

**Effective 9/1/2021**

## **Chapter 6 Juvenile Justice**

### **Part 1 General Provisions**

#### **80-6-102 Definitions.**

As used in this chapter:

- (1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.
- (2) "Authority" means the Youth Parole Authority created in Section 80-5-701.
- (3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
- (4) "Compensatory service" means service or unpaid work performed by a minor in lieu of the payment of a fine, fee, or restitution.
- (5) "Control" means the same as that term is defined in Section 80-5-102.
- (6) "Detention hearing" means a proceeding under Section 80-6-207 to determine whether a minor should remain in detention.
- (7) "Detention guidelines" means standards, established by the division in accordance with Subsection 80-5-202(1)(a), for the admission of a minor to detention.
- (8) "Discharge" means a written order of the authority that removes a juvenile offender from the authority's jurisdiction.
- (9) "Division" means the Division of Juvenile Justice and Youth Services created in Section 80-5-103.
- (10) "Family-based setting" means a home that is licensed to allow a minor to reside at the home, including a foster home, proctor care, or residential care by a professional parent.
- (11) "Formal referral" means a written report from a peace officer, or other person, informing the juvenile court that:
  - (a) an offense committed by a minor is, or appears to be, within the juvenile court's jurisdiction; and
  - (b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting attorney.
- (12) "Habitual truant" means the same as that term is defined in Section 53G-8-211.
- (13) "Material loss" means an uninsured:
  - (a) property loss;
  - (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;
  - (c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or
  - (d) medical expense.
- (14) "Referral" means a formal referral, a referral to the juvenile court under Section 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under Section 80-6-302.
- (15) "Rescission" means a written order of the authority that rescinds a date for parole.
- (16) "Restitution" means money or services that the juvenile court, or a juvenile probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to a victim for the minor's wrongful act or conduct.
- (17) "Revocation" means a written order of the authority that, after a hearing and determination under Section 80-6-806:
  - (a) terminates supervision of a juvenile offender's parole; and

- (b) directs a juvenile offender to return to secure care.
- (18) "Temporary custody" means the control and responsibility of a minor, before an adjudication under Section 80-6-701, until the minor is released to a parent, guardian, responsible adult, or to an appropriate agency.
- (19) "Termination" means a written order of the authority that terminates a juvenile offender from parole.
- (20)
  - (a) "Victim" means a person that the juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct.
  - (b) "Victim" includes:
    - (i) any person directly harmed by the minor's wrongful act or conduct in the course of the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and
    - (ii) the Utah Office for Victims of Crime.
- (21) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- (22) "Work program" means the same as that term is defined in Section 80-5-102.
- (23) "Youth services" means the same as that term is defined in Section 80-5-102.

Amended by Chapter 240, 2024 General Session  
Amended by Chapter 301, 2024 General Session

***Effective until 7/1/2024***

**80-6-103 Notification to a school -- Civil and criminal liability.**

- (1) As used in this section:
  - (a) "School" means a school in a local education agency.
  - (b) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.
  - (c) "School official" means:
    - (i) the school superintendent, or the school superintendent's designee, of the district in which the minor resides or attends school; or
    - (ii) if there is no school superintendent for the school, the principal, or the principal's designee, of the school where the minor attends.
  - (d) "Serious offense" means:
    - (i) a violent felony as defined in Section 76-3-203.5;
    - (ii) an offense that is a violation of Title 76, Chapter 6, Part 4, Theft, and the property stolen is a firearm; or
    - (iii) an offense that is a violation of Title 76, Chapter 10, Part 5, Weapons.
  - (e) "Transferee school official" means:
    - (i) the school superintendent, or the school superintendent's designee, of the district in which the minor resides or attends school if the minor is admitted to home detention; or
    - (ii) if there is no school superintendent for the school, the principal, or the principal's designee, of the school where the minor attends if the minor is admitted to home detention.
- (2) A notification under this section is provided for a minor's supervision and student safety.
- (3)
  - (a) If a minor is taken into temporary custody under Section 80-6-201 for a serious offense, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.

- (b) A notification under this Subsection (3) shall only disclose:
  - (i) the name of the minor;
  - (ii) the offense for which the minor was taken into temporary custody or admitted to detention; and
  - (iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.
- (4) After a detention hearing for a minor who is alleged to have committed a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.
- (5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.
- (6)
  - (a) If the juvenile court adjudicates a minor for a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.
  - (b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.
  - (c) A notification under this section shall include:
    - (i) the name of the minor;
    - (ii) the offense for which the minor was adjudicated; and
    - (iii) if available, the name of the victim if the victim:
      - (A) resides in the same school district as the minor; or
      - (B) attends the same school as the minor.
- (7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for formal probation.
- (8)
  - (a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:
    - (i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and
    - (ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.
  - (b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.
- (9)
  - (a) A notification under this section shall be classified as a protected record under Section 63G-2-305.
  - (b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Amended by Chapter 64, 2024 General Session  
Amended by Chapter 301, 2024 General Session

**Effective 7/1/2024**

**80-6-103 Notification to a school -- Civil and criminal liability.**

- (1) As used in this section:
  - (a) "School" means a school in a local education agency.
  - (b) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.
  - (c) "School official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school.
  - (d) "Serious offense" means:
    - (i) a violent felony as defined in Section 76-3-203.5;
    - (ii) an offense that is a violation of Title 76, Chapter 6, Part 4, Theft, and the property stolen is a firearm; or
    - (iii) an offense that is a violation of Title 76, Chapter 10, Part 5, Weapons.
  - (e) "Transferee school official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school if the minor is admitted to home detention.
- (2) A notification under this section is provided for a minor's supervision and student safety.
- (3)
  - (a) If a minor is taken into temporary custody under Section 80-6-201 for a serious offense, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.
  - (b) A notification under this Subsection (3) shall only disclose:
    - (i) the name of the minor;
    - (ii) the offense for which the minor was taken into temporary custody or admitted to detention; and
    - (iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.
- (4) After a detention hearing for a minor who is alleged to have committed a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.
- (5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.
- (6)
  - (a) If the juvenile court adjudicates a minor for a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.
  - (b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.
  - (c) A notification under this section shall include:
    - (i) the name of the minor;
    - (ii) the offense for which the minor was adjudicated; and
    - (iii) if available, the name of the victim if the victim:
      - (A) resides in the same school district as the minor; or

- (B) attends the same school as the minor.
- (7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for formal probation.
- (8)
  - (a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:
    - (i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and
    - (ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.
  - (b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.
- (9)
  - (a) A notification under this section shall be classified as a protected record under Section 63G-2-305.
  - (b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Amended by Chapter 532, 2024 General Session

**80-6-104 Data collection on offenses committed by minors -- Reporting requirement.**

- (1) As used in this section:
  - (a) "Firearm" means the same as that term is defined in Section 76-10-501.
  - (b) "Firearm-related offense" means a criminal offense involving a firearm.
  - (c) "School is in session" means the same as that term is defined in Section 53E-3-516.
  - (d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.
- (2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:
  - (a) the number of referrals to the juvenile court;
  - (b) the number of minors diverted to a nonjudicial adjustment;
  - (c) the number of minors that satisfy the conditions of a nonjudicial adjustment;
  - (d) the number of minors for whom a petition for an offense is filed in the juvenile court;
  - (e) the number of minors for whom an information is filed in the juvenile court;
  - (f) the number of minors bound over to the district court by the juvenile court;
  - (g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;
  - (h) the number of adjudications in the juvenile court for offenses committed by minors;
  - (i) the number of guilty pleas entered into by minors in the juvenile court;
  - (j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and
  - (k) for each minor charged in the juvenile court with a firearm-related offense:
    - (i) the minor's age at the time the offense was committed or allegedly committed;
    - (ii) the minor's zip code at the time that the offense was referred to the juvenile court;
    - (iii) whether the minor is a restricted person under Subsection 76-10-503(1)(a)(iv) or (1)(b)(iii);

- (iv) the type of offense for which the minor is charged;
  - (v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and
  - (vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.
- (3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.
- (4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:
- (a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;
  - (b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;
  - (c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and
  - (d) dosages of programming.
- (5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:
- (a) data collected by the State Commission on Criminal and Juvenile Justice under this section;
  - (b) data collected by the State Board of Education under Section 53E-3-516; and
  - (c) recommendations for legislative action with respect to the data described in this Subsection (5).
- (6) After submitting the written report described in Subsection (5), the State Commission on Criminal and Juvenile Justice may supplement the report at a later time with updated data and information the State Board of Education collects under Section 53E-3-516.
- (7) Nothing in this section shall be construed to require the disclosure of information or data that is classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 20, 2024 General Session

## Part 2 Custody and Detention

### **80-6-201 Minor taken into temporary custody by peace officer, private citizen, or probation officer -- Grounds -- Protective custody.**

- (1) A minor may be taken into temporary custody by a peace officer without a court order, or a warrant under Section 80-6-202, if the peace officer has probable cause to believe that:
- (a) the minor has committed an offense under municipal, state, or federal law;

- (b) the minor seriously endangers the minor's own welfare or the welfare of others and taking the minor into temporary custody appears to be necessary for the protection of the minor or others;
- (c) the minor has run away or escaped from the minor's parents, guardian, or custodian; or
- (d) the minor is:
  - (i) subject to the state's compulsory education law; and
  - (ii) subject to Sections 53G-6-208 and 53G-8-211, absent from school without legitimate or valid excuse.
- (2) A private citizen may take a minor into temporary custody if under the circumstances the private citizen could make a citizen's arrest under Section 77-7-3 if the minor was an adult.
- (3) A juvenile probation officer may take a minor into temporary custody:
  - (a) under the same circumstances as a peace officer in Subsection (1); or
  - (b) if the juvenile probation officer has a reasonable suspicion that the minor has violated the conditions of the minor's probation.
- (4)
  - (a) Nothing in this part shall be construed to prevent a peace officer or the Division of Child and Family Services from taking a minor into protective custody under Section 80-2a-202 or 80-3-204.
  - (b) If a peace officer or the Division of Child and Family Services takes a minor into protective custody, the provisions of Chapter 2, Child Welfare Services, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings shall govern.

Amended by Chapter 301, 2024 General Session

**80-6-202 Warrants for minors.**

- (1)
  - (a) Except as otherwise provided in this section, after a petition is filed under Section 80-6-305, or a criminal information under Section 80-6-503, a juvenile court may issue a warrant for a minor to be taken into temporary custody if:
    - (i) there is probable cause to believe that:
      - (A) the minor has committed an offense that would be a felony if committed by an adult;
      - (B) the minor has failed to appear after the minor or the minor's parent, guardian, or custodian has been legally served with a summons in accordance with Section 78A-6-351 and the Utah Rules of Juvenile Procedure;
      - (C) there is a substantial likelihood the minor will not respond to a summons;
      - (D) a summons cannot be served and the minor's present whereabouts are unknown;
      - (E) serving a summons for the minor will be ineffectual;
      - (F) the minor seriously endangers others or the public and temporary custody appears to be necessary for the protection of others or the public; or
      - (G) the minor is a runaway or has escaped from the minor's parent, guardian, or custodian; or
    - (ii) the minor is under the continuing jurisdiction of the juvenile court and there is probable cause to believe that the minor:
      - (A) has left the custody of the person or agency vested by a court with legal custody, or guardianship of the minor, without permission; or
      - (B) has violated a court order.
  - (b) A warrant issued under this Subsection (1) shall be:
    - (i) filed in accordance with Utah Rules of Juvenile Procedure, Rule 7; and

- (ii) executed in accordance with Title 77, Chapter 7, Arrest, by Whom, and How Made.
- (2) A juvenile court may not issue a warrant for a minor to be taken into temporary custody for:
  - (a) a status offense;
  - (b) an infraction; or
  - (c) being a habitual truant.
- (3)
  - (a) For a minor not eligible for a warrant under Subsection (2), a juvenile court may issue a warrant that directs a minor to be returned home, to the juvenile court, or to a shelter or other nonsecure facility.
  - (b) A warrant under Subsection (3)(a) may not direct a minor to secure care or secure detention.
- (4) Subsection (2) does not apply to a minor who is under Chapter 6, Part 11, Interstate Compact for Juveniles.

Amended by Chapter 301, 2024 General Session

**80-6-203 Temporary custody of a minor -- Notification of a child's parent, guardian, or custodian -- Taking a minor to a detention facility.**

- (1)
  - (a) Except as provided in Subsection (3), if a peace officer, or other person, takes a child into temporary custody under Section 80-6-201, the peace officer, or other person, may not take the child into temporary custody for any longer than is reasonably necessary to:
    - (i) obtain the child's name, age, residence, and other necessary information;
    - (ii) contact the child's parent, guardian, or custodian; and
    - (iii) release the child to the child's parent, guardian, or custodian.
  - (b) Before a child is released under Subsection (1)(a), the parent, or other person to whom the child is released, shall sign a written promise on forms supplied by the juvenile court to bring the child to the juvenile court at a time set or to be set by the court.
- (2) Except as provided in Subsection (3), if a peace officer, or other person, takes a minor who is 18 years old or older into temporary custody under Section 80-6-201, the peace officer, or other person, may not take the minor into temporary custody for any longer than is reasonably necessary to obtain the minor's name, age, residence, and other necessary information.
- (3)
  - (a) A minor may remain in the temporary custody of a peace officer or other person if:
    - (i) the protection of the community requires the minor's detention; or
    - (ii) a warrant has been issued for the minor's arrest under Section 80-6-202 or 80-6-806.
  - (b) If a minor remains in temporary custody, the minor shall be taken to a detention facility without unnecessary delay.
  - (c) If the peace officer, or other person, takes a minor to a detention facility, the peace officer, or other person, shall promptly file a written report, on a form provided by the division, with the detention facility stating:
    - (i) the details of the offense that the minor is alleged to have committed;
    - (ii) the facts that bring the offense within the jurisdiction of the juvenile court;
    - (iii) the reason that the minor was not released by the peace officer or other person; and
    - (iv) if the minor is under consideration for detention, the eligibility of the minor for detention under the detention guidelines.

Enacted by Chapter 261, 2021 General Session



**80-6-204 Detention or confinement of a minor -- Restrictions.**

- (1) Except as provided in Subsection (2) or this chapter, if a child is apprehended by a peace officer, or brought before a court for examination under state law, the child may not be confined:
  - (a) in a jail, lockup, or cell used for an adult who is charged with a crime; or
  - (b) in secure care .
- (2)
  - (a) The division shall detain a child in accordance with Sections 80-6-502, 80-6-504, and 80-6-505 if:
    - (i) the child is charged with an offense under Section 80-6-502 or 80-6-503;
    - (ii) the district court has obtained jurisdiction over the offense because the child is bound over to the district court under Section 80-6-504; and
    - (iii) the juvenile or district court orders the detention of the child.
  - (b)
    - (i) If a child is detained before a detention hearing, or a preliminary hearing under Section 80-6-504 if a criminal information is filed for the child under Section 80-6-503, the child may only be held in certified juvenile detention accommodations in accordance with rules made by the commission.
    - (ii) The commission's rules shall include rules for acceptable sight and sound separation from adult inmates.
    - (iii) The commission shall certify that a correctional facility is in compliance with the commission's rules.
    - (iv) This Subsection (2)(b) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (3)
  - (a) In an area of low density population, the commission may, by rule, approve a juvenile detention accommodation within a correctional facility that has acceptable sight and sound separation.
  - (b) An accommodation described in Subsection (3)(a) shall be used only:
    - (i) for short-term holding of a child who is alleged to have committed an act that would be a criminal offense if committed by an adult; and
    - (ii) for a maximum confinement period of six hours.
  - (c) A child may only be held in an accommodation described in Subsection (3)(a) for:
    - (i) identification;
    - (ii) notification of a juvenile court official;
    - (iii) processing; and
    - (iv) allowance of adequate time for evaluation of needs and circumstances regarding the release or transfer of the child to a shelter or detention facility.
  - (d) This Subsection (3) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (4)
  - (a) If a child is alleged to have committed an act that would be a criminal offense if committed by an adult, a law enforcement officer or agency may detain the child in a holding room in a local law enforcement agency facility for no longer than four hours:
    - (i) for identification or interrogation; or
    - (ii) while awaiting release to a parent or other responsible adult.
  - (b) A holding room described in Subsection (4)(a) shall be certified by the commission in accordance with the commission's rules.

- (c) The commission's rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.
- (5) Willful failure to comply with this section is a class B misdemeanor.
- (6)
  - (a) The division is responsible for the custody and detention of:
    - (i) a child who requires detention before trial or examination, or is placed in secure detention after an adjudication under Section 80-6-704; and
    - (ii) a juvenile offender under Subsection 80-6-806(7).
  - (b) Subsection (6)(a) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
  - (c)
    - (i) The commission shall provide standards for custody or detention under Subsections (2)(b), (3), and (4).
    - (ii) The division shall determine and set standards for conditions of care and confinement of children in detention facilities.
  - (d)
    - (i) The division, or a public or private agency willing to undertake temporary custody or detention upon agreed terms in a contract with the division, shall provide all other custody or detention in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems.
    - (ii) This Subsection (6)(d) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (7) Except as otherwise provided by this chapter, if an individual who is, or appears to be, under 18 years old is received at a correctional facility, the sheriff, warden, or other official, in charge of the correctional facility shall:
  - (a) immediately notify the juvenile court of the individual; and
  - (b) make arrangements for the transfer of the individual to a detention facility, unless otherwise ordered by the juvenile court.

Amended by Chapter 436, 2023 General Session

**80-6-205 Admission to detention -- Alternative to detention -- Rights of a minor in detention.**

- (1) If a minor is taken to a detention facility under Section 80-6-203, a designated staff member of the detention facility shall immediately review the form and determine, based on the results of the detention risk assessment tool and Subsection (2), whether to:
  - (a) admit the minor to secure detention;
  - (b) admit the minor to home detention;
  - (c) place the minor in an alternative to detention, except that the staff member may not place the minor in a correctional facility that is intended to hold adults accused or convicted of offenses as an alternative to detention; or
  - (d) if the minor is a child, return the minor home upon a written promise by the minor's parent, guardian, or custodian to bring the minor to the juvenile court at a time set or without restriction.
- (2) The designated staff member may not admit a minor to detention under Subsection (1) unless:
  - (a) the minor is detainable based on the detention guidelines; or
  - (b) the minor has been brought to detention in accordance with:
    - (i) a court order;
    - (ii) a warrant described in Section 80-6-202; or

- (iii) a division warrant described in Section 80-6-806.
- (3) If the designated staff member determines to admit a minor to home detention, the staff member shall notify the juvenile court of that determination.
- (4) Even if a minor is eligible for secure detention, a peace officer or other person who takes a minor to a detention facility, or the designated staff member of the detention facility, may release a minor to a less restrictive alternative than secure detention.
- (5)
  - (a) If a minor taken to a detention facility does not qualify for admission under detention guidelines or this section, a designated staff member of the detention facility shall arrange an appropriate alternative, including admitting a minor to a juvenile receiving center or a shelter facility.
  - (b)
    - (i) Except as otherwise provided by this section, a minor may not be placed or kept in secure detention while court proceedings are pending.
    - (ii) A child may not be placed or kept in a shelter facility while court proceedings are pending, unless the child is in protective custody in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings.
- (6) If a minor is taken into temporary custody and admitted to a secure detention, or another alternative to detention, a designated staff member of the detention facility shall:
  - (a) immediately notify the minor's parent, guardian, or custodian; and
  - (b) promptly notify the juvenile court of the placement.
- (7) If a minor is admitted to secure detention, or another alternative to detention, outside the county of the minor's residence and a juvenile court determines, in a detention hearing, that secure detention, or an alternative to detention, of the minor shall continue, the juvenile court shall direct the sheriff of the county of the minor's residence to transport the minor to secure detention or another alternative to detention in that county.
- (8)
  - (a) Subject to Subsection (8)(b), a minor admitted to detention has a right to:
    - (i) phone the minor's parent, guardian, or attorney immediately after the minor is admitted to detention; and
    - (ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.
  - (b) The division may:
    - (i) establish a schedule for which a minor in detention may visit or phone a person described in Subsection (8)(a);
    - (ii) allow a minor in detention to visit or call persons described in Subsection (8)(a) in special circumstances;
    - (iii) limit the number and length of calls and visits for a minor in detention to persons described in Subsection (8)(a) on account of scheduling, facility, or personnel constraints; or
    - (iv) limit the minor's rights described in Subsection (8)(a) if a compelling reason exists to limit the minor's rights.
  - (c) A minor admitted to detention shall be immediately advised of the minor's rights described in this Subsection (8).

