

1                                   **COMMITMENT AND CUSTODY OF ADULTS**  
2                                   **AND MINORS AMENDMENTS**

3                                   2003 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Scott K. Jenkins**

6   **This act modifies provisions of the Utah Human Services Code relating to commitment**  
7   **proceedings. The act clarifies the circumstances under which proceedings for the**  
8   **commitment of a child may be commenced. The act modifies provisions relating to the**  
9   **involuntary commitment of adults and children and specifies that they may be committed**  
10 **to local mental health authorities only after a court commitment proceeding. The act**  
11 **eliminates provisions relating to the commitment of a child to the legal custody of the**  
12 **Division of Substance Abuse and Mental Health and clarifies that certain commitment**  
13 **proceedings apply to the commitment of a child to the physical custody of local mental**  
14 **health authorities. The act clarifies that a court determination is necessary for a person**  
15 **to be committed to the state hospital. The act makes technical and conforming changes.**

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

17 AMENDS:

18           **17A-3-602**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

19           **62A-15-610**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth  
20 Special Session

21           **62A-15-625**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth  
22 Special Session

23           **62A-15-628**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth  
24 Special Session

25           **62A-15-701**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth  
26 Special Session

27           **62A-15-705**, as renumbered and amended by Chapter 8, Laws of Utah 2002, Fifth



28 Special Session

29 **78-3a-104**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

30 **78-3a-118**, as last amended by Chapters 2 and 8, Laws of Utah 2002, Fifth Special

31 Session

32 **78-3a-121**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

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

34 Section 1. Section **17A-3-602** is amended to read:

35 **17A-3-602. Local mental health authorities -- Responsibilities.**

36 (1) All county legislative bodies in this state are local mental health authorities. Within  
37 legislative appropriations and county matching funds required by this section, under the policy  
38 direction of the state Board of Substance Abuse and Mental Health and the administrative  
39 direction of the Division of Substance Abuse and Mental Health within the Department of  
40 Human Services, local mental health authorities shall provide mental health services to persons  
41 within their respective counties. Two or more counties may join to provide mental health  
42 prevention and treatment services.

43 (2) The legislative bodies may establish acceptable ways of apportioning the cost of  
44 mental health services. Any agreement for joint mental health services may designate the  
45 treasurer of one of the participating counties as the custodian of moneys available for those  
46 joint services, and that the designated treasurer, or other disbursing officer, may make  
47 payments from those moneys for such purposes upon audit of the appropriate auditing officer  
48 or officers representing the participating counties. The agreement may provide for:

49 (a) joint operation of services and facilities or for operation of services and facilities  
50 under contract by one participating local mental health authority for other participating local  
51 mental health authorities; and

52 (b) allocation of appointments of members of the mental health advisory council  
53 between or among participating counties.

54 (3) (a) All county legislative bodies, as local mental health authorities, are accountable  
55 to the Department of Human Services, the Department of Health, and the state with regard to  
56 the use of state and federal funds received from those departments for mental health services,  
57 regardless of whether the services are provided by a private contract provider.

58 (b) A local mental health authority shall comply, and require compliance by its contract

59 provider, with all directives issued by the Department of Human Services and the Department  
60 of Health regarding the use and expenditure of state and federal funds received from those  
61 departments for the purpose of providing mental health programs and services. The  
62 Department of Human Services and Department of Health shall ensure that those directives are  
63 not duplicative or conflicting, and shall consult and coordinate with local mental health  
64 authorities with regard to programs and services.

65 (4) Local mental health authorities shall:

66 (a) review and evaluate mental health needs and services;

67 (b) annually prepare and submit to the division a plan for mental health funding and  
68 service delivery. The plan shall include services for adults, youth, and children, including, but  
69 not limited to, the following:

70 (i) inpatient care and services;

71 (ii) residential care and services;

72 (iii) outpatient care and services;

73 (iv) 24-hour crisis care and services;

74 (v) psychotropic medication management;

75 (vi) psychosocial rehabilitation including vocational training and skills development;

76 (vii) case management;

77 (viii) community supports including in-home services, housing, family support  
78 services, and respite services; and

79 (ix) consultation and education services, including but not limited to, case consultation,  
80 collaboration with other service agencies, public education, and public information;

81 (c) establish and maintain, either directly or by contract, programs licensed under Title  
82 62A, Chapter 2, Licensure of Programs and Facilities;

