

Part 6 Delinquency and Criminal Actions

78A-6-601 Criminal proceedings involving minors -- Transfer to juvenile court -- Exception.

- (1) If, during the pendency of a criminal or quasi-criminal proceeding in another court, including a preliminary hearing, it is determined that the person charged is under 21 years of age and was less than 18 years of age at the time of committing the alleged offense, that court shall transfer the case to the juvenile court, together with all the papers, documents, and transcripts of any testimony except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703.
- (2) The court making the transfer shall order the person to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court, or shall release him to the custody of his parent or guardian or other person legally responsible for him, to be brought before the juvenile court at a time designated by it. The juvenile court shall then proceed as provided in this chapter.

Amended by Chapter 38, 2010 General Session

78A-6-602 Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal referral -- Citation -- Failure to appear.

- (1) A proceeding in a minor's case is commenced by petition, except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703.
- (2)
 - (a) A peace officer or any public official of the state, any county, city, or town charged with the enforcement of the laws of the state or local jurisdiction shall file a formal referral with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a detention facility, the formal referral shall be filed with the juvenile court within 72 hours, excluding weekends and holidays. There shall be no requirement to file a formal referral with the juvenile court on an offense that would be a class B misdemeanor or less if committed by an adult.
 - (b) When the court is informed by a peace officer or other person that a minor is or appears to be within the court's jurisdiction, the probation department shall make a preliminary inquiry to determine whether the interests of the public or of the minor require that further action be taken.
 - (c)
 - (i) Based on the preliminary inquiry, the court may authorize the filing of or request that the county attorney or district attorney as provided under Section 17-18a-202 or 17-18a-203 file a petition.
 - (ii) In its discretion, the court may, through its probation department, enter into a written consent agreement with the minor and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case if the facts are admitted and establish prima facie jurisdiction.
 - (iii) Efforts to effect a nonjudicial adjustment may not extend for a period of more than 90 days without leave of a judge of the court, who may extend the period for an additional 90 days.
 - (d) The nonjudicial adjustment of a case may include conditions agreed upon as part of the nonjudicial closure:
 - (i) payment of a financial penalty of not more than \$250 to the juvenile court;
 - (ii) payment of victim restitution;

- (iii) satisfactory completion of compensatory service;
 - (iv) referral to an appropriate provider for counseling or treatment;
 - (v) attendance at substance abuse programs or counseling programs;
 - (vi) compliance with specified restrictions on activities and associations; and
 - (vii) other reasonable actions that are in the interest of the child or minor and the community.
- (e) Proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.
- (f) A violation of Section 76-10-105 that is subject to the jurisdiction of the juvenile court shall include a minimum fine or penalty of \$60 and participation in a court-approved tobacco education program, which may include a participation fee.
- (3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor 14 years of age or older, the county attorney, district attorney, or attorney general may commence an action by filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction and certify the minor to the district court.
- (4)
- (a) In cases of violations of wildlife laws, boating laws, class B and class C misdemeanors, other infractions or misdemeanors as designated by general order of the Board of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the juvenile court, a petition is not required and the issuance of a citation as provided in Section 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry is not required unless requested by the court.
 - (b) Any failure to comply with the time deadline on a formal referral may not be the basis of dismissing the formal referral.

Amended by Chapter 237, 2013 General Session

78A-6-603 Citation procedure -- Citation -- Offenses -- Time limits -- Failure to appear.

- (1) As used in this section, "citation" means an abbreviated referral and is sufficient to invoke the jurisdiction of the court in lieu of a petition.
- (2) A citation shall be submitted to the court within five days of its issuance.
- (3) Each copy of the citation shall contain:
- (a) the name and address of the juvenile court before which the minor is to appear;
 - (b) the name of the minor cited;
 - (c) the statute or local ordinance that is alleged to have been violated;
 - (d) a brief description of the offense charged;
 - (e) the date, time, and location at which the offense is alleged to have occurred;
 - (f) the date the citation was issued;
 - (g) the name and badge or identification number of the peace officer or public official who issued the citation;
 - (h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested minor into custody as provided in Section 78A-6-112;
 - (i) the date and time when the minor is to appear, or a statement that the minor and parent or legal guardian are to appear when notified by the juvenile court; and
 - (j) the signature of the minor and the parent or legal guardian, if present, agreeing to appear at the juvenile court as designated on the citation.
- (4) Each copy of the citation shall contain space for the following information to be entered if known:
- (a) the minor's address;

- (b) the minor's date of birth;
 - (c) the name and address of the child's custodial parent or legal guardian, if different from the child; and
 - (d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.
- (5) A citation received by the court beyond the time designated in Subsection (2) shall include a written explanation for the delay.
- (6) The following offenses may be sent to the juvenile court as a citation:
- (a) violations of wildlife laws;
 - (b) violations of boating laws;
 - (c) violations of curfew laws;
 - (d) any class B misdemeanor or less traffic violations where the person is under the age of 16;
 - (e) any class B or class C misdemeanor or infraction;
 - (f) any other infraction or misdemeanor as designated by general order of the Board of Juvenile Court Judges; and
 - (g) violations of Section 76-10-105 subject to the jurisdiction of the Juvenile Court.
- (7) A preliminary inquiry is not required unless requested by the court.
- (8) The provisions of Subsection (5) may not apply to a runaway, ungovernable, or habitually truant child.
- (9) In the case of Section 76-10-105 violations committed on school property when a citation is issued under this section, the peace officer, public official, or compliance officer shall issue one copy to the minor cited, provide the parent or legal guardian with a copy, and file a duplicate with the juvenile court specified in the citation within five days.
- (10)
- (a) A minor receiving a citation described in this section shall appear at the juvenile court designated in the citation on the time and date specified in the citation or when notified by the juvenile court.
 - (b) A citation may not require a minor to appear sooner than five days following its issuance.
- (11) A minor who receives a citation and willfully fails to appear before the juvenile court pursuant to a citation is subject to arrest and may be found in contempt of court. The court may proceed against the minor as provided in Section 78A-6-1101 regardless of the disposition of the offense upon which the minor was originally cited.
- (12) When a citation is issued under this section, bail may be posted and forfeited under Subsection 78A-6-113(12) with the consent of:
- (a) the court; and
 - (b) if the minor is a child, the parent or legal guardian of the child cited.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-6-604 Minor held in detention -- Credit for good behavior.