Amended by Chapter 256, 2024 General Session

**80-6-206 Interrogation of a child -- Presence of a parent, legal guardian, or other adult -- Prohibition on false information or unauthorized statement -- Admissibility of admission, confession, or statement by child.**

- (1) As used in this section:
  - (a) "Custodial interrogation" means any interrogation of a child while the individual is in custody.
  - (b)
    - (i) "Friendly adult" means an adult:
      - (A) who has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and
      - (B) who is not hostile or adverse to the child's interest.
    - (ii) "Friendly adult" does not include a parent or guardian of the child.
  - (c)
    - (i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.
    - (ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.
- (2)
  - (a) If a child is subject to a custodial interrogation for an offense, the child has the right to have:
    - (i) the child's parent or guardian present during an interrogation of the child; or
    - (ii) a friendly adult present during an interrogation of the child if:
      - (A) there is reason to believe that the child's parent or guardian has abused or threatened the child; or
      - (B) the child's parent's or guardian's interest is adverse to the child's interest, including that the parent or guardian is a victim or a codefendant of the offense alleged to have been committed by the child.
  - (b) A child's parent or guardian, or a friendly adult, is present at a custodial interrogation if:
    - (i) the parent, guardian, or friendly adult attends the custodial interrogation in person or by video; and
    - (ii) an interpreter is provided to the child and the parent, guardian, or friendly adult if the child or the parent, guardian, or friendly adult is unable to speak or understand English.
- (3) If a child is subject to a custodial interrogation for an offense, the child may not be interrogated unless:
  - (a) the child has been advised, in accordance with Subsection (4), of:
    - (i) the child's constitutional rights; and
    - (ii) if the child has a right to have a parent, guardian, or friendly adult present during the interrogation under this section, the child's right to have a parent or guardian, or a friendly adult present during the interrogation;
  - (b) the child has waived the child's constitutional rights;
  - (c) if the child has a right to have a parent, guardian, or friendly adult present during the interrogation under this section, the child's parent or guardian, or a friendly adult, was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated;
  - (d) if the child is being held in a detention facility or a secure care facility, the child has had a meaningful opportunity to consult with the child's appointed or retained attorney and the child's appointed or retained attorney is present for the interrogation; and
  - (e) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Section 80-2-705.
- (4) Before the custodial interrogation of a child by a peace officer or a juvenile probation officer, the peace officer or juvenile probation officer shall disclose the following to the child:
  - (a) You have the right to remain silent.
  - (b) If you do not want to talk to me, you do not have to talk to me.

- (c) If you decide to talk to me, you have the right to stop answering my questions or talking to me at any time.
  - (d) Anything you say can and will be used against you in court.
  - (e) If you talk to me, I can tell a judge and everyone else in court everything that you tell me.
  - (f) You have the right to have a parent or guardian, or a friendly adult if applicable, with you while I ask you questions.
  - (g) You have the right to a lawyer.
  - (h) You can talk to a lawyer before I ask you any questions and you can have that lawyer with you while I ask you questions.
  - (i) If you want to talk to a lawyer, a lawyer will be provided to you for free.
  - (j) These are your rights.
  - (k) Do you understand the rights that I have just told you?
  - (l) Do you want to talk to me?
- (5)
- (a) A peace officer's, or a juvenile probation officer's, compliance with Subsection (4) is determined by examining the entirety of the officer's disclosures to the child.
  - (b) A peace officer's, or a juvenile probation officer's, failure to strictly comply with, or state the exact language of, Subsection (4) is not grounds by itself for finding the officer has not complied with Subsection (4).
- (6) Notwithstanding Subsection (2), a child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver as described in Subsection (3)(c) or to give permission to the custodial interrogation of the child if:
- (a) the child is emancipated as described in Section 80-7-105;
  - (b) the child has misrepresented the child's age as being 18 years old or older and a peace officer or a juvenile probation officer has relied on that misrepresentation in good faith;
  - (c) a peace officer, a juvenile probation officer, or a law enforcement agency:
    - (i) has made reasonable efforts to contact the child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b); and
    - (ii) has been unable to make contact within one hour after the time at which the child is taken into temporary custody; or
  - (d) the child is being held in a detention facility or a secure care facility and the child's appointed or retained attorney is required to be present for the interrogation as described in Subsection (7).
- (7)
- (a) If a child is being held in a detention facility or a secure care facility and the child is subject to a custodial interrogation for an offense, the child may not be interrogated unless:
    - (i) the child has had a meaningful opportunity to consult with the child's appointed or retained attorney;
    - (ii) the child waives the child's constitutional rights after consultation with the child's appointed or retained attorney; and
    - (iii) the child's appointed or retained attorney is present for the interrogation.
  - (b) Subsection (7)(a) does not apply to a juvenile probation officer or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating the child on behalf of a peace officer or a law enforcement agency.
  - (c) A child's appointed or retained attorney is present at a custodial interrogation as described in this Subsection (7) if the attorney attends the custodial interrogation in person or by video.

- (8) If a child is subject to a custodial interrogation for an offense, a peace officer, or an individual interrogating a child on behalf of a peace officer or a law enforcement agency, may not knowingly:
  - (a) provide false information about evidence that is reasonably likely to elicit an incriminating response from the child; or
  - (b) make an unauthorized statement about leniency for the offense.
- (9) A law enforcement agency shall make an audio recording or an audio-video recording that accurately records a custodial interrogation of a child.
- (10)
  - (a) If a peace officer or juvenile probation officer intentionally, knowingly, or recklessly fails to comply with the requirements for a custodial interrogation of a child as described in this section, any admission, confession, or statement made by the child as a result of the custodial interrogation is presumed:
    - (i) to not be voluntarily, knowingly, and intelligently made; and
    - (ii) to not be admissible as evidence against the child.
  - (b) A prosecuting attorney may only overcome the presumption described in Subsection (10)(a) by a preponderance of the evidence showing that the child had the ability to comprehend and waive:
    - (i) the child's constitutional rights; and
    - (ii) if the child has a right to have a parent, guardian, or friendly adult present under this section, the child's right to have a parent or guardian, or a friendly adult, present during the custodial interrogation.
  - (c) When a custodial interrogation of a child is not accurately recorded as described in Subsection (9), a court shall determine whether a statement made by the child in the custodial interrogation is admissible in accordance with Rule 616 of the Utah Rules of Evidence.
- (11) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

Amended by Chapter 149, 2024 General Session

**80-6-207 Detention hearings -- Period of detention -- Bail.**

- (1)
  - (a) After admission of a child to a detention facility under Section 80-6-205 and immediate investigation by a juvenile probation officer, the juvenile court or the juvenile probation officer shall order the release of the child to the child's parent, guardian, or custodian if the juvenile court or the juvenile probation officer finds that the child can be safely returned to the parent's, the guardian's, or the custodian's care, upon written promise to bring the child to the juvenile court at a time set or without restriction.
  - (b) If a child's parent, guardian, or custodian fails to retrieve the child from a detention facility within 24 hours after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the detention facility in accordance with Section 78A-6-356.
  - (c) The detention facility shall determine the cost of care.
  - (d) Any money collected under this Subsection (1) shall be retained by the division to recover the cost of care for the time the child remains in the facility.
- (2)
  - (a) When a child is admitted to a detention facility, the child's parent, guardian, or custodian shall be informed by the individual in charge of the detention facility that the parent's, the

guardian's, or the custodian's child has the right to a prompt hearing in a juvenile court to determine whether the child is to be further detained or released.

- (b) If a minor is admitted to a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in a juvenile court to determine whether the minor is to be further detained or released.
- (3)
- (a) The juvenile court may, at any time, order the release of the minor, from detention, regardless of whether a detention hearing is held or not.
  - (b) If a child is released, and the child remains in the detention facility, because the child's parents, guardian, or custodian fails to retrieve the child, the parent, guardian, or custodian shall be responsible for the cost of care as provided in Subsections (1)(b), (c), and (d) in accordance with Section 78A-6-356.
- (4)
- (a) As used in this Subsection (4), "arrest" means being apprehended, detained, taken into temporary custody under Section 80-6-201 or 80-6-202, held for investigation, or restrained by a peace officer or other person due to an accusation or suspicion that the minor committed an offense.
  - (b) A minor may not be held in a detention facility longer than 24 hours, unless a juvenile court determines that there is probable cause for the minor's arrest.
- (5)
- (a) A detention hearing under this section shall be held by a juvenile court judge or commissioner.
  - (b) A juvenile court shall hold a detention hearing within 48 hours of the minor's admission to a detention facility, excluding weekends and holidays, to determine whether the minor should:
    - (i) remain in detention in accordance with Subsection (8);
    - (ii) be released to a parent or guardian; or
    - (iii) be placed in any other party's custody as authorized by statute.
- (6) The probable cause determination under Subsection (4) and the detention hearing under Subsection (5) may occur at the same time if the probable cause determination and the detention hearing occur within the time frame under Subsection (4).
- (7)
- (a) A detention hearing may not be waived.
  - (b) Staff at the detention facility shall provide the juvenile court with all information received from the individual who brought the minor to the detention facility.
- (8)
- (a) The juvenile court may only order a minor to be held in the detention facility or be placed in another appropriate facility, subject to further order of the court, if the court finds at a detention hearing that:
    - (i) releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;
    - (ii) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and
    - (iii) the minor is eligible for detention under the detention guidelines and Section 80-6-205.
  - (b) The juvenile court may not vest custody of a minor admitted to detention in the Division of Child and Family Services, except as provided in Chapter 3, Abuse, Neglect, and Dependency Proceedings.
- (9)

- (a) After a detention hearing has been held, only the juvenile court may release a minor from detention.
  - (b) If a minor remains in a detention facility, periodic reviews shall be held in accordance with the Utah Rules of Juvenile Procedure to ensure that continued detention of the minor is necessary.
- (10) This section does not apply to a minor who is brought to a correctional facility in accordance with Section 80-6-502, 80-6-504, or 80-6-505.
- (11) Title 77, Chapter 20, Bail, does not apply to a minor, except for:
- (a) a minor charged in accordance with Section 80-6-502;
  - (b) a minor bound over to the district court in accordance with Section 80-6-504; or
  - (c) a minor who need not be detained and lives outside this state.

Amended by Chapter 155, 2022 General Session

### **Part 3 Referral and Prosecution**

#### **80-6-301 Referral to juvenile court.**

- (1) Except as provided in Subsections (2) and (3), a peace officer, or a public official of the state, a county, a city, or a 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 after the day on which a minor is taken into temporary custody under Section 80-6-201.
- (2) If a minor is taken to a detention facility, a peace officer or a public official of the state, a county, a city, or a town charged with the enforcement of laws of the state or local jurisdiction shall file the formal referral with the juvenile court within 24 hours after the time in which the minor is taken into temporary custody under Section 80-6-201.
- (3) A peace officer, public official, school district, or school may only refer a minor to the juvenile court under Section 53G-8-211 for an offense, or for being a habitual truant, if the offense or habitual truancy is subject to referral as described in Section 53G-8-211.

Amended by Chapter 301, 2024 General Session

#### **80-6-302 Citation -- Procedure -- Time limits -- Failure to appear.**

- (1) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the juvenile court has jurisdiction over and the offense listed in the citation is for:
  - (a) a violation of a wildlife law;
  - (b) a violation of a boating law;
  - (c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:
    - (i) for a traffic violation; or
    - (ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;
  - (d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;
  - (e) an infraction or misdemeanor designated as a citable offense by a general order of the Board of Juvenile Court Judges; or
  - (f) a violation of Subsection 76-10-105(2).



- (2) Except as provided in Subsection (6) and Section 80-6-301, a citation for an offense listed in Subsection (1) shall be submitted to the juvenile court within five days of issuance to a minor.
- (3) A copy of the citation shall contain:
  - (a) the name and address of the juvenile court before which the minor may be required to appear;
  - (b) the name of the minor cited;
  - (c) the statute or local ordinance that the minor is alleged to have 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 minor into temporary custody as provided in Section 80-6-201;
  - (i) a statement that the minor and the minor's parent or guardian are to appear when notified by the juvenile court; and
  - (j) the signature of the minor and the minor's parent or guardian, if present, agreeing to appear at the juvenile court when notified by the court.
- (4) A 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 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 juvenile court beyond the time designated in Subsection (2) shall include a written explanation for the delay.
- (6) An offense alleged to have been committed by an enrolled child on school property, or related to school attendance, may only be referred to the prosecuting attorney or the juvenile court in accordance with Section 53G-8-211.
- (7) If a juvenile court receives a citation described in Subsection (1), a juvenile probation officer shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection 80-6-303.5(4).
- (8)
  - (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:
    - (i) the minor is not eligible for, or does not complete, a nonjudicial adjustment; and
    - (ii) the prosecuting attorney conducts an inquiry under Subsection (9).
  - (b) Except as provided in Subsection 80-6-305(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.
- (9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:
  - (a) the charge listed in the citation is supported by probable cause;
  - (b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and
  - (c) the decision to charge is in the interests of justice.
- (10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at the juvenile court at a date and time established by the juvenile court.

- (11) If a minor willfully fails to appear before the juvenile court for a proceeding under Subsection (8)(a), the juvenile court may:
  - (a) find the minor in contempt of court; and
  - (b) proceed against the minor as provided in Section 78A-6-353.
- (12) If a proceeding is commenced under this section, the minor may remit a fine without a personal appearance before the juvenile court with the consent of:
  - (a) the juvenile court; and
  - (b) if the minor is a child, the parent or guardian of the child cited.

Amended by Chapter 161, 2023 General Session

**80-6-303 Criminal proceedings involving minors -- Transfer to juvenile court -- Exception.**

- (1)
  - (a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that the juvenile court has jurisdiction over the offense, the district court or justice court shall transfer the case to the juvenile court with all the papers, documents, and transcripts of any testimony.
  - (b)
    - (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:
      - (A) filed in the district court in accordance with Section 80-6-502; or
      - (B) transferred to the district court in accordance with Section 80-6-504.
    - (ii) A justice court may decline to transfer an offense for which the justice court has original jurisdiction under Section 78A-7-106.
- (2)
  - (a) Except as provided in Subsection (2)(b), the district court or justice court making the transfer shall:
    - (i) order the individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court; or
    - (ii) release the individual to the custody of the individual's parent or guardian or other person legally responsible for the individual, to be brought before the juvenile court at a time designated by the juvenile court.
  - (b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:
    - (i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the individual;
    - (ii) the juvenile court shall treat the transfer as a referral under Section 80-6-301; and
    - (iii) a juvenile probation officer shall make a preliminary inquiry to determine whether the individual is eligible for a nonjudicial adjustment in accordance with Section 80-6-303.5.
  - (c) If the case is transferred to the juvenile court under this section, the juvenile court shall then proceed in accordance with this chapter.
- (3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with Sections 78A-5-102 and 78A-7-106.

Amended by Chapter 199, 2024 General Session

**80-6-303.5 Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.**

- (1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, or for the minor being a habitual truant, a juvenile probation officer shall make a preliminary inquiry in accordance with this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.
- (2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.
- (3)
  - (a) The juvenile probation officer may:
    - (i) conduct a validated risk and needs assessment; and
    - (ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:
      - (A) the results of the validated risk and needs assessment indicate the minor is high risk; or
      - (B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.
  - (b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:
    - (i) undergo a drug and alcohol screening;
    - (ii) if found appropriate by the screening, participate in an assessment; and
    - (iii) if warranted by the screening and assessment, follow the recommendations of the assessment.
- (4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:
  - (a) the minor:
    - (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
    - (ii) has no more than two prior adjudications; and
    - (iii) has no more than two prior unsuccessful nonjudicial adjustment attempts;
  - (b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old; or
  - (c) the minor is referred for being a habitual truant.
- (5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.
- (6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.
- (7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).
- (8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:
  - (a) an offense alleged to have occurred when the minor was 12 years old or older that is:
    - (i) a felony offense; or
    - (ii) a misdemeanor violation of:
      - (A) Section 41-6a-502, driving under the influence;
      - (B) Section 76-5-107, threat of violence;
      - (C) Section 76-5-107.1, threats against schools;

- (D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;
  - (E) Section 76-5-206, negligent homicide;
  - (F) Section 76-9-702.1, sexual battery;
  - (G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;
  - (H) Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;
  - (I) Section 76-10-507, possession of a deadly weapon with criminal intent; or
  - (J) Section 76-10-509.4, possession of a dangerous weapon by a minor; or
- (b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:
- (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
  - (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
  - (iii) Section 76-5-203, murder or attempted murder;
  - (iv) Section 76-5-302, aggravated kidnapping;
  - (v) Section 76-5-405, aggravated sexual assault;
  - (vi) Section 76-6-103, aggravated arson;
  - (vii) Section 76-6-203, aggravated burglary;
  - (viii) Section 76-6-302, aggravated robbery; or
  - (ix) Section 76-10-508.1, felony discharge of a firearm.
- (9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:
- (a) the referral involves an offense described in Subsection (8); or
  - (b) the minor has a current suspended order for custody under Section 80-6-711.

Amended by Chapter 301, 2024 General Session

**80-6-304 Nonjudicial adjustments.**

- (1) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:
- (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the terms established under Subsection (4);
  - (b) pay restitution to any victim;
  - (c) complete community or compensatory service;
  - (d) attend counseling or treatment with an appropriate provider;
  - (e) attend substance abuse treatment or counseling;
  - (f) comply with specified restrictions on activities or associations;
  - (g) attend victim-offender mediation if requested by the victim; and
  - (h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.
- (2)
- (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Section 80-6-303.5, the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.
  - (b) The victim shall be responsible to provide to the juvenile probation officer upon request:
    - (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

- (ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and
  - (iii) proof of identification, including home and work address and telephone numbers.
  - (c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the juvenile probation officer determining restitution based on the best information available.
- (3) The juvenile probation officer may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.
- (4)
- (a) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection (1).
  - (b) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (1) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.
- (5)
- (a) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.
  - (b) A juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection (5)(a):
    - (i) for a minor who is:
      - (A) offered a nonjudicial adjustment for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old; or
      - (B) referred to a prosecuting attorney for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old; and
    - (ii) the judge determines that:
      - (A) the nonjudicial adjustment requires specific treatment for the sexual offense;
      - (B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and
      - (C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.
  - (c) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection (5)(b), the judge may extend the nonjudicial adjustment until the minor completes the specific treatment, but the judge may only grant each extension for 90 days at a time.
- (6) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

Amended by Chapter 161, 2023 General Session

**80-6-304.5 Prosecutorial review of referral to juvenile court -- Filing a petition.**

- (1) A prosecuting attorney shall review a referral to the juvenile court for an offense committed by a minor if:
- (a) the prosecuting attorney is requested to review the referral under Section 80-6-303.5;
  - (b) the minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment; or
  - (c) the minor is not offered or declines a nonjudicial adjustment.
- (2)
- (a) Upon review of a referral of an offense under Subsection (1), the prosecuting attorney shall:

- (i) dismiss the referral;
  - (ii) send the referral back to the juvenile probation officer for a new attempt at a nonjudicial adjustment if the minor's case is eligible for a nonjudicial adjustment under Section 80-6-303.5; or
  - (iii) except as provided in Subsection (5), file a petition with the juvenile court.
- (b) Upon review of a referral for habitual truancy under Subsection (1), the prosecuting attorney shall dismiss the referral.
- (3) A prosecuting attorney may only file a petition under Subsection (2)(a)(iii) upon reasonable belief that:
- (a) the charges are supported by probable cause;
  - (b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and
  - (c) the decision to charge is in the interests of justice.
- (4) If a minor has substantially complied with the other conditions of a nonjudicial adjustment or conditions imposed through any other court diversion program, the minor's failure to pay a fine or fee as a condition of the nonjudicial adjustment or program may not serve as a basis for filing of a petition.
- (5) A prosecuting attorney may not file a petition against a minor unless:
- (a) the prosecuting attorney has statutory authority to file the petition under Section 80-6-305; and
  - (b)
    - (i) the minor is not eligible for a nonjudicial adjustment under Section 80-6-303.5;
    - (ii) the minor declines a nonjudicial adjustment;
    - (iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment; or
    - (iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry.
- (6) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section 80-6-302, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment if the minor is eligible for a nonjudicial adjustment under Section 80-6-303.5.