83 (d) appoint directly or by contract a full-time or part-time director for mental health  
84 programs and prescribe his duties;

85 (e) provide input and comment on new and revised policies established by the state  
86 Board of Substance Abuse and Mental Health;

87 (f) establish and require contract providers to establish administrative, clinical,  
88 personnel, financial, and management policies regarding mental health services and facilities,  
89 in accordance with the policies of the state Board of Substance Abuse and Mental Health and

90 state and federal law;

91 (g) establish mechanisms allowing for direct citizen input;

92 (h) annually contract with the Division of Substance Abuse and Mental Health to  
93 provide mental health programs and services in accordance with the provisions of Title 62A,  
94 Chapter 15, Substance Abuse and Mental Health Act;

95 (i) comply with all applicable state and federal statutes, policies, audit requirements,  
96 contract requirements, and any directives resulting from those audits and contract requirements;

97 (j) provide funding equal to at least 20% of the state funds that it receives to fund  
98 services described in the plan; [~~and~~]

99 (k) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal  
100 Cooperation Act, Title 17A, Chapter 1, Part 4, Uniform Fiscal Procedures for Special Districts  
101 Act, and Title 51, Chapter 2, Audits of Political Subdivisions, Interlocal Organizations and  
102 Other Local Entities[-]; and

103 (l) take and retain physical custody of minors committed to the physical custody of  
104 local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7,  
105 Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

106 (5) Before disbursing any public funds, local mental health authorities shall require that  
107 all entities that receive any public funds from a local mental health authority agree in writing  
108 that:

109 (a) the division may examine the entity's financial records;

110 (b) the county auditor may examine and audit the entity's financial records; and

111 (c) the entity will comply with the provisions of Subsection (3)(b).

112 (6) Local mental health authorities may receive property, grants, gifts, supplies,  
113 materials, contributions, and any benefit derived therefrom, for mental health services. If those  
114 gifts are conditioned upon their use for a specified service or program, they shall be so used.

115 (7) (a) For purposes of this section "public funds" means the same as that term is  
116 defined in Section 17A-3-603.5.

117 (b) Nothing in this section limits or prohibits an organization exempt under Section  
118 501(c)(3), Internal Revenue Code, from using public funds for any business purpose or in any  
119 financial arrangement that is otherwise lawful for that organization.

120 Section 2. Section **62A-15-610** is amended to read:

121           **62A-15-610. Objectives of state hospital and other facilities -- Persons who may**  
122 **be admitted to state hospital.**

123           (1) The objectives of the state hospital and other mental health facilities shall be to care  
124 for all persons within this state who are subject to the provisions of this chapter; and to furnish  
125 them with the proper attendance, medical treatment, seclusion, rest, restraint, amusement,  
126 occupation, and support that is conducive to their physical and mental well-being.

127           (2) Only the following persons may be admitted to the state hospital:

128           (a) persons 18 years of age and older who meet the criteria necessary for commitment  
129 under this part and who have severe mental disorders for whom no appropriate, less restrictive  
130 treatment alternative is available;

131           (b) persons under 18 years of age who meet the criteria necessary for commitment  
132 under Part ~~[2A]~~ 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and  
133 Mental Health, and for whom no less restrictive alternative is available;

134           (c) persons adjudicated and found to be guilty and mentally ill under Title 77, Chapter  
135 16a, Commitment and Treatment of Mentally Ill Persons;

136           (d) persons adjudicated and found to be not guilty by reason of insanity who are under  
137 a subsequent commitment order because they are mentally ill and a danger to themselves or  
138 others, under Section 77-16a-302;

139           (e) persons found incompetent to proceed under Section 77-15-6;

140           (f) persons who require an examination under Title 77, Utah Code of Criminal  
141 Procedure; and

142           (g) persons in the custody of the Department of Corrections, admitted in accordance  
143 with Section 62A-15-605.5, giving priority to those persons with severe mental disorders.

144           Section 3. Section **62A-15-625** is amended to read:

145           **62A-15-625. Voluntary admission of adults.**

146           (1) A local mental health authority or its designee may admit to that authority, for  
147 observation, diagnosis, care, and treatment any individual who is mentally ill or has symptoms  
148 of mental illness and who, being 18 years of age or older, applies for voluntary admission.

