), **78A-6-105**~~[(27)]~~(35)(d), and **78A-6-117**(2)(n) and

4348 Section **78A-6-301.5**, medical or mental health treatment; or

4349 (iv) other services.

4350 (2) Whenever the court orders continued removal at the dispositional hearing, and that
4351 the minor remain in the custody of the division, the court shall first:

4352 (a) establish a primary permanency plan for the minor; and

4353 (b) determine whether, in view of the primary permanency plan, reunification services
4354 are appropriate for the minor and the minor's family, pursuant to Subsections (20) through (22).

4355 (3) Subject to Subsections (6) and (7), if the court determines that reunification
4356 services are appropriate for the minor and the minor's family, the court shall provide for
4357 reasonable parent-time with the parent or parents from whose custody the minor was removed,
4358 unless parent-time is not in the best interest of the minor.

4359 (4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe
4360 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
4361 "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to
4362 attempt to rehabilitate the offending parent or parents.

4363 (5) In all cases, the minor's health, safety, and welfare shall be the court's paramount
4364 concern in determining whether reasonable efforts to reunify should be made.

4365 (6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless

4366 the court makes a finding that it is necessary to deny parent-time in order to:

4367 (a) protect the physical safety of the minor;

4368 (b) protect the life of the minor; or

4369 (c) prevent the minor from being traumatized by contact with the parent due to the

4370 minor's fear of the parent in light of the nature of the alleged abuse or neglect.

4371 (7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a

4372 parent's failure to:

4373 (a) prove that the parent has not used legal or illegal substances; or

4374 (b) comply with an aspect of the child and family plan that is ordered by the court.

4375 (8) (a) In addition to the primary permanency plan, the court shall establish a

4376 concurrent permanency plan that shall include:

4377 (i) a representative list of the conditions under which the primary permanency plan will

4378 be abandoned in favor of the concurrent permanency plan; and

4379 (ii) an explanation of the effect of abandoning or modifying the primary permanency

4380 plan.

4381 (b) In determining the primary permanency plan and concurrent permanency plan, the

4382 court shall consider:

4383 (i) the preference for kinship placement over nonkinship placement;

4384 (ii) the potential for a guardianship placement if the parent-child relationship is legally

4385 terminated and no appropriate adoption placement is available; and

4386 (iii) the use of an individualized permanency plan, only as a last resort.

4387 (9) A permanency hearing shall be conducted in accordance with Subsection

4388 [78A-6-314](#)(1)(b) within 30 days after the day on which the dispositional hearing ends if

4389 something other than reunification is initially established as a minor's primary permanency

4390 plan.

4391 (10) (a) The court may amend a minor's primary permanency plan before the

4392 establishment of a final permanency plan under Section [78A-6-314](#).

4393 (b) The court is not limited to the terms of the concurrent permanency plan in the event

4394 that the primary permanency plan is abandoned.

4395 (c) If, at any time, the court determines that reunification is no longer a minor's primary

4396 permanency plan, the court shall conduct a permanency hearing in accordance with Section

4397 78A-6-314 on or before the earlier of:

4398 (i) 30 days after the day on which the court makes the determination described in this
4399 Subsection (10)(c); or

4400 (ii) the day on which the provision of reunification services, described in Section
4401 78A-6-314, ends.

4402 (11) (a) If the court determines that reunification services are appropriate, [it] the court
4403 shall order that the division make reasonable efforts to provide services to the minor and the
4404 minor's parent for the purpose of facilitating reunification of the family, for a specified period
4405 of time.

4406 (b) In providing the services described in Subsection (11)(a), the minor's health, safety,
4407 and welfare shall be the division's paramount concern, and the court shall so order.

4408 (12) (a) The court shall:

4409 (i) determine whether the services offered or provided by the division under the child
4410 and family plan constitute "reasonable efforts" on the part of the division;

4411 (ii) determine and define the responsibilities of the parent under the child and family
4412 plan in accordance with Subsection 62A-4a-205(6)(e); and

4413 (iii) identify verbally on the record, or in a written document provided to the parties,
4414 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future
4415 determination regarding the provision of reasonable efforts, in accordance with state and
4416 federal law.

4417 (b) If the parent is in a substance [~~abuse~~] use disorder treatment program, other than a
4418 certified drug court program:

4419 (i) the court may order the parent to submit to supplementary drug or alcohol testing in
4420 addition to the testing recommended by the parent's substance [~~abuse~~] use disorder program
4421 based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

4422 (ii) the court may order the parent to provide the results of drug or alcohol testing
4423 recommended by the substance [~~abuse~~] use disorder program to the court or division.

4424 (13) (a) The time period for reunification services may not exceed 12 months from the
4425 date that the minor was initially removed from the minor's home, unless the time period is
4426 extended under Subsection 78A-6-314(7).

4427 (b) Nothing in this section may be construed to entitle any parent to an entire 12

4428 months of reunification services.

4429 (14) (a) If reunification services are ordered, the court may terminate those services at
4430 any time.

4431 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined
4432 to be inconsistent with the final permanency plan for the minor established pursuant to Section
4433 78A-6-314, then measures shall be taken, in a timely manner, to:

4434 (i) place the minor in accordance with the permanency plan; and

4435 (ii) complete whatever steps are necessary to finalize the permanent placement of the
4436 minor.

4437 (15) Any physical custody of the minor by the parent or a relative during the period
4438 described in Subsections (11) through (14) does not interrupt the running of the period.

4439 (16) (a) If reunification services are ordered, a permanency hearing shall be conducted
4440 by the court in accordance with Section 78A-6-314 at the expiration of the time period for
4441 reunification services.

4442 (b) The permanency hearing shall be held no later than 12 months after the original
4443 removal of the minor.

4444 (c) If reunification services are not ordered, a permanency hearing shall be conducted
4445 within 30 days, in accordance with Section 78A-6-314.

4446 (17) With regard to a minor in the custody of the division whose parent or parents are
4447 ordered to receive reunification services but who have abandoned that minor for a period of six
4448 months from the date that reunification services were ordered:

4449 (a) the court shall terminate reunification services; and

4450 (b) the division shall petition the court for termination of parental rights.

4451 (18) When a court conducts a permanency hearing for a minor under Section
4452 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the
4453 sibling group together is:

4454 (a) practicable; and

4455 (b) in accordance with the best interest of the minor.

4456 (19) (a) Because of the state's interest in and responsibility to protect and provide
4457 permanency for minors who are abused, neglected, or dependent, the Legislature finds that a
4458 parent's interest in receiving reunification services is limited.

4459 (b) The court may determine that:

4460 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate,
4461 based on the individual circumstances; and

4462 (ii) reunification services should not be provided.

4463 (c) In determining "reasonable efforts" to be made with respect to a minor, and in
4464 making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount
4465 concern.