Amended by Chapter 301, 2024 General Session

**80-6-305 Petition for a delinquency proceeding -- Amending a petition -- Continuance.**

- (1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:
- (a) Subsection (2);
  - (b) Section 80-6-302;
  - (c) Section 80-6-502; and
  - (d) Section 80-6-503.
- (2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:
- (a) the individual is alleged to have committed a felony violation of:
    - (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
    - (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
    - (iii) Section 76-5-203, murder or attempted murder;
    - (iv) Section 76-5-302, aggravated kidnapping;

- (v) Section 76-5-405, aggravated sexual assault;
- (vi) Section 76-6-103, aggravated arson;
- (vii) Section 76-6-203, aggravated burglary;
- (viii) Section 76-6-302, aggravated robbery; or
- (ix) Section 76-10-508.1, felony discharge of a firearm; or
- (b) an offer for a nonjudicial adjustment is made under Section 80-6-303.5 and the minor:
  - (i) declines to accept the offer for the nonjudicial adjustment; or
  - (ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.
- (3) A juvenile court may dismiss a petition under this section at any stage of the proceedings.
- (4)
  - (a) When evidence is presented during any proceeding in a minor's case that points to material facts not alleged in the petition, the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.
  - (b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.
  - (c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Amended by Chapter 161, 2023 General Session

**80-6-306 Plea -- Withdrawal of a plea.**

- (1) If a minor is facing a delinquency proceeding under this chapter, the minor may enter:
  - (a) a denial of the alleged offense;
  - (b) an admission of the alleged offense; or
  - (c) with the consent of the juvenile court, a plea of no contest as described in Section 77-13-2.
- (2)
  - (a) If a minor enters an admission under Subsection (1), the juvenile court may:
    - (i) delay in entering the admission for a defined period of time; and
    - (ii) impose conditions on the minor for the period of time under Subsection (2)(a)(i).
  - (b) If the minor successfully completes the conditions imposed under Subsection (2)(a)(ii), the juvenile court shall dismiss the petition filed under this chapter.
  - (c) If the minor fails to complete the conditions imposed under Subsection (2)(a)(ii), the juvenile court shall:
    - (i) enter the minor's admission; and
    - (ii) proceed with ordering a disposition in accordance with Section 80-6-701.
- (3) If a minor declines to enter a plea, the juvenile court shall enter a denial.
- (4) A minor's counsel may enter a denial in the absence of the minor or the minor's parent, guardian, or custodian.
- (5) The minor may enter an admission to:
  - (a) a lesser included offense;
  - (b) an offense of a lesser degree; or
  - (c) a different offense for which the juvenile court may enter after amending the petition.
- (6) A plea under this section shall be conducted in accordance with Utah Rules of Juvenile Procedure, Rule 25.
- (7) A minor may withdraw a denial of an offense at any time before an adjudication under Section 80-6-701.

- (8) A minor may only withdraw an admission or a plea of no contest upon:
  - (a) leave of the court; and
  - (b) a showing that the admission or plea was not knowingly and voluntarily made.
- (9)
  - (a) Even if the juvenile court has ordered a disposition under Part 7, Adjudication and Disposition, a minor shall make a request to withdraw an admission, or a plea of no contest, within 30 days after the day on which the minor entered the admission or plea.
  - (b) If the juvenile court has not entered a disposition, the juvenile court may not announce a disposition until the motion to withdraw under Subsection (9)(a) is denied.

Enacted by Chapter 261, 2021 General Session

**80-6-307 Dispositional report required in minors' cases -- Exceptions.**

- (1) A juvenile probation officer, or other agency designated by the juvenile court, shall make a dispositional report in writing in all minors' cases in which a petition has been filed, except in cases involving violations of traffic laws or ordinances, violations of wildlife laws and boating laws, and other minor cases.
- (2) When preparing a dispositional report and recommendation in a minor's case, the juvenile probation officer, or other agency designated by the juvenile court, shall consider the juvenile disposition guidelines, as defined in Section 63M-7-401.1, and any other factors relevant to the disposition designated in the juvenile disposition guidelines .
- (3) Where the allegations of a petition filed under Section 80-6-305 are denied, the investigation may not be made until the juvenile court has made an adjudication.

Amended by Chapter 208, 2024 General Session

**Part 4  
Competency**

**80-6-401 Definitions -- Competency to proceed.**

- (1) As used in this part:
  - (a) "Competency" or "competent to proceed" means that a minor has:
    - (i) a present ability to consult with counsel with a reasonable degree of rational understanding; and
    - (ii) a rational as well as factual understanding of the proceedings.
  - (b) "Competency evaluation" means an evaluation conducted by a forensic evaluator to determine if a minor is competent to stand for trial or adjudication for pending charges.
  - (c) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
  - (d) "Not competent to proceed" means an individual is not competent to stand for trial or adjudication for pending charges.
- (2) If a petition is filed under Section 80-6-305, or a criminal information is filed under Section 80-6-503, in the juvenile court , a written motion may be filed alleging reasonable grounds to believe the minor is not competent to proceed.
- (3) The written motion shall contain:
  - (a) a certificate that it is filed in good faith and on reasonable grounds to believe the minor is not competent to proceed due to:



- (i) a mental illness;
  - (ii) an intellectual disability or a related condition; or
  - (iii) developmental immaturity;
  - (b) a recital of the facts, observations, and conversations with the minor that have formed the basis for the motion; and
  - (c) if filed by defense counsel, the motion shall contain information that can be revealed without invading the lawyer-client privilege.
- (4) The motion may be:
- (a) based upon knowledge or information and belief; and
  - (b) filed by:
    - (i) the minor alleged not competent to proceed;
    - (ii) any person acting on the minor's behalf;
    - (iii) the prosecuting attorney;
    - (iv) the attorney guardian ad litem; or
    - (v) any person having custody or supervision over the minor.
- (5)
- (a) The juvenile court may raise the issue of a minor's competency at any time.
  - (b) If raised by the juvenile court, counsel for each party shall be permitted to address the issue of competency.
  - (c) The juvenile court shall state the basis for the finding that there are reasonable grounds to believe the minor is not competent to proceed.

Amended by Chapter 152, 2022 General Session

**80-6-402 Procedure -- Standard.**

- (1) When a written motion is filed in accordance with Section 80-6-401 raising the issue of a minor's competency to proceed, or when the juvenile court raises the issue of a minor's competency to proceed, the juvenile court shall stay all proceedings under this chapter .
- (2)
  - (a) If a motion for inquiry is opposed by either party, the juvenile court shall, before granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion.
  - (b) If the juvenile court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, the juvenile court shall:
    - (i) enter an order for an evaluation of the minor's competency to proceed; and
    - (ii) set a date for a hearing on the issue of the minor's competency.
- (3) After the granting of a motion, and before a full competency hearing, the juvenile court may order the department to evaluate the minor and to report to the juvenile court concerning the minor's mental condition.
- (4) The minor shall be evaluated by a forensic evaluator who:
  - (a) has experience in juvenile forensic evaluations and juvenile brain development;
  - (b) if it becomes apparent that the minor is not competent due to an intellectual disability or related condition, has experience in intellectual disability or related conditions; and
  - (c) is not involved in the current treatment of the minor.
- (5) The petitioner or other party, as directed by the juvenile court, shall provide all information and materials relevant to a determination of the minor's competency to the department within seven days of the juvenile court's order, including:
  - (a) the motion;

- (b) the arrest or incident reports pertaining to the charged offense;
  - (c) the minor's known delinquency history information;
  - (d) the minor's probation record relevant to competency;
  - (e) known prior mental health evaluations and treatments; and
  - (f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.
- (6)
- (a) The minor's parent or guardian, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem, shall cooperate, by executing releases of information when necessary, in providing the relevant information and materials to the forensic evaluator, including:
    - (i) medical records;
    - (ii) prior mental evaluations; or
    - (iii) records of diagnosis or treatment of substance abuse disorders.
  - (b) The minor shall cooperate, by executing a release of information when necessary, in providing the relevant information and materials to the forensic evaluator regarding records of diagnosis or treatment of a substance abuse disorder.
- (7)
- (a) In conducting the evaluation and in the report determining if a minor is competent to proceed, the forensic evaluator shall inform the juvenile court of the forensic evaluator's opinion whether:
    - (i) the minor has a present ability to consult with counsel with a reasonable degree of rational understanding; and
    - (ii) the minor has a rational as well as factual understanding of the proceedings.
  - (b) In evaluating the minor, the forensic evaluator shall consider the minor's present ability to:
    - (i) understand the charges or allegations against the minor;
    - (ii) communicate facts, events, and states of mind;
    - (iii) understand the range of possible penalties associated with the allegations against the minor;
    - (iv) engage in reasoned choice of legal strategies and options;
    - (v) understand the adversarial nature of the proceedings against the minor;
    - (vi) manifest behavior sufficient to allow the juvenile court to proceed;
    - (vii) testify relevantly; and
    - (viii) any other factor determined to be relevant to the forensic evaluator.
- (8)
- (a) The forensic evaluator shall provide an initial report to the juvenile court, the prosecuting and defense attorneys, and the attorney guardian ad litem, if applicable, within 30 days of the receipt of the juvenile court's order.
  - (b) If the forensic evaluator informs the juvenile court that additional time is needed, the juvenile court may grant, taking into consideration the custody status of the minor, up to an additional 15 days to provide the report to the juvenile court and counsel.
  - (c) The forensic evaluator must provide the report within 45 days from the receipt of the juvenile court's order unless, for good cause shown, the juvenile court authorizes an additional period of time to complete the evaluation and provide the report.
  - (d) The report shall inform the juvenile court of the forensic evaluator's opinion concerning the minor's competency.
- (9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the report shall indicate:

- (a) the nature of the minor's:
    - (i) mental illness;
    - (ii) intellectual disability or related condition; or
    - (iii) developmental immaturity;
  - (b) the relationship of the minor's mental illness, intellectual disability, related condition, or developmental immaturity to the minor's incompetence;
  - (c) whether there is a substantial likelihood that the minor may attain competency in the foreseeable future;
  - (d) the amount of time estimated for the minor to achieve competency if the minor undergoes competency attainment treatment, including medication;
  - (e) the sources of information used by the forensic evaluator; and
  - (f) the basis for clinical findings and opinions.
- (10) Regardless of whether a minor consents to a competency evaluation, any statement made by the minor in the course of the competency evaluation, any testimony by the forensic evaluator based upon any statement made by the minor in the competency evaluation, and any other fruits of the statement made by the minor in the competency evaluation:
- (a) may not be admitted in evidence against the minor in a proceeding under this chapter, except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and
  - (b) may be admitted where relevant to a determination of the minor's competency.
- (11) Before evaluating the minor for a competency evaluation, a forensic evaluator shall specifically advise the minor, and the minor's parent or guardian if reasonably available, of the limits of confidentiality as provided under Subsection (10).
- (12) When the report is received, the juvenile court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the juvenile court enlarges the time for good cause.
- (13)
- (a) A minor shall be presumed competent unless the juvenile court, by a preponderance of the evidence, finds the minor not competent to proceed.
  - (b) The burden of proof is upon the proponent of incompetency to proceed.
- (14)
- (a) Following the hearing, the juvenile court shall determine by a preponderance of evidence whether the minor is:
    - (i) competent to proceed;
    - (ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or
    - (iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.
  - (b) If the juvenile court enters a finding described in Subsection (14)(a)(i), the juvenile court shall proceed with the proceedings in the minor's case.
  - (c) If the juvenile court enters a finding described in Subsection (14)(a)(ii), the juvenile court shall proceed in accordance with Section 80-6-403.
  - (d)
    - (i) If the juvenile court enters a finding described in Subsection (14)(a)(iii), the juvenile court shall terminate the competency proceeding, dismiss the charges against the minor without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecutor informs the court that commitment proceedings will be initiated in accordance with:

- (A) Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability;
  - (B) if the minor is 18 years old or older, Title 26B, Chapter 5, Part 3, Utah State Hospital and Other Mental Health Facilities; or
  - (C) if the minor is a child, Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.
- (ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated within seven days after the day on which the juvenile court enters the order under Subsection (14)(a), unless the court enlarges the time for good cause shown.
  - (iii) The juvenile court may order the minor to remain in custody until the commitment proceedings have been concluded.
- (15) If the juvenile court finds the minor not competent to proceed, the juvenile court's order shall contain findings addressing each of the factors in Subsection (7)(b).

Amended by Chapter 330, 2023 General Session

**80-6-403 Disposition on finding of not competent to proceed -- Subsequent hearings -- Notice to prosecuting attorneys.**

- (1) If the juvenile court determines that the minor is not competent to proceed, and there is a substantial likelihood that the minor may attain competency in the foreseeable future, the juvenile court shall notify the department of the finding and allow the department 30 days to develop an attainment plan for the minor.
- (2) The attainment plan shall include:
  - (a) any services or treatment the minor has been or is currently receiving that are necessary to attain competency;
  - (b) any additional services or treatment the minor may require to attain competency;
  - (c) an assessment of the parent, custodian, or guardian's ability to access or provide any recommended treatment or services;
  - (d) any special conditions or supervision that may be necessary for the safety of the minor or others during the attainment period; and
  - (e) the likelihood that the minor will attain competency and the amount of time likely required for the minor to attain competency.
- (3) The department shall provide the attainment plan to the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem at least three days before the competency disposition hearing.
- (4)
  - (a) During the attainment period, the minor shall remain in the least restrictive appropriate setting.
  - (b) A finding of not competent to proceed does not grant authority for a juvenile court to place a minor in the custody of a division of the department, or create eligibility for services from the Division of Services for People With Disabilities.
  - (c) If the juvenile court orders the minor to be held in detention during the attainment period, the juvenile court shall make the following findings on the record:
    - (i) the placement is the least restrictive appropriate setting;
    - (ii) the placement is in the best interest of the minor;
    - (iii) the minor will have access to the services and treatment required by the attainment plan in the placement; and
    - (iv) the placement is necessary for the safety of the minor or others.
  - (d) A juvenile court shall terminate an order of detention related to the pending proceeding for a minor who is not competent to proceed in that matter if:

- (i) the most severe allegation against the minor if committed by an adult is a class B misdemeanor;
  - (ii) more than 60 days have passed after the day on which the juvenile court adjudicated the minor not competent to proceed; and
  - (iii) the minor has not attained competency.
- (5)
- (a) At any time that the minor becomes competent to proceed during the attainment period, the department shall notify the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem.
  - (b) The juvenile court shall hold a hearing with 15 business days of notice from the department described in Subsection (5)(a).
- (6)
- (a) If at any time during the attainment period the juvenile court finds that there is not a substantial probability that the minor will attain competency in the foreseeable future, the juvenile court shall terminate the competency proceeding, dismiss the petition or information without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecuting attorney or any other individual informs the juvenile court that commitment proceedings will be initiated in accordance with:
    - (i) Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability;
    - (ii) if the minor is 18 years old or older, Title 26B, Chapter 5, Part 3, Utah State Hospital and Other Mental Health Facilities; or
    - (iii) if the minor is a child, Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.
  - (b) The prosecuting attorney shall initiate the proceedings described in Subsection (6)(a) within seven days after the juvenile court's order, unless the juvenile court enlarges the time for good cause shown.
- (7) During the attainment period, the juvenile court may order a hearing or rehearing at anytime on the juvenile court's own motion or upon recommendation of any interested party or the department.
- (8)
- (a) Within three months of the juvenile court's approval of the attainment plan, the department shall provide a report on the minor's progress towards competence.
  - (b) The report described in Subsection (8)(a) shall address the minor's:
    - (i) compliance with the attainment plan;
    - (ii) progress towards competency based on the issues identified in the original competency evaluation; and
    - (iii) current mental illness, intellectual disability or related condition, or developmental immaturity, and need for treatment, if any, and whether there is substantial likelihood of the minor attaining competency within six months.
- (9)
- (a) Within 30 days of receipt of the report, the juvenile court shall hold a hearing to determine the minor's current status.
  - (b) At the hearing, the burden of proving the minor is competent is on the proponent of competency.
  - (c) The juvenile court shall determine by a preponderance of the evidence whether the minor is competent to proceed.

- (10) If the minor has not attained competency after the initial three month attainment period but is showing reasonable progress towards attainment of competency, the juvenile court may extend the attainment period up to an additional three months.
- (11) The department shall provide an updated juvenile competency evaluation at the conclusion of the six month attainment period to advise the juvenile court on the minor's current competency status.
- (12) If the minor does not attain competency within six months after the juvenile court initially finds the minor not competent to proceed, the court shall terminate the competency proceedings and dismiss the petition or information filed without prejudice, unless good cause is shown that there is a substantial likelihood the minor will attain competency within one year from the initial finding of not competent to proceed.
- (13) In the event a minor has an unauthorized leave lasting more than 24 hours, the attainment period shall toll until the minor returns.
- (14)
  - (a) Regardless of whether a minor consents to attainment, any statement made by the minor in the course of attainment, any testimony by the forensic evaluator based upon any statement made by the minor in the course of attainment, and any other fruits of a statement made by the minor in the course of attainment:
    - (i) may not be admitted in evidence against the minor in a proceeding under this chapter, except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and
    - (ii) may be admitted where relevant to a determination of the minor's competency.
  - (b) Before evaluating the minor during the attainment period, a forensic evaluator shall specifically advise the minor, and the minor's parent or guardian if reasonably available, of the limits of confidentiality provided in Subsection (14)(a).

Amended by Chapter 330, 2023 General Session

## **Part 5**

### **Minor Tried as an Adult**

#### **80-6-501 Definitions.**

As used in this part:

- (1) "Minor" means:
  - (a) an individual:
    - (i) who is at least 18 years old and younger than 25 years old; and
    - (ii) whose case is under the jurisdiction of the juvenile court; or
  - (b) an individual:
    - (i) who is younger than 21 years old;
    - (ii) who is charged with, or convicted of, an offense under Section 80-6-502 or 80-6-503; and
    - (iii) whose case is under the jurisdiction of the district court.
- (2) "Qualifying offense" means an offense described in Section 80-6-503.
- (3) "Separate offense" means any offense that is not a qualifying offense.