149           (2) (a) No adult may be committed or continue to be committed to a local mental  
150 health authority against his will except as provided in this chapter.

151           (b) ~~[No]~~ A person under 18 years of age may be committed to the physical custody of a

152 local mental health authority[~~, but may be committed to the division~~] only after a court  
153 commitment proceeding in accordance with the provisions of Part 7, Commitment of Persons  
154 Under Age 18 to Division of Substance Abuse and Mental Health.

155 (3) An adult may be voluntarily admitted to a local mental health authority for  
156 treatment at the Utah State Hospital as a condition of probation or stay of sentence only after  
157 the requirements of Subsection 77-18-1(13) have been met.

158 Section 4. Section **62A-15-628** is amended to read:

159 **62A-15-628. Involuntary commitment -- Procedures.**

160 (1) An adult may not be involuntarily committed to the custody of a local mental health  
161 authority except under the following provisions:

162 (a) emergency procedures for temporary commitment upon medical or designated  
163 examiner certification, as provided in Subsection 62A-15-629(1);

164 (b) emergency procedures for temporary commitment without endorsement of medical  
165 or designated examiner certification, as provided in Subsection 62A-15-629(2); or

166 (c) commitment on court order, as provided in Section 62A-15-631.

167 (2) A person under 18 years of age may [~~not~~] be committed to the physical custody of a  
168 local mental health authority[~~, but may be committed to the division~~] only after a court  
169 commitment proceeding in accordance with the provisions of Part 7, Commitment of Persons  
170 Under Age 18 to Division of Substance Abuse and Mental Health.

171 Section 5. Section **62A-15-701** is amended to read:

172 **62A-15-701. Definitions.**

173 As used in this part:

174 (1) "Child" means a person under 18 years of age.

175 (2) "Commit" and "commitment" mean the transfer of physical [~~or legal~~] custody in  
176 accordance with the requirements of this part.

177 (3) "Legal custody" means:

178 (a) the right to determine where and with whom the child shall live;

179 (b) the right to participate in all treatment decisions and to consent or withhold consent  
180 for treatment in which a constitutionally protected liberty or privacy interest may be affected,  
181 including antipsychotic medication, electroshock therapy, and psychosurgery; and

182 (c) the right to authorize surgery or other extraordinary medical care.

183 (4) "Physical custody" means:  
184 (a) placement of a child in any residential or inpatient setting;  
185 (b) the right to physical custody of a child;  
186 (c) the right and duty to protect the child; and  
187 (d) the duty to provide, or insure that the child is provided with, adequate food,  
188 clothing, shelter, and ordinary medical care.

189 (5) "Residential" means any out-of-home placement made by a local mental health  
190 authority, but does not include out-of-home respite care.

191 (6) "Respite care" means temporary, periodic relief provided to parents or guardians  
192 from the daily care of children with serious emotional disorders for the limited time periods  
193 designated by the division.

194 Section 6. Section **62A-15-705** is amended to read:

195 **62A-15-705. Commitment proceedings in juvenile court -- Criteria -- Custody.**

196 (1) (a) ~~[In addition to the processes described in Sections 62A-15-703 and 62-15-704,]~~  
197 Subject to Subsection (1)(b), commitment proceedings for a child may be commenced by filing  
198 a written application with the juvenile court of the county in which the child resides or is  
199 found, in accordance with the procedures described in Section 62A-15-631.

200 (b) Commitment proceedings under this section may be commenced only after a  
201 commitment proceeding under Section 62A-15-703 has concluded without the child being  
202 committed.

203 (2) The juvenile court shall order commitment ~~[to the legal custody of the division or]~~  
204 to the physical custody of a local mental health authority if, upon completion of the hearing and  
205 consideration of the record, it finds by clear and convincing evidence that:

206 (a) the child has a mental illness, as defined in Subsection 62A-15-602(8);  
207 (b) the child demonstrates a risk of harm to himself or others;  
208 (c) the child is experiencing significant impairment in his ability to perform socially;  
209 (d) the child will benefit from the proposed care and treatment; and  
210 (e) there is no appropriate less restrictive alternative.

211 (3) The ~~[division]~~ local mental health authority has an affirmative duty to conduct  
212 periodic reviews of children committed to its custody pursuant to this section, and to release  
213 any child who has sufficiently improved so that the ~~[director]~~ local mental health authority or

214 [his] its designee determines that commitment is no longer appropriate.