4466 (20) There is a presumption that reunification services should not be provided to a
4467 parent if the court finds, by clear and convincing evidence, that any of the following
4468 circumstances exist:

4469 (a) the whereabouts of the parents are unknown, based upon a verified affidavit
4470 indicating that a reasonably diligent search has failed to locate the parent;

4471 (b) subject to Subsection (21)(a), the parent is suffering from a mental illness of such
4472 magnitude that it renders the parent incapable of utilizing reunification services;

4473 (c) the minor was previously adjudicated as an abused child due to physical abuse,
4474 sexual abuse, or sexual exploitation, and following the adjudication the minor:

4475 (i) was removed from the custody of the minor's parent;

4476 (ii) was subsequently returned to the custody of the parent; and

4477 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual
4478 exploitation;

4479 (d) the parent:

4480 (i) caused the death of another minor through abuse or neglect;

4481 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

4482 (A) murder or manslaughter of a child; or

4483 (B) child abuse homicide;

4484 (iii) committed sexual abuse against the child;

4485 (iv) is a registered sex offender or required to register as a sex offender; or

4486 (v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the
4487 child;

4488 (B) is identified by a law enforcement agency as the primary suspect in an investigation
4489 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

4490 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
4491 recklessly causing the death of another parent of the child;

4492 (e) the minor suffered severe abuse by the parent or by any person known by the
4493 parent, if the parent knew or reasonably should have known that the person was abusing the
4494 minor;

4495 (f) the minor is adjudicated an abused child as a result of severe abuse by the parent,
4496 and the court finds that it would not benefit the minor to pursue reunification services with the
4497 offending parent;

4498 (g) the parent's rights are terminated with regard to any other minor;

4499 (h) the minor was removed from the minor's home on at least two previous occasions
4500 and reunification services were offered or provided to the family at those times;

4501 (i) the parent has abandoned the minor for a period of six months or longer;

4502 (j) the parent permitted the child to reside, on a permanent or temporary basis, at a
4503 location where the parent knew or should have known that a clandestine laboratory operation
4504 was located;

4505 (k) except as provided in Subsection (21)(b), with respect to a parent who is the child's
4506 birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was
4507 exposed to an illegal or prescription drug that was abused by the child's mother while the child
4508 was in utero, if the child was taken into division custody for that reason, unless the mother
4509 agrees to enroll in, is currently enrolled in, or has recently and successfully completed a
4510 substance [~~abuse~~] use disorder treatment program approved by the department; or

4511 (l) any other circumstance that the court determines should preclude reunification
4512 efforts or services.

4513 (21) (a) The finding under Subsection (20)(b) shall be based on competent evidence
4514 from at least two medical or mental health professionals, who are not associates, establishing
4515 that, even with the provision of services, the parent is not likely to be capable of adequately
4516 caring for the minor within 12 months after the day on which the court finding is made.

4517 (b) A judge may disregard the provisions of Subsection (20)(k) if the court finds, under
4518 the circumstances of the case, that the substance [~~abuse~~] use disorder treatment described in
4519 Subsection (20)(k) is not warranted.

4520 (22) In determining whether reunification services are appropriate, the court shall take

4521 into consideration:

4522 (a) failure of the parent to respond to previous services or comply with a previous child
4523 and family plan;

4524 (b) the fact that the minor was abused while the parent was under the influence of
4525 drugs or alcohol;

4526 (c) any history of violent behavior directed at the child or an immediate family
4527 member;

4528 (d) whether a parent continues to live with an individual who abused the minor;

4529 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

4530 (f) testimony by a competent professional that the parent's behavior is unlikely to be
4531 successful; and

4532 (g) whether the parent has expressed an interest in reunification with the minor.

4533 (23) (a) If reunification services are not ordered pursuant to Subsections (19) through
4534 (21), and the whereabouts of a parent become known within six months after the day on which
4535 the out-of-home placement of the minor is made, the court may order the division to provide
4536 reunification services.

4537 (b) The time limits described in Subsections (2) through (18) are not tolled by the
4538 parent's absence.

4539 (24) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable
4540 services unless ~~it~~ the court determines that those services would be detrimental to the minor.

4541 (b) In making the determination described in Subsection (24)(a), the court shall
4542 consider:

4543 (i) the age of the minor;

4544 (ii) the degree of parent-child bonding;

4545 (iii) the length of the sentence;

4546 (iv) the nature of the treatment;

4547 (v) the nature of the crime or illness;

4548 (vi) the degree of detriment to the minor if services are not offered;

4549 (vii) for a minor 10 years old or older, the minor's attitude toward the implementation
4550 of family reunification services; and

4551 (viii) any other appropriate factors.

4552 (c) Reunification services for an incarcerated parent are subject to the time limitations
4553 imposed in Subsections (2) through (18).

4554 (d) Reunification services for an institutionalized parent are subject to the time
4555 limitations imposed in Subsections (2) through (18), unless the court determines that continued
4556 reunification services would be in the minor's best interest.

4557 (25) If, pursuant to Subsections (20)(b) through (l), the court does not order
4558 reunification services, a permanency hearing shall be conducted within 30 days, in accordance
4559 with Section [78A-6-314](#).

4560 Section 63. Section **78A-6-401** is amended to read:

4561 **78A-6-401. Attorney general responsibility.**

4562 [~~(1) The processes and procedures described in Part 3, Abuse, Neglect, and~~
4563 ~~Dependency Proceedings, designed to meet the needs of minors who are abused or neglected,~~
4564 ~~are not applicable to a minor who is committed to the custody of the Division of Child and~~
4565 ~~Family Services on a basis other than abuse or neglect and who are classified in the division's~~
4566 ~~management information system as having been placed in custody primarily on the basis of~~
4567 ~~delinquent behavior or a status offense.]~~

4568 [~~(2) The procedures described in Subsection [78A-6-118](#)(2)(a) are applicable to a minor~~
4569 ~~described in Subsection (1).]~~

4570 [~~(3) The court may appoint a guardian ad litem to represent the interests of a minor~~
4571 ~~described in Subsection (1), upon request of the minor or the minor's parent or guardian.]~~

4572 [~~(4) As of July 1, 1998, the]~~

4573 The attorney general's office shall represent the Division of Child and Family Services
4574 with regard to actions involving a minor who has not been adjudicated as abused or neglected,
4575 but who is [~~otherwise committed to the custody of the division by the juvenile court, and who~~
4576 ~~is classified in the division's management information system as having been placed in custody~~
4577 ~~primarily on the basis of delinquent behavior or a status offense. Nothing in Subsection (3)~~
4578 ~~may be construed to affect the responsibility of the county attorney or district attorney to~~
4579 ~~represent the state in those matters, in accordance with the provisions of Section [78A-6-115](#)]~~
4580 ordered to complete in-home family services under Section [78A-6-117](#).

4581 Section 64. Section **78A-6-602** is amended to read:

4582 **78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal**

4583 **referral -- Citation -- Failure to appear.**

4584 (1) A proceeding in a minor's case is commenced by petition, except as provided in
4585 Sections [78A-6-701](#), [78A-6-702](#), and [78A-6-703](#).

4586 ~~[(2) (a) A peace officer or any public official of the state, any county, city, or town
4587 charged with the enforcement of the laws of the state or local jurisdiction shall file a formal
4588 referral with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken
4589 to a detention facility, the formal referral shall be filed with the juvenile court within 72 hours,
4590 excluding weekends and holidays. There shall be no requirement to file a formal referral with
4591 the juvenile court on an offense that would be a class B misdemeanor or less if committed by
4592 an adult.]~~

4593 (2) (a) A peace officer or a public official of the state, a county, city, or town charged
4594 with the enforcement of the laws of the state or local jurisdiction shall file a formal referral
4595 with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a
4596 detention facility, the formal referral shall be filed with the juvenile court within 72 hours,
4597 excluding weekends and holidays. A formal referral under Section [53A-11-911](#) may not be
4598 filed with the juvenile court on an offense unless the offense is subject to referral under Section
4599 [53A-11-911](#).