Amended by Chapter 155, 2022 General Session

**80-6-502 Criminal information for a minor in district court.**

- (1) If a prosecuting attorney charges a minor with aggravated murder under Section 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal information in the district court if the minor was a principal actor in an offense and the criminal information alleges:
  - (a) the minor was 16 or 17 years old at the time of the offense; and
  - (b) the offense for which the minor is being charged is:
    - (i) aggravated murder, as described in Section 76-5-202; or
    - (ii) murder, as described in Section 76-5-203.
- (2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:
  - (a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and
  - (b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.
- (3)
  - (a) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor charged with aggravated murder or murder under Subsection (1) shall be held in a detention facility.
  - (b) A minor held in a detention facility under Subsection (3)(a) shall remain in the facility:
    - (i) until released by the district court; or
    - (ii) if convicted, until sentencing.
- (4)
  - (a) If a minor is held in a detention facility under Subsection (3)(a), the district court shall:
    - (i) advise the minor of the right to bail; and
    - (ii) issue a pretrial status order, as defined in Section 77-20-102, for the minor in accordance with Section 77-20-205.
  - (b) Except for Sections 77-20-202, 77-20-203, and 77-20-204, the provisions of Title 77, Chapter 20, Bail, shall apply to the release or detention of a minor being tried as an adult under this section.
- (5)
  - (a) If a minor held in a detention facility under Subsection (3)(a) attains the age of 25 years old, the minor shall:
    - (i) be transferred within 30 days to an adult jail; and
    - (ii) remain in the adult jail until:
      - (A) released by the district court; or
      - (B) if convicted, sentencing.
  - (b) Subsection (5)(a) applies to any minor who is being held in a detention facility as described in Subsection (3)(a) on or after May 4, 2022.
- (6) If a minor is held in a detention facility under Subsection (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the detention facility, the district court may find that the minor shall be detained in another place of confinement considered appropriate by the district court, including a jail or an adult facility for pretrial confinement.

Amended by Chapter 135, 2022 General Session

Amended by Chapter 155, 2022 General Session

**80-6-503 Criminal information for a minor in juvenile court -- Extending juvenile court jurisdiction.**

- (1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may file a criminal information in the juvenile court if the minor was a principal actor in an offense and the information alleges:
  - (a)
    - (i) the minor was 16 or 17 years old at the time of the offense; and
    - (ii) the offense for which the minor is being charged is a felony violation of:
      - (A) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
      - (B) Section 76-5-202, attempted aggravated murder;
      - (C) Section 76-5-203, attempted murder;
      - (D) Section 76-5-302, aggravated kidnapping;
      - (E) Section 76-5-405, aggravated sexual assault;
      - (F) Section 76-6-103, aggravated arson;
      - (G) Section 76-6-203, aggravated burglary;
      - (H) Section 76-6-302, aggravated robbery;
      - (I) Section 76-10-508.1, felony discharge of a firearm; or
      - (J) an offense other than an offense listed in Subsections (1)(a)(ii)(A) through (I) involving the use of a dangerous weapon if the offense would be a felony had an adult committed the offense, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult; or
  - (b)
    - (i) the minor was 14 or 15 years old at the time of the offense; and
    - (ii) the offense for which the minor is being charged is a felony violation of:
      - (A) Section 76-5-202, aggravated murder or attempted aggravated murder; or
      - (B) Section 76-5-203, murder or attempted murder.
- (2) At the time that a prosecuting attorney files an information under this section, a party may file a motion to extend the juvenile court's continuing jurisdiction in accordance with Section 80-6-605.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-504 Preliminary hearing -- Grounds for transfer -- Detention of a minor bound over to the district court.**

- (1) If a prosecuting attorney files a criminal information in accordance with Section 80-6-503 , the juvenile court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.
- (2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have the burden of establishing:
  - (a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and
  - (b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.
- (3) In making a determination under Subsection (2)(b), the juvenile court shall consider and make findings on:
  - (a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection 80-6-802(1) , or beyond the age of continuing jurisdiction that the juvenile court may exercise under Section 80-6-605 ;



- (b) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;
  - (c) the minor's mental, physical, educational, trauma, and social history;
  - (d) the criminal record or history of the minor; and
  - (e) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the juvenile court.
- (4) The amount of weight that each factor in Subsection (3) is given is in the juvenile court's discretion.
- (5)
- (a) The juvenile court may consider any written report or other material that relates to the minor's mental, physical, educational, trauma, and social history.
  - (b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report, or other material, under Subsection (5)(a) to appear and be subject to direct and cross-examination.
- (6) At the preliminary hearing under Subsection (1), a minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (3).
- (7)
- (a) A proceeding before the juvenile court related to a charge filed under this part shall be conducted in conformity with the Utah Rules of Juvenile Procedure.
  - (b) Sections 80-6-602, 80-6-603, and 80-6-604 are applicable to the preliminary hearing under this section.
- (8) If the juvenile court finds that the prosecuting attorney has met the burden of proof under Subsection (2), the juvenile court shall bind the minor over to the district court to be held for trial.
- (9)
- (a) If the juvenile court finds that a qualifying offense has been committed by a minor, but the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the juvenile court shall:
    - (i) proceed upon the criminal information as if the information were a petition under Section 80-6-305 ;
    - (ii) release or detain the minor in accordance with Section 80-6-207 ; and
    - (iii) proceed with an adjudication for the minor in accordance with this chapter.
  - (b) If the juvenile court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 80-6-605.
- (10)
- (a) A prosecuting attorney may charge a minor with a separate offense in the same criminal information as the qualifying offense if the qualifying offense and separate offense arise from a single criminal episode.
  - (b) If the prosecuting attorney charges a minor with a separate offense as described in Subsection (10)(a):
    - (i) the prosecuting attorney shall have the burden of establishing probable cause to believe that the separate offense was committed and the minor committed the separate offense; and
    - (ii) if the prosecuting attorney establishes probable cause for the separate offense under Subsection (10)(b)(i) and the juvenile court binds the minor over to the district court for the qualifying offense, the juvenile court shall also bind the minor over for the separate offense to the district court.

- (11) If a grand jury indicts a minor for a qualifying offense:
  - (a) the prosecuting attorney does not need to establish probable cause under Subsection (2)(a) for the qualifying offense and any separate offense included in the indictment; and
  - (b) the juvenile court shall proceed with determining whether the minor should be bound over to the district court for the qualifying offense and any separate offense included in the indictment in accordance with Subsections (2)(b) and (3).
- (12)
  - (a) If a minor is bound over to the district court, the juvenile court shall:
    - (i) issue a criminal warrant of arrest for the minor to be held in a detention facility;
    - (ii) advise the minor of the right to bail; and
    - (iii) issue a pretrial status order, as defined in Section 77-20-102, for the minor in accordance with Section 77-20-205.
  - (b) Except for Sections 77-20-202, 77-20-203, and 77-20-204, the provisions of Title 77, Chapter 20, Bail, shall apply to the release or detention of a minor bound over to the district court by the juvenile court.
- (13) If the juvenile court orders the minor to be detained until the time of trial:
  - (a) the minor shall be held in a detention facility, except that a minor who is subject to the authority of the Board of Pardons and Parole may not be held in a detention facility; and
  - (b) the minor shall remain in the detention facility:
    - (i) until released by a district court; or
    - (ii) if convicted, until sentencing.
- (14)
  - (a) If a minor is held in a detention facility under Subsection (13) and the minor attains the age of 25 years old while detained at the detention facility, the minor shall:
    - (i) be transferred within 30 days to an adult jail; and
    - (ii) remain in the adult jail until:
      - (A) released by the district court; or
      - (B) if convicted, sentencing.
  - (b) Subsection (14)(a) applies to any minor being held in a detention facility as described in Subsection (13) on or after May 4, 2022.

Amended by Chapter 135, 2022 General Session  
Amended by Chapter 155, 2022 General Session

**80-6-505 Criminal proceedings for a minor bound over to district court.**

- (1) If the juvenile court binds a minor over to the district court in accordance with Section 80-6-504 , the prosecuting attorney shall try the minor as if the minor is an adult in the district court except:
  - (a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and
  - (b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.
- (2) A minor who is bound over to the district court to answer as an adult is not entitled to a preliminary hearing in the district court.
- (3) If a minor is bound over to the district court and detained in a detention facility, the district court may order the minor be detained in another place of confinement that is considered appropriate by the district court, including a jail or other place of pretrial confinement for adults if the minor's conduct or condition endangers the safety and welfare of others in the detention facility.

Amended by Chapter 155, 2022 General Session

**80-6-506 Appeals from bind over proceedings.**

- (1) A minor may, as a matter of right, appeal from an order of the juvenile court binding the minor over to the district court under Section 80-6-504 .
- (2) The prosecuting attorney may, as a matter of right, appeal an order of the juvenile court that a minor charged in accordance with Section 80-6-503 will be adjudicated in the juvenile court.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-507 Commitment of a minor by a district court.**

- (1)
  - (a) If the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence when sentencing a minor:
    - (i) the district court shall order the minor committed to prison; and
    - (ii) the minor shall be provisionally housed in a secure care facility until the minor reaches 25 years old, unless released earlier from incarceration by the Board of Pardons and Parole.
  - (b) Subsection (1) applies to any minor being provisionally housed in a secure care facility as described in Subsection (1)(a) on or after May 4, 2022.
- (2)
  - (a) The division shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a secure care facility under Subsection (1) to the physical custody of the Department of Corrections.
  - (b) If, in accordance with the rules adopted under Subsection (2)(a), the division determines that housing the minor in a secure care facility presents an unreasonable risk to others or that it is not in the best interest of the minor, the division shall transfer the physical custody of the minor to the Department of Corrections.
- (3)
  - (a) When a minor is committed to prison but provisionally housed in a secure care facility under this section, the district court and the division shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures.
  - (b) If a minor who is provisionally housed in a secure care facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches 25 years old, the division shall as soon as reasonably possible, but not later than when the minor reaches 25 years and 6 months old, transfer the minor to the physical custody of the Department of Corrections.
- (4) Upon the commitment of a minor to the custody of the division or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.
- (5) The authority shall:
  - (a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the division under this section; and
  - (b) forward to the Board of Pardons and Parole any information or recommendations concerning the minor.
- (6) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

Amended by Chapter 135, 2022 General Session

**80-6-508 Blended plea -- Not permitted.**

(1) As used in this section:

- (a) "Blended plea" means a plea bargain entered into by a minor that results in a combination of a juvenile adjudication and disposition and a criminal conviction and sentence for a criminal offense that arises from a single criminal episode.
- (b) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(2)

- (a) Beginning May 1, 2024, a district court, juvenile court, or a justice court may not accept a plea bargain that is a blended plea.
- (b) Any criminal conviction or sentence resulting from a blended plea that is entered into on or after May 1, 2024, is void.

Enacted by Chapter 93, 2024 General Session

**Part 6**  
**Delinquency Proceedings**

**80-6-601 Minors' cases considered civil proceedings -- Minor not to be charged with crime -- Exception for a prior adjudication -- Traffic violation cases.**

(1) Except as provided in Part 5, Transfer to District Court , a proceeding in a minor's case under this chapter is a civil proceeding with the juvenile court exercising equitable powers.

(2)

- (a) An adjudication by a juvenile court of a minor under this chapter is not considered a conviction of a crime, except in cases involving traffic violations.
- (b) An adjudication may not:
  - (i) operate to impose any civil disabilities upon the minor; or
  - (ii) disqualify the minor for any civil service or military service or appointment.

(3)

- (a) Except in cases involving traffic violations, and as provided in Part 5, Transfer to District Court, a minor may not be charged with a crime and convicted in any court.
- (b) Except as provided in Section 80-6-504 , if a petition is filed in the juvenile court, the minor may not later be subject to criminal prosecution based on the same facts.
- (c) Except as provided in Section 80-6-305, an individual may not be subject to a proceeding under this chapter for an offense that the individual is alleged to have committed before the individual was 12 years old.

(4)

- (a) An adjudication by a juvenile court of a minor under this chapter is considered a conviction for the purposes of determining the level of offense for which a minor may be charged and enhancing the level of an offense in the juvenile court.
- (b) A prior adjudication may be used to enhance the level or degree of an offense committed by an adult only as otherwise specifically provided.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-602 Hearings or proceedings for minors -- Prosecuting attorney -- Order for indigent defense -- Custody in the Division of Child and Family Services.**

- (1) In a hearing or proceeding under this chapter, the juvenile court:
  - (a) shall admit any person who has a direct interest in the case;
  - (b) may admit any person whose presence is requested by the minor's parent or guardian; and
  - (c) shall exclude any other person except as provided in Subsection (2).
- (2) In a hearing or proceeding under this chapter for a minor who is 14 years old or older, the juvenile court shall admit any person, unless the hearing or proceeding is closed by the juvenile court upon findings, on the record, for good cause if:
  - (a) the minor has been charged with an offense that would be a felony if committed by an adult; or
  - (b) the minor is charged with an offense that would be a class A or B misdemeanor if committed by an adult and the minor has been previously charged with an offense that would be a misdemeanor or felony if committed by an adult.
- (3) If more than one minor is alleged to be involved in a violation of a law or ordinance, the proceedings for the violation may be consolidated, except a separate hearing may be held with respect to a disposition for a minor.
- (4) The county attorney, or the district attorney if within a prosecution district, shall represent the state in a proceeding under this chapter.
- (5) If a minor is facing a proceeding under this chapter, a juvenile court shall:
  - (a) appoint an indigent defense service provider for the minor in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and
  - (b) order indigent defense services for the minor in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.
- (6) A juvenile court may appoint an attorney guardian ad litem under Section 78A-2-803, or as otherwise provided by law, to represent a child under this chapter.
- (7) A juvenile court may not vest custody of a minor facing a delinquency proceeding under this chapter in the Division of Child and Family Services, except as provided in Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Enacted by Chapter 261, 2021 General Session

**80-6-603 Rights of minors facing delinquency proceedings.**

- (1) If a minor is facing a delinquency proceeding under this chapter, the minor has the right to:
  - (a) appear in person in the proceeding for the petition or the criminal information;
  - (b) defend, in person or by counsel, against the allegations in the petition or the criminal information;
  - (c) receive a copy of the petition or the criminal information;
  - (d) testify on the minor's own behalf;
  - (e) confront the witnesses against the minor;
  - (f) secure the attendance of witnesses on the minor's behalf under Section 78A-6-351;
  - (g) be represented by counsel at all stages of the proceedings;
  - (h) be appointed an indigent defense service provider and be provided indigent defense services in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel;
  - (i) remain silent and be advised that anything the minor says can and will be used against the minor in any court proceedings; and
  - (j) appeal any adjudication under this chapter.

- (2) A minor facing a delinquency proceeding shall be advised of the minor's rights described in Subsection (1).

Amended by Chapter 155, 2022 General Session

**80-6-604 Victim's rights -- Access to juvenile court records.**

- (1)
- (a) If a minor is charged in a petition or information under this chapter for an offense that if committed by an adult would be a felony or a class A or class B misdemeanor, a victim of any act charged in the petition or information shall, upon request, be afforded all rights afforded to victims in:
    - (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
    - (ii) Title 77, Chapter 37, Victims' Rights;
    - (iii) Title 77, Chapter 38, Crime Victims; and
    - (iv) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
  - (b) The notice provisions in Section 77-38-3 do not apply to important juvenile justice hearings as defined in Section 77-38-2.
- (2) A victim, upon request to the appropriate juvenile court personnel, shall have the right to inspect and duplicate juvenile court records related to the offense against the victim that have not been expunged under Part 10, Juvenile Records and Expungement, concerning:
- (a) the scheduling of any juvenile court hearings on a petition or information filed under this chapter;
  - (b) any findings made by the juvenile court; and
  - (c) any order or disposition imposed by the juvenile court.

Amended by Chapter 237, 2023 General Session

**80-6-605 Extension of juvenile court jurisdiction -- Procedure.**

- (1) At the time that a prosecuting attorney files a petition under Section 80-6-305, or a criminal information under Section 80-6-503, for a felony offense alleged to have been committed by a minor who is 14 years old or older, either party may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old if:
- (a) the minor was the principal actor in the offense; and
  - (b) the petition or information alleges a felony violation of:
    - (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
    - (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
    - (iii) Section 76-5-203, murder or attempted murder;
    - (iv) Section 76-5-302, aggravated kidnapping;
    - (v) Section 76-5-405, aggravated sexual assault;
    - (vi) Section 76-6-103, aggravated arson;
    - (vii) Section 76-6-203, aggravated burglary;
    - (viii) Section 76-6-302, aggravated robbery;
    - (ix) Section 76-10-508.1, felony discharge of a firearm; or
    - (x)
      - (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix) involving the use of a dangerous weapon that would be a felony if committed by an adult; and
      - (B) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult.

- (2)
  - (a) Notwithstanding Subsection (1), either party may file a motion to extend the juvenile court's continuing jurisdiction after a determination by the juvenile court that the minor will not be bound over to the district court under Section 80-6-504.
- (3) The juvenile court shall make a determination on a motion under Subsection (1) or (2) at the time of disposition.
- (4) The juvenile court shall extend the continuing jurisdiction over the minor's case until the minor is 25 years old if the juvenile court finds, by a preponderance of the evidence, that extending continuing jurisdiction is in the best interest of the minor and the public.
- (5) In considering whether it is in the best interest of the minor and the public for the court to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile court shall consider and base the juvenile court's decision on:
  - (a) whether the protection of the community requires an extension of jurisdiction beyond the age of 21;
  - (b) the extent to which the minor's actions in the offense were committed in an aggressive, violent, premeditated, or willful manner;
  - (c) the minor's mental, physical, educational, trauma, and social history; and
  - (d) the criminal record and previous history of the minor.
- (6) The amount of weight that each factor in Subsection (5) is given is in the juvenile court's discretion.
- (7)
  - (a) The juvenile court may consider written reports and other materials relating to the minor's mental, physical, educational, trauma, and social history.
  - (b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report or other material to appear and be subject to both direct and cross-examination.
- (8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (5).

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-606 Validated risk and needs assessment -- Examination of minor or minor's parent or guardian -- Temporary custody or appointment of guardian.**

- (1)
  - (a) If a minor is adjudicated for an offense under this chapter, the minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment.
  - (b) If a minor undergoes a risk screening or a validated risk and needs assessment, the results of the screening or assessment shall be used to inform the juvenile court's disposition and any case planning for the minor.
  - (c) If a minor undergoes a validated risk and needs assessment, the results of the assessment may not be shared with the juvenile court before the adjudication of the minor.
- (2) If the juvenile court's continuing jurisdiction over a minor's case is terminated, the minor shall undergo a validated risk and needs assessment within seven days of the day on which an order terminating the juvenile court's continuing jurisdiction is issued if:
  - (a) the minor is adjudicated under this chapter; and
  - (b) the minor underwent a validated risk and needs assessment under Subsection (1).
- (3)
  - (a) If a petition under this chapter has been filed for a minor, a juvenile court may:

- (i) order that the minor be examined by a physician, surgeon, psychiatrist, or psychologist; and
  - (ii) place the minor in a hospital or other facility for examination.
- (b) After notice and a hearing set for the specific purpose, the juvenile court may order an examination of a minor's parent or guardian whose ability to care for a minor is at issue if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's physical, mental, or emotional condition may be a factor in causing the delinquency of the minor.
- (c) An examination conducted in accordance with this Subsection (3) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.
- (4)
- (a) Subject to Subsection (4)(b), if a petition under this chapter has been filed for a child, a juvenile court may:
- (i) place the child in the temporary custody of a relative or other suitable individual if the child's parent or guardian consents to the placement;
  - (ii) appoint a guardian for the child if it appears a guardian is in the necessary interests of the child and the child's parent or guardian consents to the appointment; or
  - (iii) place the child in the temporary custody of a relative or other suitable individual under Subsection (4)(a)(i) or appoint a guardian for the child under Subsection (4)(a)(ii) without the consent of the child's parent or guardian if the child's parent or guardian cannot be located with reasonable diligence.
- (b) The juvenile court may not grant temporary custody or a guardianship of a child to the Division of Child and Family Services under Subsection (4)(a) to address the minor's ungovernable or other behavior, mental health, or other disability, unless the Division of Child and Family Services:
- (i) engages other relevant divisions of the department in conducting an assessment of the child and the child's family's needs;
  - (ii) based on an assessment under Subsection (4)(b)(i), determines that granting temporary custody or a guardianship of the child to the Division of Child and Family Services is the least restrictive intervention for the child that meets the child's needs; and
  - (iii) consents to the child being committed to the temporary custody of, or placed in a guardianship, with the Division of Child and Family Services.