215 ~~[(4) When the division receives legal custody of a child upon order of the court~~  
216 ~~pursuant to this section, it may place the child in the physical custody of a local mental health~~  
217 ~~authority. The local mental health authority shall carry out its responsibilities with regard to~~  
218 ~~that child in accordance with the provisions of this part.]~~

219 Section 7. Section **78-3a-104** is amended to read:

220 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

221 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
222 jurisdiction in proceedings concerning:

223 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a  
224 person younger than 21 years of age who has violated any law or ordinance before becoming  
225 18 years of age, regardless of where the violation occurred, excluding traffic laws and boating  
226 and ordinances;

227 (b) a person 21 years of age or older who has failed or refused to comply with an order  
228 of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's  
229 21st birthday; however, the continuing jurisdiction is limited to causing compliance with  
230 existing orders;

231 (c) a minor who is an abused child, neglected child, or dependent child, as those terms  
232 are defined in Section 78-3a-103;

233 (d) a protective order for a minor who is alleged to be an abused child or neglected  
234 child, except as provided in Section 78-3a-105, and unless the petition is filed by a natural  
235 parent or stepparent of the minor against a natural parent or stepparent of the minor;

236 (e) the determination of the custody of a minor or to appoint a guardian of the person  
237 or other guardian of a minor who comes within the court's jurisdiction under other provisions  
238 of this section;

239 (f) the termination of the legal parent-child relationship in accordance with Part 4,  
240 Termination of Parental Rights Act, including termination of residual parental rights and  
241 duties;

242 (g) the treatment or commitment of a mentally retarded minor;

243 (h) a minor who is a habitual truant from school;

244 (i) the judicial consent to the marriage of a minor under age 16 upon a determination of



245 voluntariness or where otherwise required by law, employment, or enlistment of a minor when  
246 consent is required by law;

247 (j) any parent or parents of a minor committed to a secure youth corrections facility, to  
248 order, at the discretion of the court and on the recommendation of a secure youth corrections  
249 facility, the parent or parents of a minor committed to a secure youth corrections facility for a  
250 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth  
251 corrections facility therapist, who has supervision of that parent's or parents' minor, or any  
252 other therapist the court may direct, for a period directed by the court as recommended by a  
253 secure youth corrections facility;

254 (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

255 (l) the treatment or commitment of a mentally ill child. The court may commit a child  
256 to the physical custody of a local mental health authority [~~or to the legal custody of the~~  
257 ~~Division of Substance Abuse and Mental Health~~] in accordance with the procedures and  
258 requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to  
259 Division of Substance Abuse and Mental Health. The court may not commit a child directly to  
260 the Utah State Hospital;

261 (m) the commitment of a minor in accordance with Section 62A-15-301;

262 (n) de novo review of final agency actions resulting from an informal adjudicative  
263 proceeding as provided in Section 63-46b-15; and

264 (o) adoptions conducted in accordance with the procedures described in Title 78,  
265 Chapter 30, Adoption, when the juvenile court has previously entered an order terminating the  
266 rights of a parent and finds that adoption is in the best interest of the minor.

267 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive  
268 jurisdiction over any traffic or boating offense committed by a minor under 16 years of age and  
269 concurrent jurisdiction over all other traffic or boating offenses committed by a minor 16 years  
270 of age or older, except that the court shall have exclusive jurisdiction over the following  
271 offenses committed by a minor under 18 years of age:

272 (a) Section 76-5-207, automobile homicide;

273 (b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;

274 (c) Section 41-6-45, reckless driving or Section 73-18-12, reckless operation;

275 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or

276 semitrailer for an extended period of time; and

277 (e) Section 41-6-13.5 or 73-18-20, fleeing a peace officer.

278 (3) The court also has jurisdiction over traffic and boating offenses that are part of a  
279 single criminal episode filed in a petition that contains an offense over which the court has  
280 jurisdiction.

281 (4) The juvenile court has jurisdiction over questions of custody, support, parent-time,  
282 and visitation certified to it by the district court pursuant to Section 78-3a-105.

283 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is  
284 referred to it by the Division of Child and Family Services or by public or private agencies that  
285 contract with the division to provide services to that minor where, despite earnest and  
286 persistent efforts by the division or agency, the minor has demonstrated that he:

287 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities  
288 to the extent that his behavior or condition endangers his own welfare or the welfare of others;  
289 or

290 (b) has run away from home.