- (1) The judge may order whether a minor held in detention under Subsection 78A-6-117(2)(f) or 78A-6-1101(3) is eligible to receive credit for good behavior against the period of detention. The rate of credit is one day for every three days served. The Division of Juvenile Justice Services shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish rules describing good behavior for which credit may be earned.
- (2) Any disposition including detention under Subsection 78A-6-117(2)(f) or 78A-6-1101(3) shall be concurrent with any other order of detention.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-6-605 Dispositional report required in minor's cases -- Exceptions.

- (1) The probation department or other agency designated by the court shall make a dispositional report in writing in all minor's cases in which a petition has been filed, except that the court may dispense with the study and report in cases involving violations of traffic laws or ordinances, violations of wildlife laws, boating laws, and other minor cases.
- (2) When preparing a dispositional report and recommendation in a delinquency action, the probation department or other agency designated by the court shall consider the juvenile sentencing guidelines developed in accordance with Section 63M-7-404 and any aggravating or mitigating circumstances.
- (3) Where the allegations of a petition filed under Subsection 78A-6-103(1) are denied, the investigation may not be made until the court has made an adjudication.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-6-606 Suspension of license for certain offenses.

- (1) This section applies to a minor who is at least 13 years of age when found by the court to be within its jurisdiction by the commission of an offense under:
 - (a) Section 32B-4-409;
 - (b) Section 32B-4-410;
 - (c) Section 32B-4-411;
 - (d) Section 58-37-8;
 - (e) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - (f) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
 - (g) Subsection 76-9-701(1).
- (2) If the court hearing the case determines that the minor committed an offense under Section 58-37-8 or Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act, the court shall prepare and send to the Driver License Division of the Department of Public Safety an order to suspend that minor's driving privileges.
- (3)
 - (a) The court hearing the case shall suspend the minor's driving privileges if the minor violated Section 32B-4-409, Section 32B-4-410, or Subsection 76-9-701(1).
 - (b) Notwithstanding the requirement in Subsection (2) or (3)(a), the court may reduce the suspension period required under Section 53-3-219 if:
 - (i) the violation is the minor's first violation of:
 - (A) Section 32B-4-409;
 - (B) Section 32B-4-410;
 - (C) Section 58-37-8;
 - (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
 - (F) Subsection 76-9-701(1); and
 - (ii)
 - (A) the minor completes an educational series as defined in Section 41-6a-501; or
 - (B) the minor demonstrates substantial progress in substance abuse treatment.
 - (c) Notwithstanding the requirement in Subsection (2) or (3)(a) and in accordance with the requirements of Section 53-3-219, the court may reduce the suspension period required under Section 53-3-219 if:

- (i) the violation is the minor's second or subsequent violation of:
 - (A) Section 32B-4-409;
 - (B) Section 32B-4-410;
 - (C) Section 58-37-8;
 - (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
 - (E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or
 - (F) Subsection 76-9-701(1);
 - (ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and
 - (iii)
 - (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(a); or
 - (B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(a).
 - (d) If a minor commits a proof of age violation, as defined in Section 32B-4-411:
 - (i) the court shall forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and
 - (ii) the minor's driving privileges will be suspended:
 - (A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or
 - (B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.
 - (e) Notwithstanding the requirement in Subsection (3)(d), the court may reduce the suspension period imposed under Subsection (3)(d)(ii)(A) if:
 - (i) the violation is the minor's first violation of Section 32B-4-411; and
 - (ii)
 - (A) the minor completes an educational series as defined in Section 41-6a-501; or
 - (B) the minor demonstrates substantial progress in substance abuse treatment.
 - (f) Notwithstanding the requirement in Subsection (3)(d), the court may reduce the suspension period imposed under Subsection (3)(d)(ii)(B) if:
 - (i) the violation is the minor's second or subsequent violation of Section 32B-4-411;
 - (ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance abuse treatment; and
 - (iii)
 - (A) the person is 18 years of age or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(d)(ii)(B); or
 - (B) the person is under 18 years of age and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (3)(d)(ii)(B).
- (4) A minor's license shall be suspended under Section 53-3-219 when a court issues an order suspending the minor's driving privileges for a violation of:
- (a) Section 32B-4-409;

- (b) Section 32B-4-410;
 - (c) Section 58-37-8;
 - (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Title 37b, Imitation Controlled Substances Act; or
 - (e) Subsection 76-9-701(1).
- (5) When the Department of Public Safety receives the arrest or conviction record of a person for a driving offense committed while the person's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

Amended by Chapter 165, 2015 General Session

Amended by Chapter 258, 2015 General Session