Amended by Chapter 155, 2022 General Session

**80-6-607 Case planning and appropriate responses.**

- (1) For a minor adjudicated and placed on probation under Section 80-6-702 or committed to the division under Section 80-6-703, a case plan shall be created and:
- (a) developed in collaboration with the minor and the minor's family;
  - (b) individualized to the minor;
  - (c) informed by the results of a validated risk and needs assessment under Section 80-6-606; and
  - (d) tailored to the minor's offense and history.
- (2)
- (a) The Administrative Office of the Courts and the division shall develop a statewide system of appropriate responses to guide responses to the behaviors of minors:
- (i) undergoing nonjudicial adjustments;
  - (ii) whose case is under the jurisdiction of the juvenile court; and



- (iii) in the custody of the division.
  - (b) The system of responses shall include both sanctions and incentives that:
    - (i) are swift and certain;
    - (ii) include a continuum of community based responses for minors living at home;
    - (iii) target a minor's criminogenic risks and needs, as determined by the results of a validated risk and needs assessment under Section 80-6-606, and the severity of the violation; and
    - (iv) authorize earned discharge credits as one incentive for compliance.
  - (c) After considering the juvenile disposition guidelines, as defined in Section 63M-7-401.1, the system of appropriate responses under Subsections (2)(a) and (b) shall be developed.
- (3)
- (a) A response to compliant or noncompliant behavior under Subsection (2) shall be documented in the minor's case plan.
  - (b) Documentation under Subsection (3)(a) shall include:
    - (i) positive behaviors and incentives offered;
    - (ii) violations and corresponding sanctions; and
    - (iii) whether the minor has a subsequent violation after a sanction.
- (4) Before referring a minor to a juvenile court for judicial review, or to the authority if the minor is under the jurisdiction of the authority, in response to a contempt filing under Section 78A-6-353 or an order to show cause, a pattern of appropriate responses shall be documented in the minor's case plan in accordance with Subsections (3)(a) and (b) .
- (5) Notwithstanding Subsection (4), if a minor violates a protective order or an ex parte protective order listed in Section 78B-7-803, the violation may be filed directly with the juvenile court.

Amended by Chapter 208, 2024 General Session

**80-6-608 When photographs, fingerprints, or HIV infection tests may be taken -- Distribution -- DNA collection -- Reimbursement.**

- (1) The division shall take a photograph and fingerprints of a minor who is:
  - (a) 14 years old or older at the time of the alleged commission of an offense that would be a felony if the minor were 18 years old or older; and
  - (b) admitted to a detention facility for the alleged commission of the offense.
- (2) The juvenile court shall order a minor who is 14 years old or older at the time that the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have the minor's fingerprints taken at a detention facility or a local law enforcement agency if the minor is:
  - (a) adjudicated for an offense that would be a class A misdemeanor if the minor were 18 years old or older; or
  - (b) adjudicated for an offense that would be a felony if the minor were 18 years old or older and the minor was not admitted to a detention facility.
- (3) The juvenile court shall take a photograph of a minor who is:
  - (a) 14 years old or older at the time the minor was alleged to have committed an offense that would be a felony or a class A misdemeanor if the minor were 18 years old or older; and
  - (b) adjudicated for the offense described in Subsection (3)(a).
- (4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.
- (5) HIV testing shall be conducted on a minor who is taken into custody after having been adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of:
  - (a) the victim;

- (b) the parent or guardian of a victim who is younger than 14 years old; or
  - (c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201.
- (6) HIV testing shall be conducted on a minor against whom a petition has been filed or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses:
- (a) upon the request of:
    - (i) the victim;
    - (ii) the parent or guardian of a victim who is younger than 14 years old; or
    - (iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201; and
  - (b) in which:
    - (i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and
    - (ii) the juvenile court has found probable cause to believe that the alleged victim has been exposed to HIV infection as a result of the alleged offense.
- (7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger than 14 years old without the consent of the juvenile court.
- (8)
- (a) Photographs taken under this section may be distributed or disbursed to:
    - (i) state and local law enforcement agencies;
    - (ii) the judiciary; and
    - (iii) the division.
  - (b) Fingerprints may be distributed or disbursed to:
    - (i) state and local law enforcement agencies;
    - (ii) the judiciary;
    - (iii) the division; and
    - (iv) agencies participating in the Western Identification Network.
- (9)
- (a) A DNA specimen shall be obtained from a minor who is adjudicated by the juvenile court as described in Subsection 53-10-403(1)(e).
  - (b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4), by:
    - (i) designated employees of the juvenile court; or
    - (ii) if the minor is committed to the division, designated employees of the division.
  - (c) The responsible agency under Subsection (9)(b) shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.
  - (d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.
  - (e) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section 80-3-403.

Amended by Chapter 256, 2024 General Session

**80-6-609 Restraint of a minor.**

- (1) As used in this section, "restrained" means the use of handcuffs, chains, shackles, zip ties, irons, straightjackets, and any other device or method that is used to immobilize a minor.
- (2)

- (a) The Judicial Council shall adopt rules that address the circumstances under which a minor may be restrained while appearing in juvenile court.
- (b) The Judicial Council shall ensure that the rules consider both the welfare of the minor and the safety of the juvenile court.
- (c) A minor may not be restrained during a juvenile court proceeding unless restraint is authorized by rules of the Judicial Council.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-610 Property damage caused by a minor -- Liability of parent or guardian.**

- (1) A parent or guardian with legal custody of a minor is liable for damages sustained to property not to exceed \$2,000 when:
  - (a) the minor intentionally damages, defaces, destroys, or takes the property of another;
  - (b) the minor recklessly or willfully shoots or propels a missile, or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing; or
  - (c) the minor intentionally and unlawfully tampers with the property of another and thereby recklessly endangers human life or recklessly causes or threatens a substantial interruption or impairment of any public utility service.
- (2) A parent or guardian with legal custody of a minor is liable for damages sustained to property not to exceed \$5,000 when the minor is adjudicated for an offense under Subsection (1):
  - (a) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or
  - (b) to gain recognition, acceptance, membership, or increased status with a criminal street gang.
- (3) A juvenile court may make an order for restitution under Subsection (1) or (2) to be paid by the minor's parent or guardian if the minor is adjudicated for an offense.
- (4) As used in this section, property damage described under Subsection (1)(a) or (c), or Subsection (2), includes graffiti, as defined in Section 76-6-101.
- (5) A court may waive part or all of the liability for damages under this section by the minor's parent or guardian if, after the minor is adjudicated, the court finds, upon the record:
  - (a) good cause; or
  - (b) the parent or guardian:
    - (i) made a reasonable effort to restrain the wrongful conduct; and
    - (ii) reported the conduct to the property owner involved or the law enforcement agency having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.
- (6) A report is not required under Subsection (5)(b) from a parent or guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the property owner involved.
- (7) A conviction for criminal mischief under Section 76-6-106, property damage or destruction under Section 76-6-106.1, criminal trespass under Section 76-6-206, or an adjudication under Section 80-6-701 is not a condition precedent to a civil action authorized under Subsection (1) or (2).
- (8) A parent or guardian is not liable under Subsection (1) or (2) if the parent or guardian made a reasonable effort to supervise and direct the minor, or, in the event the parent or guardian knew in advance of the possible taking, injury, or destruction by the minor, made a reasonable effort to restrain the minor.

Amended by Chapter 111, 2023 General Session

## **Part 7 Adjudication and Disposition**

### **80-6-701 Adjudication of an offense.**

- (1)
  - (a) If the juvenile court finds, by beyond a reasonable doubt, that the allegations in a petition under Section 80-6-305, or a criminal information under Section 80-6-503, are true at the adjudication hearing, the juvenile court may order a disposition for a minor under this part.
  - (b) In determining the proper disposition for a minor under Subsection (1), the juvenile court may consider written reports and materials in accordance with Utah Rules of Juvenile Procedure, Rule 45.
  - (c) Except as otherwise provided by this chapter, the juvenile court may combine the dispositions under this part if the dispositions are compatible.
  - (d) If the juvenile court orders any disposition under this part, including an order for secure detention under Section 80-6-704, the disposition shall be served concurrently with any other disposition for detention or secure care.
- (2) The juvenile court shall adjudicate a minor's case in accordance with the Utah Rules of Juvenile Procedure.
- (3)
  - (a) If an offense committed by a minor comes within the juvenile court's jurisdiction, the juvenile court is not required to make findings of fact upon which the juvenile court bases the juvenile court's jurisdiction for an offense described in Subsection 78A-6-103(1).
  - (b) For an offense not described in Subsection 78A-6-103(1), the juvenile court shall make findings of fact upon which the juvenile court bases the juvenile court's jurisdiction.

Enacted by Chapter 261, 2021 General Session

### **80-6-702 Probation or protective supervision -- Conditions for probation.**

- (1) If a minor is adjudicated under Section 80-6-701, the juvenile court may place the minor on probation, or under protective supervision in accordance with Subsection (3) if the minor is a child, in the minor's own home and upon conditions determined by the juvenile court, including community or compensatory service.
- (2)
  - (a) If the juvenile court orders a condition under Subsection (1), the condition shall be:
    - (i) individualized and address a specific risk or need;
    - (ii) based on information provided to the juvenile court, including the results of a validated risk and needs assessment conducted under Section 80-6-606; and
    - (iii) if the juvenile court orders substance abuse treatment or an educational series, based on a validated risk and needs assessment conducted under Section 80-6-606.
  - (b) A juvenile court may not issue a standard order that contains control-oriented conditions.
  - (c) If the juvenile court orders a prohibition on weapon possession as a condition under Subsection (1), the prohibition shall be specific to the minor and not the minor's family.
- (3) If the juvenile court orders protective supervision, the Division of Child and Family Services may not provide protective supervision unless there is a petition filed under Section 80-3-201 that requests that the Division of Child and Family Services provide protective supervision.

- (4)
  - (a) If the juvenile court places a minor on probation, the juvenile court shall establish the period of time that a minor is on probation in accordance with Section 80-6-712.
  - (b) An order for probation or protective supervision shall include a date for review and presumptive termination of the case by the juvenile court in accordance with Section 80-6-712.
  - (c) For each review of a minor's case under Subsection (4)(b), the juvenile court shall set a new date for a review and presumptive termination of the minor's case.
- (5)
  - (a) If a minor is adjudicated under this chapter, the juvenile court may order a minor's parent, guardian, or custodian, or any other person who has been made a party to the proceedings, to comply with reasonable conditions, including:
    - (i) parent-time by the minor's parent;
    - (ii) restrictions on the individuals that the minor associates with;
    - (iii) restrictions on the minor's occupation and any other activity; and
    - (iv) requirements to be observed by the minor's parent, guardian, or custodian.
  - (b) If a minor's parent, guardian, or custodian successfully completes a family or other counseling program, the minor may be credited by the juvenile court for time spent in detention, in secure care, or on probation.

Enacted by Chapter 261, 2021 General Session

**80-6-703 Placement of a child -- Commitment of a minor to the division -- Limitations.**

- (1)
  - (a) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court may:
    - (i) place the child in the legal custody of a relative or other suitable individual regardless of whether the minor is placed on probation under Subsection 80-6-702(1); or
    - (ii) appoint a guardian for the child if it appears that a guardian is necessary in the interest of the child.
  - (b) The juvenile court may not assume the function of developing foster home services in placing a child in the legal custody of a relative or other suitable individual under Subsection (1)(a).
  - (c)
    - (i) If the juvenile court appoints a guardian for a child under Subsection (1)(a)(ii), the juvenile court:
      - (A) may appoint a public or private institution or agency as the guardian of the child; and
      - (B) may not appoint a nonsecure residential placement provider for which legal custody of the child is vested.
    - (d) In placing a child under the guardianship or legal custody of an individual or private agency or institution under Subsection (1)(a)(ii), the juvenile court:
      - (i) shall give primary consideration to the welfare of the child; and
      - (ii) may take into consideration the religious preferences of the child and the child's parent.
- (2) If a minor is adjudicated under Section 80-6-701, the juvenile court shall only commit the minor to the division and order the division to provide recommendations and services if:
  - (a) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and
  - (b) the minor is adjudicated under this chapter for:
    - (i) a felony;

- (ii) a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes; or
  - (iii) a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-101.5.
- (3) A juvenile court may not commit a minor to the division:
- (a) for residential observation and evaluation or residential observation and assessment;
  - (b) for contempt of court, except to the extent permitted under Section 78A-6-353;
  - (c) for a violation of probation;
  - (d) for failure to pay a fine, fee, restitution, or other financial obligation;
  - (e) for unfinished compensatory or community service hours;
  - (f) for an infraction; or
  - (g) for a status offense.
- (4) If the juvenile court commits a minor to the division, the juvenile court shall:
- (a) find whether the minor is being committed to the division for placement in a community-based program, secure detention under Section 80-6-704, or secure care under Section 80-6-705;
  - (b) specify the criteria under Subsection (3) for which the juvenile court is committing the minor to the division; and
  - (c) establish the period of time that the minor is committed to the division in accordance with Section 80-6-712.
- (5)
- (a) Except for an order for secure care under Section 80-6-705, if the juvenile court commits a minor to the division, or places the minor with an individual under this section, the juvenile court shall include in the order a date for a review and presumptive termination of the minor's case by the juvenile court in accordance with Section 80-6-712.
  - (b) For each review of a minor's case under Subsection (5)(a), the juvenile court shall set a new date for a review and presumptive termination of the minor's case.
- (6) If a minor is adjudicated for an offense under Section 80-6-701, a juvenile court may not commit a minor to:
- (a) except as provided in Subsection (7), the Division of Child and Family Services; or
  - (b) a correctional facility.
- (7) The juvenile court may not commit a minor to the Division of Child and Family Services to address the minor's ungovernable or other behavior, mental health, or disability, unless the Division of Child and Family Services:
- (a) engages other relevant divisions of the department in conducting an assessment of the minor and the minor's family's needs;
  - (b) based on an assessment under Subsection (7)(a), determines that committing the minor to the Division of Child and Family Services is the least restrictive intervention for the minor that meets the minor's needs; and
  - (c) consents to the minor being committed to the Division of Child and Family Services.
- (8) If a minor is committed to the division under this section, the division may not transfer custody of the minor to a correctional facility.

Amended by Chapter 430, 2022 General Session

**80-6-704 Detention or alternative to detention -- Limitations.**

- (1)
- (a) The juvenile court may order a minor to detention, or an alternative to detention, if the minor is adjudicated for:
    - (i) an offense under Section 80-6-701; or

- (ii) contempt of court under Section 78A-6-353.
- (b) Except as provided in Subsection 78A-6-353(4), and subject to the juvenile court retaining continuing jurisdiction over a minor's case, the juvenile court may order a minor to detention, or an alternative to detention, under Subsection (1)(a) for a period not to exceed 30 cumulative days for an adjudication.
- (c) If a minor is held in detention before an adjudication, the time spent in detention before the adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection (1)(b).
- (d) If a minor spent more than 30 days in detention before a disposition, the juvenile court may not order the minor to detention under this section.
- (2) An order for detention under Subsection (1) may not be suspended upon conditions ordered by the juvenile court.
- (3) A juvenile court may not order a minor to detention for:
  - (a) contempt of court, except to the extent permitted under Section 78A-6-353;
  - (b) a violation of probation;
  - (c) failure to pay a fine, fee, restitution, or other financial obligation;
  - (d) unfinished compensatory or community service hours;
  - (e) an infraction; or
  - (f) a status offense.
- (4) A juvenile court may not order a minor be placed in a correctional facility that is intended to hold adults accused or convicted of offenses as an alternative to detention under Subsection (1).
- (5)
  - (a) If a minor is held in detention under this section, the minor is eligible to receive credit for good behavior against the period of detention.
  - (b) The rate of credit is one day of credit for good behavior for every three days spent in detention.
- (6)
  - (a) A minor may not be held in secure detention following a disposition by the juvenile court:
    - (i) under Chapter 3, Abuse, Neglect, and Dependency Proceedings; or
    - (ii) except as provided in Subsection (6)(b), for a community-based program.
  - (b) If a minor is awaiting placement by the division under Section 80-6-703, a minor may not be held in secure detention for longer than 72 hours, excluding weekends and holidays.
  - (c) The period of detention under Subsection (6)(b) may be extended by the juvenile court for a cumulative total of seven calendar days if:
    - (i) the division, or another agency responsible for placement, files a written petition with the juvenile court requesting the extension and setting forth good cause; and
    - (ii) the juvenile court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.
  - (d) The juvenile court may extend the period of detention beyond the seven calendar days if the juvenile court finds, by clear and convincing evidence, that:
    - (i) the division, or another agency responsible for placement, does not have space for the minor; and
    - (ii) the safety of the minor and community requires an extension of the period of detention.
  - (e) The division, or the agency with custody of the minor, shall report to the juvenile court every 48 hours, excluding weekends and holidays, regarding whether the division, or another agency responsible for placement, has space for the minor.
  - (f) The division, or agency, requesting an extension shall promptly notify the detention facility that a written petition has been filed.

- (g) The juvenile court shall promptly notify the detention facility regarding the juvenile court's initial disposition and any ruling on a petition for an extension, whether granted or denied.

Amended by Chapter 256, 2024 General Session

**80-6-705 Secure care -- Limitations -- Order for therapy for parent with minor in secure care.**

- (1) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order the minor to secure care if the juvenile court finds that:
  - (a)
    - (i) the minor poses a risk of harm to others; or
    - (ii) the minor's conduct resulted in the victim's death; and
  - (b) the minor is adjudicated for:
    - (i) a felony offense;
    - (ii) a misdemeanor offense if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or
    - (iii) a misdemeanor offense involving use of a dangerous weapon as defined in Section 76-1-101.5.
- (2) A juvenile court may not order a minor to secure care for:
  - (a) contempt of court;
  - (b) a violation of probation;
  - (c) failure to pay a fine, fee, restitution, or other financial obligation;
  - (d) unfinished compensatory or community service hours;
  - (e) an infraction; or
  - (f) a status offense.
- (3) The juvenile court may, on the recommendation of the division, order a parent of a minor in secure care to undergo group rehabilitation therapy under the direction of a therapist, who has supervision of the minor in secure care, or any other therapist for a period recommended by the division.

Amended by Chapter 430, 2022 General Session

**80-6-706 Treatment -- Commitment to local mental health authority or Utah State Developmental Center.**

- (1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order:
  - (a) a nonresidential, diagnostic assessment for the minor, including a risk assessment for substance use disorder, mental health, psychological, or sexual behavior;
  - (b) the minor to be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or
  - (c) other care for the minor.
- (2) For purposes of receiving the examination, treatment, or care described in Subsection (1), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.
- (3) In determining whether to order the examination, treatment, or care described in Subsection (1), the juvenile court shall consider:
  - (a) the desires of the minor;
  - (b) if the minor is a child, the desires of the minor's parent or guardian; and
  - (c) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function



impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

- (4)
- (a) If the juvenile court orders examination, treatment, or care for a child under Subsection (1) and the child is committed to the division under Subsection 80-6-703(2), the division shall:
    - (i) take reasonable measures to notify the child's parent or guardian of any non-emergency health treatment or care scheduled for the child;
    - (ii) include the child's parent or guardian as fully as possible in making health care decisions for the child; and
    - (iii) defer to the child's parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well-being are not unreasonably compromised by the parent's or guardian's decision.
  - (b) The division shall notify the parent or guardian of a child within five business days after a child committed to the division receives emergency health care or treatment.
  - (c) The division shall use the least restrictive means to accomplish the care and treatment of a child described under Subsection (1).
- (5) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court may commit the child to the physical custody, as defined in Section 26B-5-401, of a local mental health authority in accordance with the procedures and requirements in Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.
- (6)
- (a) If a minor is adjudicated for an offense under Section 80-6-701, and the minor has an intellectual disability, the juvenile court may commit the minor to the Utah State Developmental Center in accordance with Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.
  - (b) The juvenile court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (6)(a).