4600 (b) A prosecutor shall review the case and take action to file a petition or dismiss the
4601 action within 10 days of the filing of the formal referral.

4602 ~~[(b)]~~ (c) (i) When the court is informed by [a peace officer or other person] the
4603 prosecutor that a minor is or appears to be within the court's jurisdiction, the probation
4604 department shall [make a preliminary inquiry to] determine whether [the interests of the public
4605 or of the minor require that further action be taken. (c) (i) Based on the preliminary inquiry, the
4606 court may authorize the filing of or request that the county attorney or district attorney as
4607 provided under Section [17-18a-202](#) or [17-18a-203](#) file a petition. (ii) In its discretion, the court
4608 may, through its probation department,] to enter into a written consent agreement with the
4609 minor and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial
4610 adjustment of the case [if the facts are admitted and establish prima facie jurisdiction]. The
4611 court's probation department shall offer a nonjudicial adjustment if the minor:

4612 (A) is charged with a misdemeanor, infraction, or status offense;

4613 (B) has fewer than three prior adjudications; and

4614 (C) has no more than three prior unsuccessful nonjudicial adjustment attempts.

4615 (ii) Notwithstanding Subsection (2)(c)(i), the probation department may conduct a
4616 validated risk and needs assessment, and if the results of that assessment indicate the youth is
4617 high risk, the probation department may request that the prosecutor file a petition instead of a
4618 nonjudicial adjustment in accordance with Section [78A-6-602](#).

4619 (ii) The court's probation department, may offer a nonjudicial adjustment to any other
4620 minor who does not meet the criteria provided in Subsection (2)(c)(i).

4621 (iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an
4622 admission of guilt.

4623 (iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to
4624 pay a financial penalty under Subsection (2)(d).

4625 ~~[(iii)]~~ (v) Efforts to effect a nonjudicial adjustment may not extend for a period of more
4626 than 90 days without leave of a judge of the court, who may extend the period for an additional
4627 90 days.

4628 (d) The nonjudicial adjustment of a case may include conditions agreed upon as part of
4629 the nonjudicial closure:

4630 (i) payment of a financial penalty of not more than \$250 to the juvenile court subject to
4631 the terms established under Subsection (2)(e);

4632 (ii) payment of victim restitution;

4633 (iii) satisfactory completion of compensatory service;

4634 (iv) referral to an appropriate provider for counseling or treatment;

4635 (v) attendance at substance ~~[abuse]~~ use disorder programs or counseling programs;

4636 (vi) compliance with specified restrictions on activities and associations; and

4637 (vii) other reasonable actions that are in the interest of the child or minor and the
4638 community.

4639 ~~[(e) Proceedings involving offenses under Section [78A-6-606](#) are governed by that~~
4640 ~~section regarding suspension of driving privileges.]~~

4641 (e) A fee, fine, or restitution included in a nonjudicial closure in accordance with
4642 Subsection (2)(d) shall be based upon the ability of the minor's family to pay as determined by
4643 a statewide sliding scale developed as provided in Section [63M-7-208](#).

4644 (f) If a minor fails to substantially comply with the conditions agreed upon as part of

4645 the nonjudicial closure, the prosecutor shall review the case in accordance with Subsection
4646 (2)(b) and take one of the following actions:

4647 (i) dismiss the case;

4648 (ii) refer the case back to the probation department for a new attempt at nonjudicial
4649 adjustment; or

4650 (iii) in accordance with Subsections (2)(b) and (g), file a petition with the court.

4651 (g) Failure to pay a fine or fee may not serve as a basis for filing of a petition under
4652 Subsection (2)(f)(iii) if the minor has substantially complied with the other conditions agreed
4653 upon in accordance with Subsection (2)(d) or those imposed through any other court diversion
4654 program.

4655 [(f)] (h) A violation of Section 76-10-105 that is subject to the jurisdiction of the
4656 juvenile court [shall] may include a [minimum] fine or penalty [of \$60] and participation in a
4657 court-approved tobacco education program, which may include a participation fee.

4658 (i) If the prosecutor files a petition in court, the court may refer the case to the
4659 probation department for another offer of nonjudicial adjustment.

4660 (3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor
4661 14 years of age or older, the county attorney, district attorney, or attorney general may
4662 commence an action by filing a criminal information and a motion requesting the juvenile court
4663 to waive its jurisdiction and certify the minor to the district court.

4664 (4) (a) In cases of violations of wildlife laws, boating laws, class B and class C
4665 misdemeanors, other infractions or misdemeanors as designated by general order of the Board
4666 of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the
4667 juvenile court, a petition is not required and the issuance of a citation as provided in Section
4668 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is [not]
4669 required [~~unless requested by the court~~].

4670 (b) Any failure to comply with the time deadline on a formal referral may not be the
4671 basis of dismissing the formal referral.

4672 Section 65. Section 78A-6-603 is amended to read:

4673 **78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to**
4674 **appear.**

4675 (1) As used in this section, "citation" means an abbreviated referral and is sufficient to

4676 invoke the jurisdiction of the court in lieu of a petition.

4677 (2) A citation shall be submitted to the court within five days of [its] issuance.

4678 (3) [~~Each~~] A copy of the citation shall contain:

4679 (a) the name and address of the juvenile court before which the minor [is] may be
4680 required to appear;

4681 (b) the name of the minor cited;

4682 (c) the statute or local ordinance that is alleged to have been violated;

4683 (d) a brief description of the offense charged;

4684 (e) the date, time, and location at which the offense is alleged to have occurred;

4685 (f) the date the citation was issued;

4686 (g) the name and badge or identification number of the peace officer or public official
4687 who issued the citation;

4688 (h) the name of the arresting person if an arrest was made by a private party and the
4689 citation was issued in lieu of taking the arrested minor into custody as provided in Section
4690 [78A-6-112](#);

4691 (i) the date and time when the minor is to appear, or a statement that the minor and
4692 parent or legal guardian are to appear when notified by the juvenile court; and

4693 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to
4694 appear at the juvenile court as designated on the citation.

4695 (4) [~~Each~~] A copy of the citation shall contain space for the following information to
4696 be entered if known:

4697 (a) the minor's address;

4698 (b) the minor's date of birth;

4699 (c) the name and address of the child's custodial parent or legal guardian, if different
4700 from the child; and

4701 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that
4702 this information shall be removed from the documents the minor receives.

4703 (5) A citation received by the court beyond the time designated in Subsection (2) shall
4704 include a written explanation for the delay.

