

**78A-6-112 Minor taken into custody by peace officer, private citizen, or probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds for peace officer to take adult into custody.**

- (1) A minor may be taken into custody by a peace officer without order of the court if:
  - (a) in the presence of the officer the minor has violated a state law, federal law, local law, or municipal ordinance;
  - (b) there are reasonable grounds to believe the minor has committed an act which if committed by an adult would be a felony;
  - (c) the minor:
    - (i)
      - (A) is seriously endangered in the minor's surroundings; or
      - (B) seriously endangers others; and
    - (ii) immediate removal appears to be necessary for the minor's protection or the protection of others;
  - (d) there are reasonable grounds to believe the minor has run away or escaped from the minor's parents, guardian, or custodian; or
  - (e) there is reason to believe that the minor is:
    - (i) subject to the state's compulsory education law; and
    - (ii) absent from school without legitimate or valid excuse, subject to Section 53A-11-105.
- (2)
  - (a) A private citizen or a probation officer may take a minor into custody if under the circumstances he could make a citizen's arrest if the minor was an adult.
  - (b) A probation officer may also take a minor into custody under Subsection (1) or if the minor has violated the conditions of probation, if the minor is under the continuing jurisdiction of the juvenile court or in emergency situations in which a peace officer is not immediately available.
- (3)
  - (a)
    - (i) If an officer or other person takes a minor into temporary custody, he shall without unnecessary delay notify the parents, guardian, or custodian.
    - (ii) The minor shall then be released to the care of the minor's parent or other responsible adult, unless the minor's immediate welfare or the protection of the community requires the minor's detention.
  - (b) If the minor is taken into custody or detention for a violent felony, as defined in Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent taking the minor into custody shall, as soon as practicable or as established under Subsection 53A-11-1001(2), notify the school superintendent of the district in which the minor resides or attends school for the purposes of the minor's supervision and student safety.
    - (i) The notice shall disclose only:
      - (A) the name of the minor;
      - (B) the offense for which the minor was taken into custody or detention; and
      - (C) if available, the name of the victim, if the victim:
        - (I) resides in the same school district as the minor; or
        - (II) attends the same school as the minor.
    - (ii) The notice shall be classified as a protected record under Section 63G-2-305.
    - (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government Records Access and Management Act and the Federal Family Educational Rights and Privacy Act.

- (c) Employees of a governmental agency are immune from any criminal liability for providing or failing to provide the information required by this section unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.
  - (d) Before the minor is released, the parent or other person to whom the minor is released shall be required to sign a written promise on forms supplied by the court to bring the minor to the court at a time set or to be set by the court.
- (4)
- (a) A child may not be held in temporary custody by law enforcement any longer than is reasonably necessary to obtain the child's name, age, residence, and other necessary information and to contact the child's parents, guardian, or custodian.
  - (b) If the minor is not released under Subsection (3), the minor shall be taken to a place of detention or shelter without unnecessary delay.
- (5)
- (a) The person who takes a minor to a detention or shelter facility shall promptly file with the detention or shelter facility a written report on a form provided by the division stating the details of the presently alleged offense, the facts which bring the minor within the jurisdiction of the juvenile court, and the reason the minor was not released by law enforcement.
  - (b)
    - (i) The designated youth corrections facility staff person shall immediately review the form and determine, based on the guidelines for detention admissions established by the Division of Juvenile Justice Services under Section 62A-7-202, whether to admit the minor to secure detention, admit the minor to home detention, place the minor in a placement other than detention, or return the minor home upon written promise to bring the minor to the court at a time set, or without restriction.
    - (ii) If the designated youth corrections facility staff person determines to admit the minor to home detention, that staff person shall notify the juvenile court of that determination. The court shall order that notice be provided to the designated persons in the local law enforcement agency and the school or transferee school, if applicable, which the minor attends of the home detention. The designated persons may receive the information for purposes of the minor's supervision and student safety.
    - (iii) Any employee of the local law enforcement agency and the school which the minor attends who discloses the notification of home detention is not:
      - (A) civilly liable except when disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and
      - (B) civilly or criminally liable except when disclosure constitutes a knowing violation of Section 63G-2-801.
  - (c) A minor may not be admitted to detention unless the minor is detainable based on the guidelines or the minor has been brought to detention pursuant to a judicial order or division warrant pursuant to Section 62A-7-504.
  - (d) If a minor taken to detention does not qualify for admission under the guidelines established by the division under Section 62A-7-104, detention staff shall arrange appropriate placement.
  - (e) If a minor is taken into custody and admitted to a secure detention or shelter facility, facility staff shall:
    - (i) immediately notify the minor's parents, guardian, or custodian; and
    - (ii) promptly notify the court of the placement.
  - (f) If the minor is admitted to a secure detention or shelter facility outside the county of the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3) that detention shall continue, the judge or commissioner shall direct the sheriff of the county of the

minor's residence to transport the minor to a detention or shelter facility as provided in this section.

- (6) A person may be taken into custody by a peace officer without a court order if the person is in apparent violation of a protective order or if there is reason to believe that a child is being abused by the person and any of the situations outlined in Section 77-7-2 exist.

Renumbered and Amended by Chapter 3, 2008 General Session