Amended by Chapter 330, 2023 General Session

### **80-6-707 Suspension of driving privileges.**

- (1) This section applies to a minor who:
- (a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age eligible for a driver license under Section 53-3-204; and
  - (b) is found by the juvenile court to be in actual physical control of a motor vehicle during the commission of the offense for which the minor is adjudicated.
- (2)
- (a) Except as otherwise provided by this section, if a minor is adjudicated for a violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:
    - (i) suspend the minor's driving privileges; and
    - (ii) take possession of the minor's driver license.
  - (b) The juvenile court may order any other eligible disposition under Subsection (1), except for a disposition under Section 80-6-703 or 80-6-705.
  - (c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):
    - (i) the juvenile court shall prepare and send the order to the Driver License Division of the Department of Public Safety; and
    - (ii) the minor's license shall be suspended under Section 53-3-219.

(3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:

(a)

(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;
- (F) Subsection 76-5-102.1(2)(b);
- (G) Subsection 76-5-207(2)(b); or
- (H) 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 use disorder treatment; or

(b)

(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;
- (F) Subsection 76-5-102.1(2)(b);
- (G) Subsection 76-5-207(2)(b); or
- (H) 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 use disorder treatment; and

(iii)

- (A) the minor is 18 years old or older and provides a sworn statement to the juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219; or
- (B) the minor is under 18 years old and the minor's parent or guardian provides an affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219.

(4)

(a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as defined in Section 32B-4-411:

- (i) the juvenile court may 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.

(b) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(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 use disorder treatment.
- (c) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(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 use disorder treatment; and
  - (iii)
    - (A) the minor is 18 years old or older and provides a sworn statement to the court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B); or
    - (B) the minor is under 18 years old and has the minor's parent or guardian provide an affidavit or sworn statement to the court certifying that to the parent's or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B).
- (5) When the Department of Public Safety receives the arrest or conviction record of a minor for a driving offense committed while the minor'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 116, 2022 General Session

Amended by Chapter 334, 2022 General Session

#### **80-6-708 Service in National Guard.**

If a minor is adjudicated under Section 80-6-701, the minor may be given a choice by the juvenile court to serve in the National Guard in lieu of other sanctions described in this part if:

- (1) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;
- (2) the offense:
  - (a) would be a felony if committed by an adult;
  - (b) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
  - (c) was committed with a weapon; and
- (3) the juvenile court retains jurisdiction over the minor's case under conditions set by the juvenile court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

Enacted by Chapter 261, 2021 General Session

#### **80-6-709 Payment of fines, fees, restitution, or other costs -- Community or compensatory service -- Property damage -- Unpaid balances.**

- (1)
  - (a) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order a minor to:
    - (i) pay a fine, fee, or other cost;
    - (ii) pay restitution in accordance with Section 80-6-710; or
    - (iii) complete community or compensatory service hours.
  - (b)

- (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a juvenile probation officer may permit the minor to complete a work program in lieu of paying part or all of the restitution by the juvenile court.
  - (ii) If the juvenile court orders the minor to complete community or compensatory service hours, a juvenile probation officer may permit the minor to complete a work program to help the minor complete the community or compensatory service hours.
  - (c) The juvenile court may, through a juvenile probation officer, encourage the development of nonresidential employment or a work program to enable a minor to fulfill the minor's obligations under Subsection (1)(a).
  - (d) Notwithstanding this section, a juvenile court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.
- (2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to complete community or compensatory service hours, the juvenile court shall consider the dispositions collectively to ensure that an order:
- (a) is reasonable;
  - (b) prioritizes restitution; and
  - (c) except for restitution as provided in Subsection 80-6-710(5)(c), takes into account the minor's ability to pay the fine, fee, or other cost within the presumptive period under Section 80-6-712 or Section 80-6-802 if the minor is ordered to secure care.
- (3)
- (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete community or compensatory service hours, the cumulative order shall be limited per criminal episode as follows:
    - (i) for a minor under 16 years old at the time of adjudication, the juvenile court may impose up to \$190 or up to 24 hours of community or compensatory service; and
    - (ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may impose up to \$280 or up to 36 hours of community or compensatory service.
  - (b) The cumulative order under Subsection (3)(a) does not include restitution.
- (4)
- (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory service hours, the rate of conversion shall be no less than the minimum wage.
  - (b) If the juvenile court orders a minor to complete community service, the presumptive service order shall include between five and 10 hours of service.
  - (c) If a minor completes an approved substance use disorder prevention or treatment program or other court-ordered condition, the minor may be credited with compensatory service hours for the completion of the program or condition by the juvenile court.
- (5)
- (a) If a minor commits an offense involving the use of graffiti under Section 76-6-106, 76-6-106.1, or 76-6-206, the juvenile court may order the minor to clean up graffiti created by the minor or any other individual at a time and place within the jurisdiction of the juvenile court.
  - (b) The minor may complete the order of the juvenile court under Subsection (5)(a) in the presence and under the direct supervision of the minor's parent, guardian, or custodian.
  - (c) The minor's parent, guardian, or custodian shall report completion of the order to the juvenile court.
  - (d) The juvenile court may also require the minor to perform other alternative forms of restitution or repair to the damaged property in accordance with Section 80-6-710.
- (6)

- (a) Except as provided in Subsection (6)(b), the juvenile court may issue orders necessary for the collection of restitution and fines ordered under this section, including garnishments, wage withholdings, and executions.
- (b) The juvenile court may not issue an order under Subsection (6)(a) if the juvenile court orders a disposition that changes custody of a minor, including detention, secure care, or any other secure or nonsecure residential placement.
- (7) Any information necessary to collect unpaid fines, fees, assessments, or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing an order under this section.
- (8)
  - (a) If, before the entry of any order terminating the juvenile court's continuing jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution ordered by the juvenile court, the juvenile court shall:
    - (i) record all pertinent information for the unpaid balance in the minor's file; and
    - (ii) if there is an unpaid amount of restitution, record the amount of unpaid restitution as a civil judgment and list the victim, or the estate of the victim, as the judgment creditor in the civil judgment.
  - (b) The juvenile court may not transfer responsibility to collect unpaid fines, fees, surcharges, and restitution for a minor's case to the Office of State Debt Collection created in Section 63A-3-502.

Amended by Chapter 111, 2023 General Session

**80-6-710 Determination of restitution -- Requirements.**

- (1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order the minor to repair, replace, or otherwise make restitution for:
  - (a) material loss caused by an offense listed in the petition; or
  - (b) conduct for which the minor agrees to make restitution.
- (2) Within seven days after the day on which a petition is filed under this chapter, the prosecuting attorney or a juvenile probation officer shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.
- (3) A victim that receives notice under Subsection (2) is responsible for providing the prosecuting attorney with:
  - (a) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;
  - (b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;
  - (c) if available, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and
  - (d) the victim's contact information, including the victim's current home and work address and telephone number.
- (4)
  - (a) A prosecuting attorney, or a victim's attorney, shall make a request for an order for restitution in the juvenile court:
    - (i) if feasible, at the time of disposition; or
    - (ii) within 90 days after disposition.
  - (b) If a prosecuting attorney's request for restitution includes an amount that is less than the amount requested by the victim, the prosecuting attorney shall include a copy of the victim's request with the prosecuting attorney's request.

- (c) A written request for an order for restitution under Subsection (4)(a) shall be served on all parties to the minor's case.
- (5) In an order for restitution under Subsection (1), the juvenile court:
  - (a) shall only order restitution for the victim's material loss;
  - (b) may not order restitution if the juvenile court finds that the minor is unable to pay or acquire the means to pay;
  - (c) shall take into account:
    - (i) the minor's ability to satisfy the restitution order within six months from the day on which restitution is ordered; or
    - (ii) if the minor participates in a restorative justice program under Subsection (6), the amount or conditions of restitution agreed upon by the minor and the victim of the adjudicated offense;
  - (d) shall credit any amount paid by the minor to the victim in a civil suit against restitution owed by the minor; and
  - (e) shall credit any amount paid to the victim in restitution against liability in a civil suit.
- (6) If the minor and the victim of the adjudicated offense agree to participate, the juvenile court may refer the minor's case to a restorative justice program, such as victim offender mediation, to address how loss resulting from the adjudicated offense may be addressed.
- (7)
  - (a) The juvenile court may require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person for providing information resulting in an adjudication of a minor for the commission of an offense.
  - (b) If a minor is returned to this state in accordance with Part 11, Interstate Compact for Juveniles, the juvenile court may order the minor to make restitution for costs expended by any governmental entity for the return of the minor.

Amended by Chapter 256, 2023 General Session

**80-6-711 Suspending a disposition.**

- (1) Except as otherwise provided in Subsection (2), a juvenile court may not suspend a disposition ordered under this part.
- (2)
  - (a) If a minor qualifies for commitment to the division under Section 80-6-703, the juvenile court may suspend a disposition for commitment to the division in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense within 90 days after the day on which the juvenile court suspends the disposition for commitment.
  - (b) The duration of a suspended disposition under Subsection (2)(a) may not:
    - (i) exceed 90 days after the day on which the juvenile court suspends the disposition for commitment; and
    - (ii) be extended under any circumstance.
- (3) The juvenile court may only lift a suspension of a disposition under Subsection (2)(a):
  - (a) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (2)(a);
  - (b) if a new assessment or evaluation has been completed and the assessment or evaluation recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; or
  - (c) if, after a notice and a hearing, the juvenile court finds:
    - (i) a new or previous evaluation recommends a higher level of treatment; and

- (ii) the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.
- (4) A suspended disposition under Subsection (1) may not be imposed without:
  - (a) notice to the minor and the minor's counsel; and
  - (b) a hearing.

Amended by Chapter 155, 2022 General Session

**80-6-712 Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.**

- (1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:
  - (a) if the minor is placed on intake probation, no more than three months; or
  - (b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.
- (2)
  - (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:
    - (i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and
    - (ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.
  - (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):
    - (i) in the home of a qualifying relative or guardian;
    - (ii) at an independent living program contracted or operated by the division; or
    - (iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.
- (3) If the juvenile court orders a minor to secure care, the authority shall:
  - (a) have jurisdiction over the minor's case; and
  - (b) apply the provisions of Part 8, Commitment and Parole.
- (4)
  - (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation or Subsection (2) for commitment to the division, unless:
    - (i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
    - (ii) the minor commits a new misdemeanor or felony offense;
    - (iii) the minor has not completed community or compensatory service hours;
    - (iv) there is an outstanding fine; or
    - (v) the minor has not paid restitution in full.
  - (b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:
    - (i) the recommendations of the licensed service provider for the treatment program;
    - (ii) the minor's record in the treatment program; and
    - (iii) the minor's completion of the goals of the treatment program.
- (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

- (6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:
  - (a) one time for no more than three months; and
  - (b) as intake probation.
- (7)
  - (a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):
    - (i) the juvenile court may only:
      - (A) extend jurisdiction up to four times for no more than three months at a time;
      - (B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under Subsection (7)(a)(i); and
      - (C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;
    - (ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and
    - (iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every three months regarding the minor's efforts to pay restitution.
  - (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:
    - (i) terminate jurisdiction over the minor's case; and
    - (ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection 80-6-709(8).
- (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.
- (9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.
- (10) This section does not apply to any minor adjudicated under this chapter for:
  - (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
  - (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
  - (c) Section 76-5-203, murder or attempted murder;
  - (d) Section 76-5-205, manslaughter;
  - (e) Section 76-5-206, negligent homicide;
  - (f) Section 76-5-207, automobile homicide;
  - (g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;
  - (h) Section 76-5-208, child abuse homicide;
  - (i) Section 76-5-209, homicide by assault;
  - (j) Section 76-5-302, aggravated kidnapping;
  - (k) Section 76-5-405, aggravated sexual assault;
  - (l) a felony violation of Section 76-6-103, aggravated arson;
  - (m) Section 76-6-203, aggravated burglary;
  - (n) Section 76-6-302, aggravated robbery;
  - (o) Section 76-10-508.1, felony discharge of a firearm;
  - (p)
    - (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and



- (ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or
- (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Amended by Chapter 153, 2024 General Session

## **Part 8 Commitment and Parole**

### **80-6-801 Commitment to local mental health authority or Utah State Developmental Center.**

- (1) If a child is committed by the juvenile court to the physical custody, as defined in Section 26B-5-401, of a local mental health authority, or the local mental health authority's designee, Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18, shall govern the commitment and release of the minor.
- (2) If a minor is committed to the Utah State Developmental Center, Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, shall govern the commitment and release of the minor.

Amended by Chapter 330, 2023 General Session

### **80-6-802 Commitment to secure care -- Rights of individuals in secure care.**

- (1) If a youth offender is ordered to secure care under Section 80-6-705, the youth offender shall remain in secure care until the youth offender is:
  - (a) 21 years old;
  - (b) paroled; or
  - (c) discharged.
- (2) If a serious youth offender is ordered to secure care under Section 80-6-705, the serious youth offender shall remain in secure care until the serious youth offender is:
  - (a) 25 years old;
  - (b) paroled; or
  - (c) discharged.
- (3)
  - (a) Subject to Subsection (3)(b), a juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, has the right to:
    - (i) phone the juvenile offender's or individual's parent, guardian, or attorney; and
    - (ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.
  - (b) The division may:
    - (i) establish a schedule for which a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, may visit or phone a person described in Subsection (3)(a);
    - (ii) allow a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to visit or call persons described in Subsection (3)(a) in special circumstances;
    - (iii) limit the number and length of calls and visits for a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to persons described in Subsection (3)(a) on account of scheduling, facility, or personnel constraints; or

- (iv) limit the juvenile offender's or individual's rights under Subsection (3)(a) if a compelling reason exists to limit the juvenile offender's or individual's rights.
- (c) A juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, shall be advised of the rights described in Subsection (3)(a).

Amended by Chapter 139, 2023 General Session

**80-6-803 Cost of support and maintenance of a juvenile offender -- Responsibility.**

On commitment of a juvenile offender to the division, and on recommendation of the division to the juvenile court, the juvenile court may order the juvenile offender, or the juvenile offender's parent, guardian, or custodian in accordance with Section 78A-6-356, to share in the costs of support and maintenance for the juvenile offender during the juvenile offender's term of commitment.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-804 Review and termination of secure care.**

- (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.
- (2)
  - (a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of secure care for the juvenile offender from three to six months, but the presumptive term may not exceed six months.
  - (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may immediately release the juvenile offender on parole if there is a treatment program available for the juvenile offender in a community-based setting.
  - (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile offender on parole at the end of the presumptive term of secure care unless:
    - (i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
    - or
    - (ii) the juvenile offender commits a new misdemeanor or felony offense.
  - (d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:
    - (i) the recommendations of the licensed service provider for the treatment program;
    - (ii) the juvenile offender's record in the treatment program; and
    - (iii) the juvenile offender's completion of the goals of the treatment program.
  - (e) Except as provided in Subsection (2)(h), the authority may extend the length of secure care and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(c) exists.
  - (f) The authority shall:
    - (i) record the length of the extension and the grounds for the extension; and
    - (ii) report annually the length and grounds of extension to the commission.
  - (g) Records under Subsection (2)(f) shall be tracked in the data system used by the juvenile court and the division.

- (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may not:
  - (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a) that would result in a term of secure care that exceeds a term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense; or
  - (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e) if the extension would result in a term of secure care that exceeds the term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense.
- (3)
  - (a) If a juvenile offender is ordered to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.
  - (b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:
    - (i) in the home of a qualifying relative or guardian;
    - (ii) at an independent living program contracted or operated by the division; or
    - (iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.
  - (c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:
    - (i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
    - (ii) the juvenile offender commits a new misdemeanor or felony offense; or
    - (iii) restitution has not been completed.
  - (d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (3)(c)(i) by considering:
    - (i) the recommendations of the licensed service provider;
    - (ii) the juvenile offender's record in the treatment program; and
    - (iii) the juvenile offender's completion of the goals of the treatment program.
  - (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.
  - (f) The authority shall:
    - (i) record the grounds for extension of the presumptive length of parole and the length of the extension; and
    - (ii) report annually the extension and the length of the extension to the commission.
  - (g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.
  - (h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.
- (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:
  - (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
  - (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
  - (c) Section 76-5-203, murder or attempted murder;
  - (d) Section 76-5-205, manslaughter;
  - (e) Section 76-5-206, negligent homicide;
  - (f) Section 76-5-207, automobile homicide;

- (g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;
- (h) Section 76-5-208, child abuse homicide;
- (i) Section 76-5-209, homicide by assault;
- (j) Section 76-5-302, aggravated kidnapping;
- (k) Section 76-5-405, aggravated sexual assault;
- (l) a felony violation of Section 76-6-103, aggravated arson;
- (m) Section 76-6-203, aggravated burglary;
- (n) Section 76-6-302, aggravated robbery;
- (o) Section 76-10-508.1, felony discharge of a firearm;
- (p)
  - (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
  - (ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or
- (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously ordered to secure care.

Amended by Chapter 153, 2024 General Session

**80-6-805 Parole procedures -- Conditions of parole.**

- (1)
  - (a) A juvenile offender shall be served with notice of parole hearings and has the right to personally appear before the authority for parole consideration.
  - (b) An order or decision of the authority shall be in writing.
  - (c) A juvenile offender shall be provided written notice of the authority's reasoning and decision in the juvenile offender's case.
- (2) A juvenile offender may be paroled to the juvenile offender's home, to an independent living program contracted or operated by the division, to an approved independent living setting, or to other appropriate residences of qualifying relatives or guardians, but shall remain on parole until parole is terminated by the authority in accordance with Section 80-6-804.
- (3)
  - (a) Any condition of parole shall be specified in writing, and agreed to, by the juvenile offender.
  - (b) An agreement under Subsection (3)(a) shall be evidenced by the signature of the juvenile offender, which shall be affixed to the agreement.
- (4) The authority may require a juvenile offender to pay restitution ordered by the juvenile court as a condition of release, placement, or parole.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-806 Parole revocation -- Hearing -- Procedures.**

- (1)
  - (a) The authority may only revoke the parole of a juvenile offender after a hearing and upon determination that there has been a violation of law or of a condition of parole by the juvenile offender that warrants the juvenile offender's return to secure care.
  - (b) The parole revocation hearing shall be held at the secure care facility.
- (2)

- (a) Before returning a juvenile offender to secure care for a parole revocation or rescission hearing, the division shall provide a prerevocation or prerescission hearing within the vicinity of the alleged violation, to determine whether there is probable cause to believe that the juvenile offender violated the conditions of the juvenile offender's parole.
- (b) Upon a finding of probable cause, the juvenile offender may be remanded to secure care, pending a revocation hearing.
- (3) The authority shall only proceed with the parole revocation or rescission process in accordance with the system of appropriate responses developed in accordance with Section 80-6-607.
- (4) A paroled juvenile offender is entitled to legal representation at the parole revocation hearing, and if the juvenile offender or the juvenile offender's family has requested but cannot afford legal representation, the authority shall appoint legal counsel.
- (5)
  - (a) A juvenile offender:
    - (i) shall receive timely advance notice of the date, time, place, and reason for the hearing; and
    - (ii) has the right to appear at the hearing.
  - (b) The authority shall provide the juvenile offender an opportunity to be heard, to present witnesses and evidence, and to confront and cross-examine adverse witnesses, unless there is good cause for disallowing that confrontation.
- (6) Decisions in parole revocation or rescission hearings shall be reached by a majority vote of the present members of the authority.
- (7)
  - (a) The authority may issue a warrant to order any peace officer or division employee to take into custody a juvenile offender alleged to be in violation of parole conditions in accordance with Section 80-6-607.
  - (b) The division may issue a warrant to any peace officer or division employee to retake a juvenile offender who has escaped from secure care.
  - (c) Based upon the warrant issued under this Subsection (7), a juvenile offender may be held in a local detention facility for no longer than 48 hours, excluding weekends and legal holidays, to allow time for a prerevocation or prerescission hearing of the alleged parole violation, or in the case of an escapee, arrangement for transportation to secure care.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-807 Discharge of juvenile offender.**

- (1) A juvenile offender may be discharged from the jurisdiction of the division at any time, by written order of the authority, upon a finding that no further purpose would be served by secure care or supervision in a community setting.
- (2) A juvenile offender shall be discharged in accordance with Section 80-6-804.
- (3) Discharge of a juvenile offender is a complete release of all penalties incurred by adjudication of the offense for which the juvenile offender was committed to secure care.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-808 Appeal regarding parole release or revocation.**

- (1) A juvenile offender, or the parent or guardian of a juvenile offender, may appeal to the executive director of the department, or the executive director's designee, any decision of the authority regarding parole release, rescission, or revocation.