4705 (6) [~~The~~] In accordance with Section [53A-11-911](#), the following offenses may be sent
4706 to the juvenile court as a citation:

- 4707 (a) violations of wildlife laws;
- 4708 (b) violations of boating laws;
- 4709 (c) violations of curfew laws;
- 4710 (d) any class B misdemeanor or less traffic violations where the person is under the age
- 4711 of 16;
- 4712 (e) any class B or class C misdemeanor or infraction;
- 4713 (f) any other infraction or misdemeanor as designated by general order of the Board of
- 4714 Juvenile Court Judges; and
- 4715 (g) violations of Section [76-10-105](#) subject to the jurisdiction of the juvenile court.
- 4716 ~~[(7) A preliminary inquiry is not required unless requested by the court.]~~
- 4717 ~~[(8) The provisions of Subsection (5) may not apply to a runaway, ungovernable, or~~
- 4718 ~~habitually truant child.]~~
- 4719 ~~[(9) In the case of Section [76-10-105](#) violations committed on school property when a~~
- 4720 ~~citation is issued under this section, the peace officer, public official, or compliance officer~~
- 4721 ~~shall issue one copy to the minor cited, provide the parent or legal guardian with a copy, and~~
- 4722 ~~file a duplicate with the juvenile court specified in the citation within five days.]~~
- 4723 (7) A minor offense defined under Section [78A-6-1202](#), alleged to have been
- 4724 committed by an enrolled child on school grounds or related to school attendance, may only be
- 4725 sent to the prosecutor or the juvenile court in accordance with Section [53A-11-911](#).
- 4726 (8) A preliminary inquiry by the prosecutor, and if appropriate, the court, under Section
- 4727 [78A-6-117](#) is required.
- 4728 (9) Subsection (5) may not apply to a runaway child.
- 4729 (10) (a) A minor receiving a citation described in this section shall appear at the
- 4730 juvenile court designated in the citation on the time and date specified in the citation or when
- 4731 notified by the juvenile court.
- 4732 (b) A citation may not require a minor to appear sooner than five days following its
- 4733 issuance.
- 4734 (11) A minor who receives a citation and willfully fails to appear before the juvenile
- 4735 court pursuant to a citation ~~[is subject to arrest and]~~ may be found in contempt of court. The
- 4736 court may proceed against the minor as provided in Section [78A-6-1101](#) ~~[regardless of the~~
- 4737 ~~disposition of the offense upon which the minor was originally cited].~~

4738 (12) When a citation is issued under this section, bail may be posted and forfeited
4739 under Subsection [78A-6-113](#)~~[(12)]~~(13) with the consent of:

4740 (a) the court; and

4741 (b) if the minor is a child, the parent or legal guardian of the child cited.

4742 Section 66. Section **78A-6-604** is amended to read:

4743 **78A-6-604. Minor held in detention -- Credit for good behavior.**

4744 (1) ~~[The judge may order whether a]~~ A minor held in detention under Subsection
4745 [78A-6-117](#)(2)(f) ~~[or [78A-6-1101](#)(3)]~~ is eligible to receive credit for good behavior against the
4746 period of detention. The rate of credit is one day for every three days served. The Division of
4747 Juvenile Justice Services shall, in accordance with Title 63G, Chapter 3, Utah Administrative
4748 Rulemaking Act, establish rules describing good behavior for which credit may be earned.

4749 (2) Any disposition including detention under Subsection [78A-6-117](#)(2)(f) ~~[or~~
4750 [78A-6-1101](#)(3)] shall be concurrent with any other order of detention.

4751 Section 67. Section **78A-6-606** is amended to read:

4752 **78A-6-606. Suspension of license for certain offenses.**

4753 (1) This section applies to a minor who is at least ~~[13 years of age]~~ the age eligible for
4754 a driver license under Section [53-3-204](#) when found by the court to be within its jurisdiction by
4755 the commission of an offense under:

4756 (a) Section [32B-4-409](#);

4757 (b) Section [32B-4-410](#);

4758 (c) Section [32B-4-411](#);

4759 (d) Section [58-37-8](#);

4760 (e) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

4761 (f) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

4762 (g) Subsection [76-9-701](#)(1).

4763 (2) This section only applies when the minor is found by the court to be in actual
4764 physical control of a motor vehicle during the commission of one of the offenses under
4765 Subsection (1).

4766 ~~[(2)]~~ (3) If the court hearing the case determines that the minor committed an offense
4767 under Section [58-37-8](#) or Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
4768 Imitation Controlled Substances Act, the court ~~[shall]~~ may prepare and send to the Driver

4769 License Division of the Department of Public Safety an order to suspend that minor's driving
4770 privileges.

4771 ~~[(3)]~~ (4) (a) The court hearing the case ~~[shall]~~ may suspend the minor's driving
4772 privileges if the minor violated Section [32B-4-409](#), Section [32B-4-410](#), or Subsection
4773 [76-9-701\(1\)](#).

4774 (b) ~~[Notwithstanding the requirement in Subsection (2) or (3)(a), the]~~ The court may
4775 reduce ~~[the]~~ a suspension period ~~[required]~~ imposed under Section [53-3-219](#) if:

4776 (i) the violation is the minor's first violation of:

4777 (A) Section [32B-4-409](#);

4778 (B) Section [32B-4-410](#);

4779 (C) Section [58-37-8](#);

4780 (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

4781 (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

4782 (F) Subsection [76-9-701\(1\)](#); and

4783 (ii) (A) the minor completes an educational series as defined in Section [41-6a-501](#); or

4784 (B) the minor demonstrates substantial progress in substance ~~[abuse]~~ use disorder
4785 treatment.

4786 (c) ~~[Notwithstanding the requirement in Subsection (2) or (3)(a) and in accordance~~
4787 ~~with the requirements of Section [53-3-219](#), the]~~ The court may reduce the suspension period
4788 required under Section [53-3-219](#) if:

4789 (i) the violation is the minor's second or subsequent violation of:

4790 (A) Section [32B-4-409](#);

4791 (B) Section [32B-4-410](#);

4792 (C) Section [58-37-8](#);

4793 (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

4794 (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

4795 (F) Subsection [76-9-701\(1\)](#);

4796 (ii) the minor has completed an educational series as defined in Section [41-6a-501](#) or
4797 demonstrated substantial progress in substance ~~[abuse]~~ use disorder treatment; and

4798 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
4799 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year

4800 consecutive period during the suspension period imposed under Subsection [(3)] (4)(a); or
4801 (B) the person is under 18 years of age and has the person's parent or legal guardian
4802 provide an affidavit or sworn statement to the court certifying that to the parent or legal
4803 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
4804 one-year consecutive period during the suspension period imposed under Subsection [(3)]
4805 (4)(a).

4806 (d) If a minor commits a proof of age violation, as defined in Section 32B-4-411:
4807 (i) the court [shall] may forward a record of adjudication to the Department of Public
4808 Safety for a first or subsequent violation; and
4809 (ii) the minor's driving privileges will be suspended:
4810 (A) for a period of at least one year under Section 53-3-220 for a first conviction for a
4811 violation of Section 32B-4-411; or
4812 (B) for a period of two years for a second or subsequent conviction for a violation of
4813 Section 32B-4-411.

4814 (e) [~~Notwithstanding the requirement in Subsection (3)(d), the~~] The court may reduce
4815 the suspension period imposed under Subsection [(3)] (4)(d)(ii)(A) if:
4816 (i) the violation is the minor's first violation of Section 32B-4-411; and
4817 (ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or
4818 (B) the minor demonstrates substantial progress in substance [~~abuse~~] use disorder
4819 treatment.

