

YOUTH COURT AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: David L. Gladwell

This act modifies the Utah Youth Court Diversion Act. It extends the definition of youth to persons 18 years of age but still attending high school and provides for the exercise of authority over juveniles under the jurisdiction of the Juvenile Court if the offense is not a violation of law.

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

AMENDS:

78-57-102, as enacted by Chapter 94, Laws of Utah 1999

78-57-103, as enacted by Chapter 94, Laws of Utah 1999

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

Section 1. Section **78-57-102** is amended to read:

78-57-102. Definitions.

- (1) "Adult" means a person 18 years of age or older.
- (2) "Gang activity" means any criminal activity that is conducted as part of an organized youth gang. It includes any criminal activity that is done in concert with other gang members, or done alone if it is to fulfill gang purposes. "Gang activity" does not include graffiti.
- (3) "Minor offense" means any unlawful act that is a status offense or would be a class B or C misdemeanor, infraction, or violation of a municipal or county ordinance if the youth were an adult. "Minor offense" does not include:
 - (a) class A misdemeanors;
 - (b) felonies of any degree;
 - (c) any offenses that are committed as part of gang activity;
 - (d) any of the following offenses which would carry mandatory dispositions if referred to the juvenile court under Section 78-3a-506:
 - (i) a second violation of Section 32A-12-209, Unlawful Purchase, Possession or Consumption by Minors;

(ii) a violation of Section 41-6-44, Driving Under the Influence;
(iii) a violation of Section 58-37-8, Controlled Substances Act;
(iv) a violation of Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
(v) a violation of Title 58, Chapter 37b, Imitation Controlled Substances Act; or
(vi) a violation of Section 76-9-701, Intoxication; or
(e) any offense where a dangerous weapon, as defined in Subsection 76-1-601(5), is used in the commission of the offense.

(4) "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.

(5) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(6) "Youth" means a person under the age of 18 years or who is 18 but still attending high school.

Section 2. Section **78-57-103** is amended to read:

78-57-103. Youth Court -- Authorization -- Referral.

(1) Youth Court is a diversion program which provides an alternative disposition for cases involving juvenile offenders in which youth participants, under the supervision of an adult coordinator, may serve in various capacities within the courtroom, acting in the role of jurors, lawyers, bailiffs, clerks, and judges.

(a) Youth who appear before youth courts have been identified by law enforcement personnel, school officials, a prosecuting attorney, or the juvenile court as having committed acts which indicate 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) Youth Courts may only hear cases as provided for in this chapter.

(c) Youth Court is a diversion program and not a court established under the Utah Constitution, Article VIII.

(2) Any person may refer youth to a Youth Court for minor offenses. Once a referral is made, the case shall be screened by an adult coordinator to determine whether it qualifies as a Youth

Court case.

(3) Youth Courts have authority over youth:

(a) referred for a minor offense or offenses, or who are granted permission for referral under this chapter;

(b) who, along with a parent, guardian, or legal custodian, voluntarily and in writing, request Youth Court involvement;

(c) who admit having committed the referred offense;

(d) who, along with a parent, guardian, or legal custodian, waive any privilege against self-incrimination and right to a speedy trial; and

(e) who, along with their parent, guardian, or legal custodian, agree to follow the Youth Court disposition of the case.

(4) Except with permission granted under Subsection (5), Youth Courts may not exercise authority over youth who are under the continuing jurisdiction of the juvenile court for law violations, including any youth who may have a matter pending which has not yet been adjudicated. Youth Courts may, however, exercise authority over youth who are under the continuing jurisdiction of the juvenile court as set forth in this Subsection (4) if the offense before the Youth Court is not a law violation, and the referring agency has notified the juvenile court of the referral.

(5) Youth Courts may exercise authority over youth described in Subsection (4), 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.

(6) Permission of the juvenile court may be granted by a probation officer of the court in the district that would have jurisdiction over the offense being referred to Youth Court.

(7) Youth Courts may decline to accept a youth for Youth Court disposition for any reason and may terminate a youth from Youth Court participation at any time.

(8) A youth or the youth's parent, guardian, or custodian may withdraw from the Youth Court process at any time. The Youth Court shall immediately notify the referring source of the withdrawal.

(9) The Youth Court may transfer a case back to the referring source for alternative handling

at any time.

(10) Referral of a case of Youth Court may not prohibit the subsequent referral of the case to any court.