- (2) The executive director, or the executive director's designee, may set aside or remand the authority's decision only if the authority's decision is arbitrary, capricious, an abuse of discretion, or contrary to law.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-809 Division services after termination of custody of a minor.**

- (1) If a minor is committed to the custody of the division under Section 80-6-703, the division may continue to provide services to the minor, upon the minor's termination from custody of the division, to allow the minor to participate in an educational, rehabilitative, or support program until the minor is 25 years old under an agreement by the division and the minor that the program has certain conditions.
- (2) The division shall offer an educational, rehabilitative, or support program to a minor before the minor's termination date.
- (3) Even if a minor has been previously declined services or services were terminated for noncompliance:
  - (a) a minor, who is terminated from custody, may request the services described in this section; and
  - (b) notwithstanding Subsection (2), the division shall consider a request by a minor under Subsection (3)(a).
- (4) If a request is made under Subsection (3), the division may reach an agreement with the minor to provide the services described in this section until the minor is 25 years old.
- (5) The division, or the minor, may terminate an agreement for services under this section at any time.

Enacted by Chapter 203, 2022 General Session

**Part 9  
Youth Court**

**80-6-901 Definitions.**

As used in this part:

- (1) "Adult" means an individual who is 18 years old or older.
- (2)
  - (a) "Gang activity" means any criminal activity that is conducted as part of an organized youth gang.
  - (b) "Gang activity" includes any criminal activity that is done in concert with other gang members, or done alone if the criminal activity is to fulfill gang purposes.
  - (c) "Gang activity" does not include graffiti.
- (3) "Minor" means an individual who is:
  - (a) under 18 years old; or
  - (b) 18 years old and still attending high school.
- (4)
  - (a) "Minor offense" means any unlawful act that is a status offense or an offense that would be a misdemeanor, infraction, or violation of a municipal or county ordinance if committed by an adult.

- (b) "Minor offense" does not include:
  - (i) a class A misdemeanor; or
  - (ii) a felony of any degree.
- (5) "Sponsoring entity" means any political subdivision of the state, including a school or school district, juvenile court, law enforcement agency, prosecutor's office, county, city, or town.
- (6) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.
- (7) "Youth court" means a diversion program that is an alternative disposition for cases involving minors who have committed minor offenses.
- (8) "Youth Court Board" means the board created under Subsection 80-6-907(1).

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-902 Youth court -- Authorization -- Referral.**

- (1) A minor may serve in a youth court, under the supervision of an adult coordinator, in various capacities within the courtroom, acting in the role of jurors, lawyers, bailiffs, clerks, and judges.
  - (a) A minor who appears before a youth court has been identified by law enforcement personnel, school officials, a prosecuting attorney, or the juvenile court as having committed an act, including a minor offense or eligible offense under Section 53G-8-211, that indicates a need for intervention to prevent further development toward juvenile delinquency, but which appear to be acts that can be appropriately addressed outside the juvenile court process.
  - (b) A youth court may only hear cases as provided for in this part.
  - (c) A youth court is not a court established under the Utah Constitution, Article VIII.
- (2) A youth court may not accept referrals from law enforcement, schools, prosecuting attorneys, or a juvenile court unless the youth court is certified by the Youth Court Board.
- (3)
  - (a) Any person may refer a minor to a youth court for a minor offense or for any other eligible offense under Section 53G-8-211.
  - (b) Once a referral is made, the case shall be screened by an adult coordinator to determine whether the minor offense or other eligible offense qualifies as a youth court case.
- (4) A youth court has authority over a minor:
  - (a) referred for one or more minor offenses or who are referred for other eligible offenses under Section 53G-8-211, or who are granted permission for referral under this part;
  - (b) who, along with a parent, guardian, or custodian, voluntarily and in writing, request youth court involvement; and
  - (c) who, along with a parent, guardian, or custodian, agree to follow the youth court's disposition of the case.
- (5)
  - (a) Except with permission granted under Subsection (6), or in accordance with Section 53G-8-211, a youth court may not exercise authority over a minor whose case is under the continuing jurisdiction of the juvenile court for an offense, including any minor who has a matter pending that has not yet been adjudicated.
  - (b) Notwithstanding Subsection (5)(a), a youth court may exercise authority over a minor who is involved in a proceeding under the continuing jurisdiction of the juvenile court if the offense before the youth court is not a law violation and the referring agency has notified the juvenile court of the referral.

- (6) A youth court may exercise authority over a minor described in Subsection (5), and over any other offense with the permission of the juvenile court and the prosecuting attorney in the county or district that would have jurisdiction if the matter were referred to juvenile court.
- (7) Permission of the juvenile court may be granted by a juvenile probation officer in the district that would have jurisdiction over the offense being referred to a youth court.
- (8) A youth court may:
  - (a) decline to accept a minor for youth court disposition for any reason; and
  - (b) terminate a youth from youth court participation at any time.
- (9)
  - (a) A minor, or the minor's parent, guardian, or custodian may withdraw from the youth court process at any time.
  - (b) The youth court shall immediately notify the referring source of the withdrawal.
- (10) The youth court may transfer a case back to the referring source for alternative handling at any time.
- (11) Referral of a case to youth court may not, if otherwise eligible, prohibit the subsequent referral of the case to any court.
- (12) Proceedings and dispositions of a youth court may only be shared with the referring agency, juvenile court, and victim.
- (13) When a minor does not complete the terms ordered by a youth court, and if the case is referred to a juvenile court, the youth court shall provide the case file to the juvenile court.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-903 Parental involvement -- Victims -- Restitution.**

- (1) A minor appearing before the youth court shall be accompanied by a parent, guardian, or custodian.
- (2) A victim shall have the right to attend hearings and be heard.
- (3)
  - (a) Any restitution due to a victim of an offense shall be made in full prior to the time the case is completed by the youth court.
  - (b) Restitution shall be agreed upon between the minor and the victim.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-904 Dispositions.**

- (1) A youth court may order a disposition for:
  - (a) compensatory service;
  - (b) participation in law-related educational classes, appropriate counseling, treatment, or other educational programs;
  - (c) providing periodic reports to the youth court;
  - (d) participating in mentoring programs;
  - (e) participation by the minor as a member of a youth court;
  - (f) letters of apology;
  - (g) essays; and
  - (h) any other disposition considered appropriate by the youth court and adult coordinator.
- (2) A youth court may not:
  - (a) impose a term of imprisonment or detention; or
  - (b) impose fines.



- (3) A disposition by a youth court shall be completed within 180 days from the date of referral.
- (4) A disposition by a youth court shall be reduced to writing and signed by the minor and the minor's parent, guardian, or custodian indicating acceptance of the terms of the disposition.
- (5)
  - (a) A youth court shall notify the referring source if a minor fails to successfully complete the youth court's disposition.
  - (b) The referring source may then take any action the referring source considers appropriate.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-905 Liability.**

- (1) A person associated with the referral, evaluation, adjudication, disposition, or supervision of matters under this part may not be held civilly liable for any injury occurring to a minor performing compensatory service or any other activity associated with a certified youth court, unless the person causing the injury acted in a willful or wanton manner.
- (2) A person participating in a certified youth court shall be considered a volunteer for purposes of Workers' Compensation and other risk-related issues.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-906 Fees.**

- (1)
  - (a) A youth court may require that a minor pay a reasonable fee, not to exceed \$50, to participate in the youth court.
  - (b) A fee under Subsection (1) may be reduced or waived by the youth court in exigent circumstances.
  - (c) A fee under Subsection (1) shall be paid to and accounted for by the sponsoring entity.
  - (d) Any fees collected shall be used for supplies and any training requirements.
- (2) A minor who participates in youth court is responsible for the all expenses of any classes, counseling, treatment, or other educational programs that are the disposition of the youth court.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-907 Youth Court Board -- Membership -- Responsibilities.**

- (1) The Youth Court Board shall be comprised of the following members:
  - (a) the Utah attorney general or the attorney general's designee;
  - (b) one prosecuting attorney appointed by the Utah Prosecution Council;
  - (c) one criminal defense attorney appointed by the Utah Association of Criminal Defense Attorneys;
  - (d) one juvenile court judge appointed by the Board of Juvenile Court Judges;
  - (e) the juvenile court administrator or the administrator's designee;
  - (f) the executive director of the commission or the executive director's designee;
  - (g) the state superintendent of education or the state superintendent's designee;
  - (h) two representatives, appointed by the Utah Youth Court Association, from youth courts based primarily in schools;
  - (i) two representatives, appointed by the Utah Youth Court Association, from youth courts based primarily in communities;
  - (j) one member from the law enforcement community appointed by the Youth Court Board;

- (k) one member from the community at large appointed by the Youth Court Board; and
  - (l) the president of the Utah Youth Court Association.
- (2) The Office of the Attorney General shall provide staff support and assistance to the Youth Court Board.
  - (3) The members selected to fill the positions in Subsections (1)(a) through (g) shall jointly select the members to fill the positions in Subsections (1)(h) through (k).
  - (4) Members shall serve two-year staggered terms beginning July 1, 2012, except the initial terms of the members designated by Subsections (1)(b), (c), (d), (j), and (k) and one of the members from Subsections (1)(h) and (i) shall serve two-year terms, but may be reappointed for a full four-year term upon the expiration of the member's initial term.
  - (5) The Youth Court Board shall meet at least quarterly to:
    - (a) set minimum standards for the establishment of a youth court, including an application process, membership and training requirements, and the qualifications for the adult coordinator;
    - (b) review certification applications; and
    - (c) provide for a process to recertify each youth court every three years.
  - (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Youth Court Board shall make rules to accomplish the requirements of Subsection (4).
  - (7) The Youth Court Board may deny certification, recertification, or withdraw the certification of any youth court for failure to comply with program requirements.
  - (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
    - (a) Section 63A-3-106;
    - (b) Section 63A-3-107; and
    - (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
  - (9) The Youth Court Board shall provide a list of certified youth courts to the Board of Juvenile Court Judges, all law enforcement agencies in the state, all school districts, and the Utah Prosecution Council by October 1 of each year.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-908 Establishing a youth court -- Sponsoring entity responsibilities.**

- (1) A youth court may be established by a sponsoring entity or by a private nonprofit entity that contracts with a sponsoring entity.
- (2) The sponsoring entity shall:
  - (a) oversee the formation of the youth court;
  - (b) provide assistance with the application for certification from the Youth Court Board; and
  - (c) provide assistance for the training of youth court members.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-909 School credit.**

A local school board may provide school credit for participation to a member of a youth court.

Renumbered and Amended by Chapter 261, 2021 General Session

## Part 10 Juvenile Records and Expungement

### ***Effective until 10/1/2024***

#### **80-6-1001 Definitions.**

As used in this part:

- (1) "Abstract" means a copy or summary of a court's disposition.
- (2)
  - (a) "Agency" means a state, county, or local government entity that generates or maintains records for which expungement may be ordered under this part.
  - (b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for purposes of this part.
- (3) "Expunge" means to seal or otherwise restrict access to a record that is part of an individual's juvenile record and in the custody of the juvenile court or an agency.
- (4)
  - (a) "Juvenile record" means all records for all incidents of delinquency involving an individual that are in the custody of the juvenile court or an agency.
  - (b) "Juvenile record" does not include a record of an adjudication under Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.
- (5) "Petitioner" means an individual requesting an expungement or vacatur under this part.

Amended by Chapter 115, 2023 General Session

### ***Effective 10/1/2024***

#### **80-6-1001 Definitions.**

As used in this part:

- (1) "Abstract" means a copy or summary of a court's disposition.
- (2)
  - (a) "Agency" means a state, county, or local government entity that generates or maintains records for which expungement may be ordered under this part.
  - (b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for purposes of this part.
- (3)
  - (a) "Expunge" means to remove a juvenile record from public inspection by:
    - (i) sealing the juvenile record; or
    - (ii) restricting or denying access to the juvenile record.
  - (b) "Expunge" does not include the destruction of a juvenile record.
- (4)
  - (a) "Juvenile record" means all records for all incidents of delinquency involving an individual that are in the custody of the juvenile court or an agency.
  - (b) "Juvenile record" does not include a record of an adjudication under Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.
- (5) "Petitioner" means an individual requesting an expungement or vacatur under this part.

Amended by Chapter 180, 2024 General Session

**80-6-1001.1 Court records -- Abstracts.**

- (1) A court or agency with custody of an individual's record related to an offense that the individual is alleged to have committed, or an offense that the individual committed, before the individual was 18 years old may not disclose the record to a federal agency that is responsible for criminal justice research or proceedings unless the court or the agency is required to share the record under state or federal law.
- (2) An abstract of a record for a minor's adjudication of a traffic offense shall be submitted to the Department of Public Safety as provided in Section 53-3-218.

Renumbered and Amended by Chapter 115, 2023 General Session

**80-6-1001.2 Venue for petition seeking expungement.**

Notwithstanding Section 78A-6-350 and Title 78B, Chapter 3a, Venue for Civil Actions, a petitioner shall bring a petition for expungement under this part:

- (1) in the court where the petition for delinquency was filed; or
- (2) if a petition for delinquency was never filed, in the juvenile court in the county in which the arrest occurred or the citation was issued.

Enacted by Chapter 194, 2024 General Session

**80-6-1002 Vacatur of an adjudication.**

- (1)
  - (a) An individual who has been adjudicated for an offense by the juvenile court may petition the juvenile court for vacatur of the adjudication if the adjudication was for a violation of:
    - (i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human trafficking for labor while subject to force, fraud, or coercion;
    - (ii) Section 76-10-1302, prostitution;
    - (iii) Section 76-10-1304, aiding prostitution; or
    - (iv) Section 76-10-1313, sexual solicitation.
  - (b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any records related to the offense for which vacatur is being sought.
  - (c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.
  - (d) The petitioner shall send a copy of the petition to the prosecuting attorney.
- (2)
  - (a) Upon the filing of a petition, the juvenile court shall:
    - (i) set a date for a hearing; and
    - (ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the juvenile record:
      - (A) that a petition has been filed; and
      - (B) of the date of the hearing.
  - (b)
    - (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.
    - (ii) At least 30 days before the day on which the hearing is scheduled, a victim shall receive notice of a petition for vacatur if, before the entry of vacatur, the victim, or the victim's

next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

- (iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.
  - (c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other person who may have relevant information about the petitioner may testify.
- (3)
- (a) In deciding whether to grant a petition for vacatur of an adjudication of an offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication.
  - (b) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur of the adjudication.
  - (c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny vacatur of the adjudication.
- (4) If the petition seeks to vacate an adjudication of an offense described in Subsection (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the adjudication unless the petitioner acted as a purchaser of any sexual activity.
- (5)
- (a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.
  - (b) The juvenile court may not order expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:
    - (i) Section 76-5-202, aggravated murder; or
    - (ii) Section 76-5-203, murder.
- (6)
- (a) The petitioner shall be responsible for service of the vacatur and expungement order to all affected state, county, and local entities, agencies, and officials.
  - (b) To avoid destruction or expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.
- (7)
- (a) Upon entry of a vacatur and expungement order under this section:
    - (i) the proceedings in the incident identified in the petition are considered never to have occurred; and
    - (ii) the petitioner may reply to an inquiry on the matter as though the proceedings never occurred.
  - (b) Upon petition, any record expunged under this section may only be released to or viewed by:
    - (i) the individual who is the subject of the record; or
    - (ii) a person named in the petition of vacatur.

Amended by Chapter 115, 2023 General Session

**80-6-1004.1 Petition to expunge adjudication -- Hearing and notice -- Waiver -- Order.**

- (1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:
  - (a) the individual was adjudicated for an offense in the juvenile court;
  - (b) the individual has reached 18 years old; and
  - (c) at least one year has passed from the day on which:
    - (i) the juvenile court's continuing jurisdiction was terminated; or
    - (ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.
- (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.
- (3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:
  - (a) the age requirement under Subsection (1)(b) for a petition; or
  - (b) the one-year requirement under Subsection (1)(c) for a petition.
- (4)
  - (a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:
    - (i) set a date for a hearing; and
    - (ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:
      - (A) that the petition has been filed; and
      - (B) of the date of the hearing.
  - (b)
    - (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1).
    - (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.
    - (iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition and any statutes and rules applicable to the petition.
  - (c) At the hearing, the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.
  - (d) The juvenile court may waive the hearing for the petition if:
    - (i)
      - (A) there is no victim; or
      - (B) if there is a victim, the victim agrees to the waiver; and
    - (ii) the prosecuting attorney agrees to the waiver.
- (5)
  - (a) Except as provided in Subsection (6), the juvenile court may grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in accordance with Subsection (5)(b).
  - (b) In deciding whether to grant a petition described in Subsection (1), the juvenile court shall consider:

- (i) whether expungement of the petitioner's juvenile record is in the best interest of the petitioner;
  - (ii) the petitioner's response to programs and treatment;
  - (iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;
  - (iv) the petitioner's behavior subsequent to adjudication;
  - (v) the petitioner's reason for seeking expungement of the petitioner's juvenile record; and
  - (vi) if the petitioner is a restricted person under Subsection 76-10-503(1)(a)(iv) or (b)(iii):
    - (A) whether the offense for which the petitioner is a restricted person was committed with a weapon;
    - (B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety; and
    - (C) the amount of time that has passed since the adjudication of the offense for which the petitioner is a restricted person.
- (6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:
- (a) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;
  - (b) there are delinquency or criminal proceedings pending against the petitioner;
  - (c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record;
  - (d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or
  - (e) the petitioner's juvenile record contains an adjudication for a violation of:
    - (i) Section 76-5-202, aggravated murder; or
    - (ii) Section 76-5-203, murder.

Enacted by Chapter 115, 2023 General Session

**80-6-1004.2 Petition to expunge nonjudicial adjustment -- Order.**

- (1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:
- (a) the individual's juvenile record consists solely of nonjudicial adjustments;
  - (b) the individual's juvenile record is not eligible for automatic expungement under Section 80-6-1004.5; and
  - (c) the individual has reached 18 years old.
- (2) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a petition.
- (3) Except as provided in Subsection (4), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record.
- (4) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:
- (a) there are delinquency or criminal proceedings pending against the petitioner; or
  - (b) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record.

Enacted by Chapter 115, 2023 General Session

**80-6-1004.3 Petition to expunge arrest, investigation, detention, or delinquency petition -- Screening -- Order.**

- (1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:
  - (a) the individual's juvenile record consists solely of records of arrest, investigation, detention, or petitions that did not result in adjudication;
  - (b) the individual was not adjudicated for an offense in the juvenile court; and
  - (c) the individual has reached 18 years old.
- (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.
- (3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a petition.
- (4)
  - (a) Upon the filing of a petition described in Subsection (1), the juvenile court shall notify the prosecuting attorney that the petition has been filed.
  - (b) Within 30 days after the day on which the notification is sent under Subsection (4)(a), the prosecuting attorney shall respond to the petition stating whether the petitioner meets the requirements for expungement under this section.
- (5) Except as provided in Subsection (6), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if each case identified in the petition:
  - (a) has been screened by the investigating law enforcement agency and the prosecuting attorney has determined that no charges will be filed against the individual;
  - (b) resulted in all charges in the case being dismissed with prejudice;
  - (c) resulted in all charges in the case being dismissed without prejudice or without condition and the prosecuting attorney consents to the expungement; or
  - (d) is barred from prosecution by the statute of limitations.
- (6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if there are delinquency or criminal proceedings pending against the petitioner.