4820 (f) [~~Notwithstanding the requirement in Subsection (3)(d), the~~] The court may reduce
4821 the suspension period imposed under Subsection [(3)] (4)(d)(ii)(B) if:
4822 (i) the violation is the minor's second or subsequent violation of Section 32B-4-411;
4823 (ii) the minor has completed an educational series as defined in Section 41-6a-501 or
4824 demonstrated substantial progress in substance [~~abuse~~] use disorder treatment; and
4825 (iii) (A) the person is 18 years of age or older and provides a sworn statement to the
4826 court that the person has not unlawfully consumed alcohol or drugs for at least a one-year
4827 consecutive period during the suspension period imposed under Subsection [(3)] (4)(d)(ii)(B);
4828 or
4829 (B) the person is under 18 years of age and has the person's parent or legal guardian
4830 provide an affidavit or sworn statement to the court certifying that to the parent or legal

4831 guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a
 4832 one-year consecutive period during the suspension period imposed under Subsection [(3)]
 4833 (4)(d)(ii)(B).

4834 [(4)] (5) A minor's license shall be suspended under Section 53-3-219 when a court
 4835 issues an order suspending the minor's driving privileges in accordance with Subsection (2) for
 4836 a violation of:

4837 (a) Section 32B-4-409;

4838 (b) Section 32B-4-410;

4839 (c) Section 58-37-8;

4840 (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Title 37b, Imitation

4841 Controlled Substances Act; or

4842 (e) Subsection 76-9-701(1).

4843 [(5)] (6) When the Department of Public Safety receives the arrest or conviction record
 4844 of a person for a driving offense committed while the person's license is suspended under this
 4845 section, the Department of Public Safety shall extend the suspension for a like period of time.

4846 Section 68. Section 78A-6-701 is amended to read:

4847 **78A-6-701. Jurisdiction of district court.**

4848 (1) The district court has exclusive original jurisdiction over all persons 16 years of age
 4849 or older charged with[:(a)] an offense [which] that would be murder or aggravated murder if
 4850 committed by an adult[;].

4851 [(b) if the minor has been previously committed to a secure facility as defined in
 4852 Section 62A-7-101, a felony violation of:]

4853 [(i) Section 76-6-103, aggravated arson;]

4854 [(ii) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;]

4855 [(iii) Section 76-5-302, aggravated kidnapping;]

4856 [(iv) Section 76-6-203, aggravated burglary;]

4857 [(v) Section 76-6-302, aggravated robbery;]

4858 [(vi) Section 76-5-405, aggravated sexual assault;]

4859 [(vii) Section 76-10-508.1, felony discharge of a firearm;]

4860 [(viii) Section 76-5-202, attempted aggravated murder; or]

4861 [(ix) Section 76-5-203, attempted murder; or]

4862 ~~[(c) an offense other than those listed in Subsection (1)(b) involving the use of a~~
4863 ~~dangerous weapon, which would be a felony if committed by an adult, and the minor has been~~
4864 ~~previously adjudicated or convicted of an offense involving the use of a dangerous weapon,~~
4865 ~~which also would have been a felony if committed by an adult.]~~

4866 (2) When the district court has exclusive original jurisdiction over a minor under this
4867 section, it also has exclusive original jurisdiction over the minor regarding all offenses joined
4868 with the qualifying offense, and any other offenses, including misdemeanors, arising from the
4869 same criminal episode. The district court is not divested of jurisdiction by virtue of the fact
4870 that the minor is allowed to enter a plea to, or is found guilty of, a lesser or joined offense.

4871 (3) (a) ~~[Any]~~ A felony, misdemeanor, or infraction committed after the offense over
4872 which the district court takes jurisdiction under Subsection (1) or (2) shall be tried against the
4873 defendant as an adult in the district court or justice court having jurisdiction.

4874 (b) If the qualifying charge under Subsection (1) results in an acquittal, a finding of not
4875 guilty, or a dismissal of the charge in the district court, the juvenile court under Section
4876 [78A-6-103](#) and the Division of Juvenile Justice Services regain any jurisdiction and authority
4877 previously exercised over the minor.

4878 (4) A minor arrested under this section shall be held in a juvenile detention facility
4879 until the district court determines where the minor shall be held until the time of trial, except
4880 for defendants who are otherwise subject to the authority of the Board of Pardons and Parole.

4881 (5) The district court shall consider the following when determining where the minor
4882 will be held until the time of trial:

4883 (a) the age of the minor;

4884 (b) the nature, seriousness, and circumstances of the alleged offense;

4885 (c) the minor's history of prior criminal acts;

4886 (d) whether detention in a juvenile detention facility will adequately serve the need for
4887 community protection pending the outcome of any criminal proceedings;

4888 (e) whether the minor's placement in a juvenile detention facility will negatively impact
4889 the functioning of the facility by compromising the goals of the facility to maintain a safe,
4890 positive, and secure environment for all minors within the facility;

4891 (f) the relative ability of the facility to meet the needs of the minor and protect the
4892 public;

4893 (g) whether the minor presents an imminent risk of harm to the minor or others within
4894 the facility;

4895 (h) the physical maturity of the minor;

4896 (i) the current mental state of the minor as evidenced by relevant mental health or
4897 psychological assessments or screenings that are made available to the court; and

4898 (j) any other factors the court considers relevant.

4899 (6) A minor ordered to a juvenile detention facility under Subsection (5) shall remain
4900 in the facility until released by a district court judge, or if convicted, until sentencing.

4901 (7) A minor held in a juvenile detention facility under this section shall have the same
4902 right to bail as any other criminal defendant.

4903 (8) If the minor ordered to a juvenile detention facility under Subsection (5) attains the
4904 age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by
4905 the district court judge, or if convicted, until sentencing.

4906 (9) A minor 16 years of age or older whose conduct or condition endangers the safety
4907 or welfare of others in the juvenile detention facility may, by court order that specifies the
4908 reasons, be detained in another place of confinement considered appropriate by the court,
4909 including jail or other place of pretrial confinement for adults.

4910 Section 69. Section **78A-6-1101** is amended to read:

4911 **78A-6-1101. Violation of order of court -- Contempt -- Penalty -- Enforcement of**
4912 **fine, fee, or restitution.**

4913 (1) [~~Any~~] A person who willfully violates or refuses to obey any order of the court may
4914 be proceeded against for contempt of court.

4915 (2) [~~Any~~] A person 18 years of age or older found in contempt of court may be
4916 punished in accordance with Section [78B-6-310](#).

4917 (3) (a) [~~Any~~] A person younger than 18 years of age found in contempt of court may be
4918 punished by [~~any~~] disposition permitted under Section [78A-6-117](#), except [~~for commitment to a~~
4919 ~~secure facility~~] the court may only order a disposition that changes the custody of the minor,
4920 including community placement or commitment to a secure facility, if the disposition is
4921 commitment to a secure detention pursuant to Subsection [78A-6-117\(2\)\(f\)](#) for no longer than
4922 72 hours, excluding weekends and legal holidays.

4923 (b) [~~The~~] A court may [~~stay or~~] not suspend all or part of the punishment upon

4924 compliance with conditions imposed by the court.

4925 (4) ~~[The]~~ In accordance with Section [78A-6-117](#), the court may enforce orders of fines,
4926 fees, or restitution through garnishments, wage withholdings, supplementary proceedings, or
4927 executions. An order described in this Subsection (4) may not be enforced through an order of
4928 detention, community placement, or commitment to a secure facility.