Enacted by Chapter 115, 2023 General Session

**80-6-1004.4 Petition to expunge petition not found to be true -- Order.**

- (1) An individual may petition the juvenile court, at any time, for an order to expunge all records in the individual's juvenile record pertaining to an incident where a petition was filed if:
  - (a) the incident was presented to the juvenile court for adjudication based upon an admission, plea, or trial;
  - (b) the juvenile court did not find by beyond a reasonable doubt the allegations in the petition to be true;
  - (c) at least 30 days have passed since the day on which the juvenile court did not find the allegations in the petition to be true; and
  - (d) an appeal has not been filed for the petition within the 30-day period described in Subsection (1)(c).
- (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.



- (3) The juvenile court shall grant a petition described in Subsection (1), without a hearing, and order expungement of any record in the petitioner's juvenile record pertaining to the incident.

Enacted by Chapter 115, 2023 General Session

**80-6-1004.5 Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.**

- (1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:
  - (a) the individual has reached 18 years old;
  - (b) the individual's juvenile record consists solely of nonjudicial adjustments;
  - (c) the individual has successfully completed each nonjudicial adjustment; and
  - (d) all nonjudicial adjustments were completed on or after October 1, 2023.
- (2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:
  - (a) Section 41-6a-502, driving under the influence;
  - (b) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;
  - (c) Section 76-5-206, negligent homicide;
  - (d) Section 76-9-702.1, sexual battery;
  - (e) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or
  - (f) Section 76-10-509.4, possession of a dangerous weapon by a minor.
- (3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:
  - (a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:
    - (i) the individual has reached 18 years old;
    - (ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and
    - (iii) the nonjudicial adjustment was for an offense that is not an offense described in Subsection (2); and
  - (b) the individual may reply to any inquiry about the nonjudicial adjustment as though there never was a nonjudicial adjustment.

Amended by Chapter 301, 2024 General Session

***Effective until 10/1/2024***

**80-6-1006.1 Exceptions to expungement order -- Distribution of expungement order -- Agency duties -- Effect of expungement -- Access to expunged record.**

- (1) This section applies to an expungement order under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.
- (2) The juvenile court may not order:
  - (a) the Board of Pardons and Parole and the Department of Corrections to seal a record in the possession of the Board of Pardons and Parole or the Department of Corrections, except that the juvenile court may order the Board of Pardons and Parole and the Department of Corrections to restrict access to a record if the record is specifically identified in the

- expungement order as a record in the possession of the Board of Pardons and Parole or the Department of Corrections; or
- (b) the Division of Child and Family Services to expunge a record in an individual's juvenile record that is contained in the Management Information System or the Licensing Information System unless:
- (i) the record is unsupported; or
- (ii) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to expunging the record.
- (3)
- (a) If the juvenile court issues an expungement order, the juvenile court shall send a copy of the expungement order to any affected agency or official identified in the juvenile record.
- (b) An individual who is the subject of an expungement order may deliver copies of the expungement order to all agencies and officials affected by the expungement order.
- (4)
- (a) Upon receipt of an expungement order, an agency shall:
- (i) to avoid destruction or expungement of records in whole or in part, expunge only the references to the individual's name in the records relating to the individual's adjudication, nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is ordered; and
- (ii) destroy all photographs and records created under Section 80-6-608, except that a record of a minor's fingerprints may not be destroyed by an agency.
- (b) Within 60 days after the day on which an agency receives a copy of an expungement order, the agency shall mail an affidavit to the individual who is the subject of the expungement order, or the individual's attorney, that the agency has complied with the expungement order.
- (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the Department of Corrections:
- (a) may not disclose records expunged in an expungement order unless required by law;
- (b) are not required to destroy any photograph or record created under Section 80-6-608;
- (c) may use an expunged record for purposes related to incarceration and supervision of an individual under the jurisdiction of the Board of Pardons and Parole, including for the purpose of making decisions about:
- (i) the treatment and programming of the individual;
- (ii) housing of the individual;
- (iii) applicable guidelines regarding the individual; or
- (iv) supervision conditions for the individual;
- (d) are not prohibited from disclosing or sharing any information in an expunged record with another agency that uses the same record management system as the Board of Pardons and Parole or the Department of Corrections; and
- (e) are not required to mail an affidavit under Subsection (4)(b).
- (6) Upon entry of an expungement order:
- (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention for which the record is expunged is considered to have never occurred; and
- (b) the individual, who is the subject of the expungement order, may reply to an inquiry on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention.
- (7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject of the record.

Amended by Chapter 256, 2024 General Session

**Effective 10/1/2024**

**80-6-1006.1 Exceptions to expungement order -- Distribution of expungement order -- Agency duties -- Effect of expungement -- Access to expunged record.**

- (1) This section applies to an expungement order under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.
- (2) The juvenile court may not order:
  - (a) the Board of Pardons and Parole and the Department of Corrections to seal a record in the possession of the Board of Pardons and Parole or the Department of Corrections, except that the juvenile court may order the Board of Pardons and Parole and the Department of Corrections to restrict access to a record if the record is specifically identified in the expungement order as a record in the possession of the Board of Pardons and Parole or the Department of Corrections; or
  - (b) the Division of Child and Family Services to expunge a record in an individual's juvenile record that is contained in the Management Information System or the Licensing Information System unless:
    - (i) the record is unsupported; or
    - (ii) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to expunging the record.
- (3)
  - (a) If the juvenile court issues an expungement order, the juvenile court shall send a copy of the expungement order to any affected agency or official identified in the juvenile record.
  - (b) An individual who is the subject of an expungement order may deliver copies of the expungement order to all agencies and officials affected by the expungement order.
- (4)
  - (a) Upon receipt of an expungement order, an agency shall:
    - (i) expunge all records affected by the expungement order; and
    - (ii) destroy all photographs and records created under Section 80-6-608, except that a record of a minor's fingerprints may not be destroyed by an agency.
  - (b) Within 60 days after the day on which an agency receives a copy of an expungement order, the agency shall mail an affidavit to the individual who is the subject of the expungement order, or the individual's attorney, that the agency has complied with the expungement order.
- (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the Department of Corrections:
  - (a) may not disclose records expunged in an expungement order unless required by law;
  - (b) are not required to destroy any photograph or record created under Section 80-6-608;
  - (c) may use an expunged record for purposes related to incarceration and supervision of an individual under the jurisdiction of the Board of Pardons and Parole, including for the purpose of making decisions about:
    - (i) the treatment and programming of the individual;
    - (ii) housing of the individual;
    - (iii) applicable guidelines regarding the individual; or
    - (iv) supervision conditions for the individual;
  - (d) are not prohibited from disclosing or sharing any information in an expunged record with another agency that uses the same record management system as the Board of Pardons and Parole or the Department of Corrections; and
  - (e) are not required to mail an affidavit under Subsection (4)(b).

- (6) Upon entry of an expungement order:
  - (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention for which the record is expunged is considered to have never occurred; and
  - (b) the individual, who is the subject of the expungement order, may reply to an inquiry on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention.
- (7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject of the record.

Amended by Chapter 180, 2024 General Session

**80-6-1007 Fees.**

- (1) Except for a filing fee for a petition under this part, the juvenile court may not charge a fee for:
  - (a) an issuance of an expungement order under this part; or
  - (b) an expungement of a record under this part.
- (2) An agency may not charge a fee for the expungement of a record under this part.

Renumbered and Amended by Chapter 261, 2021 General Session

## **Part 11**

### **Interstate Compact for Juveniles**

**80-6-1101 Interstate Compact for Juveniles -- Execution of compact.**

- (1) This part is known as the "Interstate Compact for Juveniles."
- (2) The governor is authorized and directed to execute a compact on behalf of this state with any other state or states substantially in the form of this part.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1102 Article 1 -- Purpose.**

- (1) The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others.
- (2) The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence.
- (3) The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.
- (4) It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:
  - (a) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;
  - (b) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

- (c) return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;
  - (d) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;
  - (e) provide for the effective tracking and supervision of juveniles;
  - (f) equitably allocate the costs, benefits, and obligations of the compacting states;
  - (g) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;
  - (h) ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;
  - (i) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;
  - (j) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;
  - (k) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;
  - (l) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and
  - (m) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.
- (5) It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and, therefore, are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact.
- (6) The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1103 Article 2 -- Definitions.**

- (1) As used in this compact, unless the context clearly requires a different construction:
- (a) "By-laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.
  - (b) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.
  - (c) "Compacting State" means any state which has enacted the enabling legislation for this compact.
  - (d) "Commissioner" means the voting representative of each compacting state appointed pursuant to Section 80-6-1104.

- (e) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.
  - (f) "Deputy Compact Administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.
  - (g) "Interstate Commission" or "commission" means the Interstate Commission for Juveniles created by Section 80-6-1104.
  - (h) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:
    - (i) "accused delinquent" meaning a person charged with an offense that, if committed by an adult, would be a criminal offense;
    - (ii) "accused status offender" meaning a person charged with an offense that would not be a criminal offense if committed by an adult;
    - (iii) "adjudicated delinquent" meaning a person found to have committed an offense that, if committed by an adult, would be a criminal offense;
    - (iv) "adjudicated status offender" meaning a person found to have committed an offense that would not be a criminal offense if committed by an adult; and
    - (v) "nonoffender" meaning a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.
  - (i) "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.
  - (j) "Probation or Parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.
  - (k) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 80-6-1107 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.
  - (l) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.
- (2) The definitions in Section 80-1-102 do not apply to this compact.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1104 Article 3 -- Interstate Commission for Juveniles.**

- (1) The compacting states hereby create the "Interstate Commission for Juveniles."
- (2) The commission shall be a body corporate and joint agency of the compacting states.
- (3) The commission shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.
- (4) The commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder.

- (5) The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the commission in such capacity under or pursuant to the applicable law of the compacting state.
- (6) In addition to the commissioners who are the voting representatives of each state, the commission shall include individuals who are not commissioners, but who are members of interested organizations. Noncommissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims.
- (7) All noncommissioner members of the commission shall be ex officio, nonvoting members. The commission may provide in its by-laws for additional ex officio, nonvoting members, including members of other national organizations, in numbers to be determined by the commission.
- (8) Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the commission.
- (9) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.
- (10) The commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall:
  - (a) have the power to act on behalf of the commission during periods when the commission is not in session, with the exception of rulemaking or amendment to the compact;
  - (b) oversee the day-to-day activities of the administration of the compact managed by an executive director and commission staff, which administers enforcement and compliance with the provisions of the compact, its by-laws, and rules; and
  - (c) perform other duties as directed by the commission or set forth in the by-laws.
- (11) Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person and may not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.
- (12) The commission's by-laws shall establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- (13) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:
  - (a) relate solely to the commission's internal personnel practices and procedures;
  - (b) disclose matters specifically exempted from disclosure by statute;
  - (c) disclose trade secrets or commercial or financial information which is privileged or confidential;
  - (d) involve accusing any person of a crime, or formally censuring any person;

- (e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
  - (f) disclose investigative records compiled for law enforcement purposes;
  - (g) disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;
  - (h) disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or
  - (i) specifically relate to the commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.
- (14) For every meeting closed pursuant to this provision, the commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in the minutes.
- (15) The commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1105 Article 4 -- Powers and duties of the Interstate Commission.**

The commission shall have the following powers and duties:

- (1) provide for dispute resolution among compacting states;
- (2) promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;
- (3) oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the commission;
- (4) enforce compliance with the compact provisions, the rules promulgated by the commission, and the by-laws, using all necessary and proper means, including, but not limited to, the use of judicial process;
- (5) establish and maintain offices which shall be located within one or more of the compacting states;
- (6) purchase and maintain insurance and bonds;
- (7) borrow, accept, hire, or contract for services of personnel;
- (8) establish and appoint committees and hire staff which it considers necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Section 80-6-1104, which shall have the power to act on behalf of the commission in carrying out its powers and duties hereunder;
- (9) elect or appoint any officers, attorneys, employees, agents, or consultants, fix their compensation, define their duties, and determine their qualifications;



- (10) establish the commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;
- (11) accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of them;
- (12) lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;
- (13) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- (14) establish a budget and make expenditures and levy dues as provided in Section 80-6-1109;
- (15) sue and be sued;
- (16) adopt a seal and by-laws governing the management and operation of the commission;
- (17) perform any functions necessary or appropriate to achieve the purposes of this compact;
- (18) report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the commission during the preceding year, including any recommendations that may have been adopted by the commission;
- (19) coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in the activity;
- (20) establish uniform standards for the reporting, collecting, and exchanging of data; and
- (21) maintain its corporate books and records in accordance with the by-laws.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1106 Article 5 -- Organization and operation of the Interstate Commission.**

(1) Section A. By-laws

The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

- (a) establishing the fiscal year of the commission;
- (b) establishing an executive committee and any other committees as necessary;
- (c) providing for the establishment of committees governing any general or specific delegation of any authority or function of the commission;
- (d) providing reasonable procedures for calling and conducting meetings of the commission, and ensuring reasonable notice of each meeting;
- (e) establishing the titles and responsibilities of the officers of the commission;
- (f) providing a mechanism for concluding the operations of the commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;
- (g) providing "start-up" rules for initial administration of the compact; and
- (h) establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(2) Section B. Officers and Staff

- (a) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have the authority and duties specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the commission.
- (b) The officers shall serve without compensation or remuneration from the commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any

ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the commission.

- (c) The commission shall, through its executive committee, appoint or retain an executive director for any time period, upon any terms and conditions, and for any compensation as the commission may consider appropriate. The executive director shall serve as secretary to the commission, but may not be a member and shall hire and supervise other staff as authorized by the commission.
- (3) Section C. Qualified Immunity, Defense, and Indemnification
- (a) The Interstate Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that a person may not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.
  - (b) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this Subsection (3) shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.
  - (c) The commission shall defend the executive director or the employees or representatives of the commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend the commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.
  - (d) The commission shall indemnify and hold the commissioner of a compacting state, the commissioner's representatives or employees, or the commission's representatives or employees harmless in the amount of any settlement or judgment obtained against the persons arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the persons had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the persons.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1107 Article 6 -- Rulemaking functions of the Interstate Commission.**

- (1) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.
- (2) Rulemaking shall occur pursuant to the criteria set forth in this section and the by-laws and rules adopted pursuant thereto. Rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1

- (2000), or any other administrative procedures act, as the commission considers appropriate, consistent with due process requirements under the United States Constitution as interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.
- (3) When promulgating a rule, the commission shall, at a minimum:
    - (a) publish the proposed rule's entire text stating the reasons for that proposed rule;
    - (b) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available;
    - (c) provide an opportunity for an informal hearing if petitioned by ten or more persons; and
    - (d) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.
  - (4) Not later than 60 days after a rule is promulgated, the commission shall allow any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the commission's principal office is located for judicial review of the rule. If the court finds that the commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this Subsection (4), evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.
  - (5) If a majority of the legislatures of the compacting states reject a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, state that the rule shall have no further force and effect in any compacting state.
  - (6) The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created in this part.
  - (7) Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1108 Article 7 -- Oversight, enforcement, and dispute resolution by the Interstate Commission.**

- (1) Section A. Oversight
  - (a) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor activities being administered in noncompacting states which may significantly affect compacting states.
  - (b) The courts and executive agencies in each compacting state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission, it shall be entitled to receive all service of process in any proceeding, and shall have standing to intervene in the proceeding for all purposes.

(2) Section B. Dispute Resolution

- (a) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its by-laws and rules.
- (b) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.
- (c) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Section 80-6-1110.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1109 Article 8 -- Finance.**

- (1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.
- (2) The commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the commission and its staff which shall be in a total amount sufficient to cover the commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state. The commission shall promulgate a rule binding upon all compacting states which governs the assessment.
- (3) The commission may not incur any obligations of any kind prior to securing the funds adequate to meet the obligations, nor shall the commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.
- (4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its by-laws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1110 Article 9 -- State council.**

- (1) Each member state shall create a State Council for Interstate Juvenile Supervision.
- (2) While each state may determine the membership of its own state council, its membership shall include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator, or designee.
- (3) Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator.
- (4) Each state council shall advise and may exercise oversight and advocacy concerning that state's participation in commission activities and other duties determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1111 Article 10 -- Compacting states, effective date, and amendment.**

- (1) Any state, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Section 80-6-1103 is eligible to become a compacting state.
- (2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.
- (3) The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.
- (4) The commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1112 Article 11 -- Withdrawal, default, termination, and judicial enforcement.**

- (1) Section A. Withdrawal
  - (a) Once effective, the compact shall continue in force and remain binding upon each and every compacting state.
  - (b) A compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law. The effective date of withdrawal is the effective date of the repeal.
  - (c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the compact in the withdrawing state. The commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.
  - (d) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.
  - (e) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon a later date as determined by the commission.
- (2) Section B. Technical Assistance, Fines, Suspension, Termination, and Default
  - (a) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the commission may impose any or all of the following penalties:
    - (i) remedial training and technical assistance as directed by the commission;
    - (ii) alternative dispute resolution;
    - (iii) fines, fees, and costs in amounts considered to be reasonable as fixed by the commission; and
    - (iv) suspension or termination of membership in the compact.

- (b) Suspension or termination of membership in the compact shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the commission has determined that the offending state is in default.
  - (c) Immediate notice of suspension shall be given by the commission to the governor, the chief justice, or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.
  - (d) The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules, and any other grounds designated in commission by-laws and rules.
    - (i) The commission shall immediately notify the defaulting state in writing of the penalty imposed by the commission and of the default pending a cure of the default.
    - (ii) The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default.
  - (e) If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated upon the effective date of termination.
  - (f) Within 60 days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of the termination.
  - (g) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.
  - (h) The commission may not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
  - (i) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the commission pursuant to the rules.
- (3) Section C. Judicial Enforcement
- (a) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default.
  - (b) In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of litigation, including reasonable attorneys' fees.
- (4) Section D. Dissolution of Compact
- (a) The compact dissolves effective upon the date of the withdrawal or default of a compacting state, which reduces membership in the compact to one compacting state.
  - (b) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, the business and affairs of the Interstate Commission shall be concluded, and any surplus funds shall be distributed in accordance with the by-laws.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1113 Article 12 -- Severability and construction.**

- (1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1114 Article 13 -- Binding effect of compact and other laws.**

(1) Section A. Other Laws

- (a) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.
- (b) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

(2) Section B. Binding Effect of the Compact

- (a) All lawful actions of the commission, including all rules and by-laws promulgated by the commission, are binding upon the compacting states.
- (b) All agreements between the commission and the compacting states are binding in accordance with their terms.
- (c) Upon the request of a party to a conflict over meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation.
- (d) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by the provision upon the commission shall be ineffective and the obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which the obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1115 Juvenile compact administrator.**

- (1) Under this compact, the governor is authorized and empowered to designate a compact administrator and who, acting jointly with like administrators of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor.
- (2) The compact administrator is authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and this state's subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1116 Supplementary agreements.**

The compact administrator is authorized and empowered to enter into supplementary agreements with appropriate officials of other states under the compact. In the event that the supplementary agreement requires or contemplates the use of any institution or facility of this state or requires or contemplates the provision of any service by this state, the supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1117 Financial arrangements.**

The compact administrator, subject to the approval of the Division of Finance, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1118 Responsibility of parents.**

The compact administrator is authorized to take appropriate action to recover from parents or guardians, any and all costs expended by the state, or any of the state's subdivisions, to return a delinquent or nondelinquent juvenile to this state, for care provided under any supplementary agreement, or for care pending the return of the juvenile to this state.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1119 Responsibilities of state courts, departments, agencies, and officers.**

The courts, departments, agencies and officers of this state and this state's subdivisions shall enforce this compact and do all things appropriate to the effectuation of the compact's purposes and intent which may be within their respective jurisdictions.

Renumbered and Amended by Chapter 334, 2022 General Session