4929 Section 70. Section **78A-6-1111** is amended to read:

4930 **78A-6-1111. Right to counsel -- Appointment of counsel -- Costs.**

4931 (1) (a) In ~~[any]~~ an action in juvenile court initiated by the state, a political subdivision
4932 of the state, or a private party, the parents, legal guardian, and the minor, ~~[where]~~ when
4933 applicable, shall be informed that ~~[they]~~ the parents, the legal guardian, and the minor may be
4934 represented by counsel at every stage of the proceedings.

4935 (b) In any action initiated by a private party, the parents or legal guardian shall have the
4936 right to employ counsel of their own choice at ~~[their]~~ the parent's or legal guardian's own
4937 expense.

4938 (c) If, in any action initiated by the state or a political subdivision of the state under
4939 Part 3, Abuse, Neglect, and Dependency Proceedings^[;], Part 5, Termination of Parental Rights
4940 Act^[;], or Part 10, Adult Offenses, ~~[of this chapter]~~ or under Section [78A-6-1101](#), a parent or
4941 legal guardian requests an attorney and is found by the court to be indigent, counsel shall be
4942 appointed by the court to represent the parent or legal guardian in all proceedings directly
4943 related to the petition or motion filed by the state, or a political subdivision of the state, subject
4944 to the provisions of this section.

4945 (d) In any action initiated by the state, a political subdivision of the state, or a private
4946 party under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of
4947 Parental Rights Act, ~~[of this chapter,]~~ the child shall be represented by a guardian ad litem in
4948 accordance with Sections [78A-6-317](#) and [78A-6-902](#). The child shall also be represented by an
4949 attorney guardian ad litem in other actions initiated under this chapter when appointed by the
4950 court under Section [78A-6-902](#) or as otherwise provided by law.

4951 (e) In any action initiated by the state or a political subdivision of the state under Part
4952 6, Delinquency and Criminal Actions, or Part 7, Transfer of Jurisdiction, of this chapter, or
4953 against a minor under Section [78A-6-1101](#), the parents or legal guardian and the minor shall be
4954 informed that the minor has the right to be represented by counsel at every stage of the

4955 proceedings.

4956 (i) [~~In cases where a petition or information alleging a felony-level offense is filed, the~~]
4957 The court shall appoint counsel, who shall appear until counsel is retained on the minor's
4958 behalf. The minor may not waive counsel unless the minor has had a meaningful opportunity
4959 to consult with a defense attorney. The court shall make findings on the record, taking into
4960 consideration the minor's unique circumstances and attributes, that the waiver is knowing and
4961 voluntary and the minor understands the consequences of waiving the right to counsel.

4962 (ii) [~~In all other cases in which a petition is filed the~~] The right to counsel may not be
4963 waived by a minor unless there has been a finding on the record, taking into consideration the
4964 minor's unique circumstances and attributes, that the waiver is knowing and voluntary, and the
4965 minor understands the consequences of waiving the right to counsel.

4966 (iii) [~~If the minor is found to be indigent, counsel~~] A determination of indigence may
4967 not be required for a minor to qualify for appointed counsel. Counsel shall be appointed by the
4968 court to represent the minor in all proceedings directly related to [~~the petition or motion filed~~
4969 ~~by the state or a political subdivision of the state,~~] a petition, a court appearance, or a motion,
4970 including restitution and detention proceedings, subject to the provisions of this section.

4971 Appointment of counsel shall extend through the closure of the case and appellate proceedings.

4972 (f) Indigency of a parent, legal guardian, or minor shall be determined in accordance
4973 with the process and procedure defined in Section [77-32-202](#) for the purposes of
4974 reimbursement only. The court shall take into account the income and financial ability of the
4975 parent or legal guardian to retain counsel in determining the indigency of the minor.

4976 (g) The cost of appointed counsel for a party found to be indigent, including the cost of
4977 counsel and expense of the first appeal, shall be paid by the county in which the trial court
4978 proceedings are held subject to Section [77-32-804](#). Counties may levy and collect taxes for
4979 these purposes.

4980 (2) Counsel appointed by the court may not provide representation as court-appointed
4981 counsel for a parent or legal guardian in any action initiated by, or in any proceeding to modify
4982 court orders in a proceeding initiated by, a private party, except that in a private action to
4983 terminate parental rights the court may appoint counsel to represent an indigent parent if it
4984 finds that the failure to appoint counsel will result in a deprivation of due process.

4985 (3) If the county responsible to provide legal counsel for an indigent under Subsection

4986 (1)(g) has arranged by contract to provide services, the court shall appoint the contracting
 4987 attorney as legal counsel to represent that indigent.

4988 (4) The court may order a parent or legal guardian for whom counsel is appointed and
 4989 for whom a determination of indigence under Subsection (1)(g) has not been made, and the
 4990 parents or legal guardian of any minor for whom counsel is appointed, to reimburse the county
 4991 for the cost of appointed counsel.

4992 (5) The state, or an agency of the state, may not be ordered to reimburse the county for
 4993 expenses incurred under Subsection (1)(g) subject to Section 77-32-804.

4994 Section 71. Section **78A-6-1202** is amended to read:

4995 **78A-6-1202. Definitions.**

4996 (1) "Adult" means a person 18 years of age or older.

4997 (2) (a) "Gang activity" means any criminal activity that is conducted as part of an
 4998 organized youth gang. It includes any criminal activity that is done in concert with other gang
 4999 members, or done alone if it is to fulfill gang purposes.

5000 (b) "Gang activity" does not include graffiti.

5001 (3) (a) "Minor offense" means any unlawful act that is a status offense or would be a
 5002 [~~class B or C~~] misdemeanor, infraction, or violation of a municipal or county ordinance if the
 5003 youth were an adult.

5004 (b) "Minor offense" does not include:

5005 [~~(a)~~] (i) a class A [~~misdemeanors~~] misdemeanor; or

5006 [~~(b)~~] (ii) [~~felonies~~] a felony of any degree[;].

5007 [~~(c)~~] ~~any offenses that are committed as part of gang activity;~~

5008 [~~(d)~~] ~~any of the following offenses which would carry mandatory dispositions if referred~~
 5009 ~~to the juvenile court under Section 78A-6-606;~~

5010 [~~(i)~~] ~~a second violation of Section 32B-4-409, Unlawful Purchase, Possession or~~
 5011 ~~Consumption by Minors -- Measurable Amounts in Body;~~

5012 [~~(ii)~~] ~~a violation of Section 41-6a-502, Driving Under the Influence;~~

5013 [~~(iii)~~] ~~a violation of Section 58-37-8, Controlled Substances Act;~~

5014 [~~(iv)~~] ~~a violation of Title 58, Chapter 37a, Utah Drug Paraphernalia Act;~~

5015 [~~(v)~~] ~~a violation of Title 58, Chapter 37b, Imitation Controlled Substances Act; or]~~

5016 [~~(vi)~~] ~~a violation of Section 76-9-701, Intoxication; or]~~

5017 ~~[(e) any offense where a dangerous weapon, as defined in Subsection 76-1-601(5), is~~
5018 ~~used in the commission of the offense.]~~

5019 (4) "Sponsoring entity" means any political subdivision of the state, including a school
5020 or school district, juvenile court, law enforcement agency, prosecutor's office, county, city, or
5021 town.

5022 (5) "Status offense" means a violation of the law that would not be a violation but for
5023 the age of the offender.

5024 (6) "Youth" means a person under the age of 18 years or who is 18 but still attending
5025 high school.

5026 Section 72. Section **78A-6-1203** is amended to read:

5027 **78A-6-1203. Youth court -- Authorization -- Referral.**

5028 (1) Youth court is a diversion program [which] that provides an alternative disposition
5029 for cases involving juvenile offenders in which youth participants, under the supervision of an
5030 adult coordinator, may serve in various capacities within the courtroom, acting in the role of
5031 jurors, lawyers, bailiffs, clerks, and judges.

5032 (a) Youth who appear before youth courts have been identified by law enforcement
5033 personnel, school officials, a prosecuting attorney, or the juvenile court as having committed
5034 acts which indicate a need for intervention to prevent further development toward juvenile
5035 delinquency, but which appear to be acts that can be appropriately addressed outside the
5036 juvenile court process.

5037 (b) Youth courts may only hear cases as provided for in this part.

5038 (c) Youth court is a diversion program and not a court established under the Utah
5039 Constitution, Article VIII.

5040 (2) A youth court may not accept referrals from law enforcement, schools, prosecuting
5041 attorneys, or a juvenile court unless the youth court is certified by the Utah Youth Court Board.

5042 (3) Any person may refer youth to a youth court for minor offenses or for any other
5043 eligible offense under Section 53A-11-911. Once a referral is made, the case shall be screened
5044 by an adult coordinator to determine whether it qualifies as a youth court case.

5045 (4) Youth courts have authority over youth:

5046 (a) referred for [a] one or more minor [offense or] offenses or who are referred for
5047 other eligible offenses under Section 53A-11-911, or who are granted permission for referral

5048 under this part;

5049 (b) who, along with a parent, guardian, or legal custodian, voluntarily and in writing,
5050 request youth court involvement; and

5051 [~~(c) who admit having committed the referred offense;~~]

5052 [~~(d) who, along with a parent, guardian, or legal custodian, waive any privilege against
5053 self-incrimination and right to a speedy trial; and]~~

5054 [~~(e)~~] (c) who, along with [~~their~~] a parent, guardian, or legal custodian, agree to follow
5055 the youth court disposition of the case.

5056 (5) Except with permission granted under Subsection (6), or pursuant to Section
5057 53A-11-911, youth courts may not exercise authority over youth who are under the continuing
5058 jurisdiction of the juvenile court for law violations, including any youth who may have a matter
5059 pending which has not yet been adjudicated. Youth courts may, however, exercise authority
5060 over youth who are under the continuing jurisdiction of the juvenile court as set forth in this
5061 Subsection (5) if the offense before the youth court is not a law violation, and the referring
5062 agency has notified the juvenile court of the referral.

5063 (6) Youth courts may exercise authority over youth described in Subsection (5), and
5064 over any other offense with the permission of the juvenile court and the prosecuting attorney in
5065 the county or district that would have jurisdiction if the matter were referred to juvenile court.

5066 (7) Permission of the juvenile court may be granted by a probation officer of the court
5067 in the district that would have jurisdiction over the offense being referred to youth court.

5068 [~~(8) Youth courts may decline to accept a youth for youth court disposition for any
5069 reason and may terminate a youth from youth court participation at any time.~~]

5070 [~~(9)~~] (8) A youth or the youth's parent, guardian, or legal custodian may withdraw from
5071 the youth court process at any time. The youth court shall immediately notify the referring
5072 source of the withdrawal.

5073 [~~(10)~~] (9) The youth court may transfer a case back to the referring source for
5074 alternative handling at any time.

5075 [~~(11)~~] (10) Referral of a case to youth court may not, if otherwise eligible, prohibit the
5076 subsequent referral of the case to any court.

5077 [~~(12)~~] (11) Proceedings and dispositions of a youth court may only be shared with the
5078 referring agency, juvenile court, and victim.

5079 [~~(13)~~] (12) When a person does not complete the terms ordered by a youth court, and if
5080 the case is referred to a juvenile court, the youth court shall provide the case file to the juvenile
5081 court.

5082 Section 73. Section **78A-6-1207** is amended to read:

5083 **78A-6-1207. Fees and expenses.**

5084 (1) Youth courts may require that the youth pay a reasonable fee, not to exceed \$50, to
5085 participate in youth court. This fee may be reduced or waived by the youth court in exigent
5086 circumstances and shall be based on the ability of the minor's family to pay as determined by a
5087 statewide sliding scale developed as provided in Section [63M-7-208](#). This fee shall be paid to
5088 and accounted for by the sponsoring entity. The fees collected shall be used for supplies and
5089 any training requirements.

5090 (2) Youth court participants are responsible for the all expenses of any classes,
5091 counseling, treatment, or other educational programs that are the disposition of the youth court.

5092 (3) Youth court participants may not be terminated unsuccessfully from youth court
5093 due to failure to pay related fees or expenses.

5094 Section 74. Section **78A-6-1302** is amended to read:

5095 **78A-6-1302. Procedure -- Standard.**

5096 (1) When a motion is filed pursuant to Section [78A-6-1301](#) raising the issue of a
5097 minor's competency to proceed, or when the court raises the issue of a minor's competency to
5098 proceed, the juvenile court in which proceedings are pending shall stay all delinquency
5099 proceedings.

5100 (2) If a motion for inquiry is opposed by either party, the court shall, prior to granting
5101 or denying the motion, hold a limited hearing solely for the purpose of determining the
5102 sufficiency of the motion. If the court finds that the allegations of incompetency raise a bona
5103 fide doubt as to the minor's competency to proceed, it shall enter an order for an evaluation of
5104 the minor's competency to proceed, and shall set a date for a hearing on the issue of the minor's
5105 competency.

5106 (3) After the granting of a motion, and prior to a full competency hearing, the court
5107 may order the Department of Human Services to evaluate the minor and to report to the court
5108 concerning the minor's mental condition.

5109 (4) The minor shall be evaluated by a mental health examiner with experience in

5110 juvenile forensic evaluations and juvenile brain development, who is not involved in the
5111 current treatment of the minor. If it becomes apparent that the minor may be not competent
5112 due to an intellectual disability or related condition, the examiner shall be experienced in
5113 intellectual disability or related condition evaluations of minors.

5114 (5) The petitioner or other party, as directed by the court, shall provide all information
5115 and materials to the examiners relevant to a determination of the minor's competency
5116 including:

- 5117 (a) the motion;
- 5118 (b) the arrest or incident reports pertaining to the charged offense;
- 5119 (c) the minor's known delinquency history information;
- 5120 (d) known prior mental health evaluations and treatments; and
- 5121 (e) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the
5122 minor's education.

5123 (6) The minor's parents or guardian, the prosecutor, defense attorney, and guardian ad
5124 litem, shall cooperate in providing the relevant information and materials to the examiners.

5125 (7) In conducting the evaluation and in the report determining if a minor is competent
5126 to proceed as defined in Subsection ~~78A-6-105(30)~~(38), the examiner shall consider the
5127 impact of a mental disorder, intellectual disability, or related condition on a minor's present
5128 capacity to:

- 5129 (a) comprehend and appreciate the charges or allegations;
- 5130 (b) disclose to counsel pertinent facts, events, or states of mind;
- 5131 (c) comprehend and appreciate the range and nature of possible penalties, if applicable,
5132 that may be imposed in the proceedings against the minor;
- 5133 (d) engage in reasoned choice of legal strategies and options;
- 5134 (e) understand the adversarial nature of the proceedings;
- 5135 (f) manifest appropriate courtroom behavior; and
- 5136 (g) testify relevantly, if applicable.

5137 (8) In addition to the requirements of Subsection (7), the examiner's written report
5138 shall:

- 5139 (a) identify the specific matters referred for evaluation;
- 5140 (b) describe the procedures, techniques, and tests used in the evaluation and the

5141 purpose or purposes for each;

5142 (c) state the examiner's clinical observations, findings, and opinions on each issue
5143 referred for evaluation by the court, and indicate specifically those issues, if any, on which the
5144 examiner could not give an opinion;

5145 (d) state the likelihood that the minor will attain competency and the amount of time
5146 estimated to achieve it; and

5147 (e) identify the sources of information used by the examiner and present the basis for
5148 the examiner's clinical findings and opinions.

5149 (9) The examiner shall provide an initial report to the court, the prosecuting and
5150 defense attorneys, and the guardian ad litem, if applicable, within 30 days of the receipt of the
5151 court's order. If the examiner informs the court that additional time is needed, the court may
5152 grant, taking into consideration the custody status of the minor, up to an additional 30 days to
5153 provide the report to the court and counsel. The examiner must provide the report within 60
5154 days from the receipt of the court's order unless, for good cause shown, the court authorizes an
5155 additional period of time to complete the evaluation and provide the report. The report shall
5156 inform the court of the examiner's opinion concerning the competency and the likelihood of the
5157 minor to attain competency within a year. In the alternative, the examiner may inform the court
5158 in writing that additional time is needed to complete the report.

5159 (10) Any statement made by the minor in the course of any competency evaluation,
5160 whether the evaluation is with or without the consent of the minor, any testimony by the
5161 examiner based upon any statement, and any other fruits of the statement may not be admitted
5162 in evidence against the minor in any delinquency or criminal proceeding except on an issue
5163 respecting the mental condition on which the minor has introduced evidence. The evidence
5164 may be admitted, however, where relevant to a determination of the minor's competency.

5165 (11) [~~Prior to~~] Before evaluating the minor, examiners shall specifically advise the
5166 minor and the parents or guardian of the limits of confidentiality as provided under Subsection
5167 (10).

5168 (12) When the report is received the court shall set a date for a competency hearing
5169 [~~which~~] that shall be held in not less than five and not more than 15 days, unless the court
5170 enlarges the time for good cause.

5171 (13) A minor shall be presumed competent unless the court, by a preponderance of the

5172 evidence, finds the minor not competent to proceed. The burden of proof is upon the
5173 proponent of incompetency to proceed.

5174 (14) (a) Following the hearing, the court shall determine by a preponderance of
5175 evidence whether the minor is:

5176 (i) competent to proceed;

5177 (ii) not competent to proceed with a substantial probability that the minor may attain
5178 competency in the foreseeable future; or

5179 (iii) not competent to proceed without a substantial probability that the minor may
5180 attain competency in the foreseeable future.

5181 (b) If the court enters a finding pursuant to Subsection (14)(a)(i), the court shall
5182 proceed with the delinquency proceedings.

5183 (c) If the court enters a finding pursuant to Subsection (14)(a)(ii), the court shall
5184 proceed consistent with Section [78A-6-1303](#).

5185 (d) If the court enters a finding pursuant to Subsection (14)(a)(iii), the court shall
5186 terminate the competency proceeding, dismiss the delinquency charges without prejudice, and
5187 release the minor from any custody order related to the pending delinquency proceeding, unless
5188 the prosecutor informs the court that commitment proceedings pursuant to Title 62A, Chapter
5189 5, Services for People with Disabilities, or Title 62A, Chapter 15, Substance Abuse and Mental
5190 Health Act, will be initiated. These commitment proceedings shall be initiated within seven
5191 days after the court's order, unless the court enlarges the time for good cause shown. The
5192 minor may be ordered to remain in custody until the commitment proceedings have been
5193 concluded.

5194 (15) If the court finds the minor not competent to proceed, its order shall contain
5195 findings addressing each of the factors in Subsection (7).

5196 Section 75. Section **78A-7-106** is amended to read:

5197 **78A-7-106. Jurisdiction.**

5198 (1) Justice courts have jurisdiction over class B and C misdemeanors, violation of
5199 ordinances, and infractions committed within their territorial jurisdiction by a person 18 years
5200 of age or older.

5201 (2) Except those offenses over which the juvenile court has exclusive jurisdiction,
5202 justice courts have jurisdiction over the following offenses committed within their territorial

5203 jurisdiction by a person who is 16 or 17 years of age:

5204 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
5205 Licensing Act; and

5206 (b) class B and C misdemeanor and infraction violations of:

5207 (i) Title 23, Wildlife Resources Code of Utah;

5208 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

5209 (iii) Title 41, Chapter 6a, Traffic Code;

5210 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
5211 Operators Act;

5212 (v) Title 41, Chapter 22, Off-Highway Vehicles;

5213 (vi) Title 73, Chapter 18, State Boating Act;

5214 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

5215 (viii) Title 73, Chapter 18b, Water Safety; and

5216 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
5217 Operators Act.

5218 (3) As used in this section, "the court's jurisdiction" means the territorial jurisdiction of
5219 a justice court.

5220 (4) An offense is committed within the territorial jurisdiction of a justice court if:

5221 (a) conduct constituting an element of the offense or a result constituting an element of
5222 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
5223 itself unlawful;

5224 (b) either a person committing an offense or a victim of an offense is located within the
5225 court's jurisdiction at the time the offense is committed;

5226 (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs
5227 within the court's jurisdiction;

5228 (d) a person commits any act constituting an element of an inchoate offense within the
5229 court's jurisdiction, including an agreement in a conspiracy;

5230 (e) a person solicits, aids, or abets, or attempts to solicit, aid, or abet another person in
5231 the planning or commission of an offense within the court's jurisdiction;

5232 (f) the investigation of the offense does not readily indicate in which court's
5233 jurisdiction the offense occurred, and:

- 5234 (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
5235 passing within the court's jurisdiction;
- 5236 (ii) (A) the offense is committed on or in any body of water bordering on or within this
5237 state if the territorial limits of the justice court are adjacent to the body of water; and
5238 (B) as used in Subsection (5)(f)(ii)(A), "body of water" includes any stream, river, lake,
5239 or reservoir, whether natural or man-made;
- 5240 (iii) a person who commits theft exercises control over the affected property within the
5241 court's jurisdiction; or
- 5242 (iv) the offense is committed on or near the boundary of the court's jurisdiction;
- 5243 (g) the offense consists of an unlawful communication that was initiated or received
5244 within the court's jurisdiction; or
- 5245 (h) jurisdiction is otherwise specifically provided by law.
- 5246 (5) A justice court judge may transfer a criminal matter in which the defendant is a
5247 child to the juvenile court for further proceedings if the justice court judge determines and the
5248 juvenile court concurs that the best interests of the minor would be served by the continuing
5249 jurisdiction of the juvenile court, subject to Section [78A-6-602](#).
- 5250 (6) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,
5251 Small Claims Courts, if a defendant resides in or the debt arose within the territorial
5252 jurisdiction of the justice court.