291 (6) This section does not restrict the right of access to the juvenile court by private  
292 agencies or other persons.

293 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases  
294 arising under Section 78-3a-602.

295 (8) The juvenile court has jurisdiction to make a finding of substantiated,  
296 unsubstantiated, or without merit, in accordance with Section 78-3a-320.

297 Section 8. Section **78-3a-118** is amended to read:

298 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**  
299 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**  
300 **sample.**

301 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the  
302 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its  
303 jurisdiction over the minor. However, in cases within the provisions of Subsection  
304 78-3a-104(1), findings of fact are not necessary.

305 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of  
306 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided

307 to the school superintendent of the district in which the minor resides or attends school. Notice  
308 shall be made to the district superintendent within three days of the adjudication and shall  
309 include the specific offenses for which the minor was adjudicated.

310 (2) Upon adjudication the court may make the following dispositions by court order:

311 (a) (i) The court may place the minor on probation or under protective supervision in  
312 the minor's own home and upon conditions determined by the court, including compensatory  
313 service as provided in Section 78-11-20.7.

314 (ii) The court may place the minor in state supervision with the probation department  
315 of the court, under the legal custody of:

316 (A) his parent or guardian;

317 (B) the Division of Youth Corrections; or

318 (C) the Division of Child and Family Services.

319 (iii) If the court orders probation or state supervision, the court shall direct that notice  
320 of its order be provided to designated persons in the local law enforcement agency and the  
321 school or transferee school, if applicable, which the minor attends. The designated persons  
322 may receive the information for purposes of the minor's supervision and student safety.

323 (iv) Any employee of the local law enforcement agency and the school which the  
324 minor attends who discloses the court's order of probation is not:

325 (A) civilly liable except when the disclosure constitutes fraud or malice as provided in  
326 Section 63-30-4; and

327 (B) civilly or criminally liable except when the disclosure constitutes a knowing  
328 violation of Section 63-2-801.

329 (b) The court may place the minor in the legal custody of a relative or other suitable  
330 person, with or without probation or protective supervision, but the juvenile court may not  
331 assume the function of developing foster home services.

332 (c) (i) The court may:

333 (A) vest legal custody of the minor in the Division of Child and Family Services,  
334 Division of Youth Corrections, or the Division of Substance Abuse and Mental Health; and

335 (B) order the Department of Human Services to provide dispositional  
336 recommendations and services.

337 (ii) For minors who may qualify for services from two or more divisions within the

338 Department of Human Services, the court may vest legal custody with the department.

339 (iii) (A) Minors who are committed to the custody of the Division of Child and Family  
340 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,  
341 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title  
342 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

343 (B) Prior to the court entering an order to place a minor in the custody of the Division  
344 of Child and Family Services on grounds other than abuse or neglect, the court shall provide  
345 the division with notice of the hearing no later than five days before the time specified for the  
346 hearing so the division may attend the hearing.

347 (C) Prior to committing a minor to the custody of the Division of Child and Family  
348 Services, the court shall make a finding as to what reasonable efforts have been attempted to  
349 prevent the minor's removal from his home.

350 (d) (i) The court may commit the minor to the Division of Youth Corrections for secure  
351 confinement.

352 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,  
353 or dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of  
354 Youth Corrections.

355 (e) The court may commit the minor, subject to the court retaining continuing  
356 jurisdiction over him, to the temporary custody of the Division of Youth Corrections for  
357 observation and evaluation for a period not to exceed 45 days, which period may be extended  
358 up to 15 days at the request of the director of the Division of Youth Corrections.

359 (f) (i) The court may commit the minor to a place of detention or an alternative to  
360 detention for a period not to exceed 30 days subject to the court retaining continuing  
361 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions  
362 ordered by the court.

363 (ii) This Subsection (2)(f) applies only to those minors adjudicated for:

364 (A) an act which if committed by an adult would be a criminal offense; or

365 (B) contempt of court under Section 78-3a-901.

366 (g) The court may vest legal custody of an abused, neglected, or dependent minor in  
367 the Division of Child and Family Services or any other appropriate person in accordance with  
368 the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and

369 Dependency Proceedings.

370 (h) The court may place the minor on a ranch or forestry camp, or similar facility for  
371 care and also for work, if possible, if the person, agency, or association operating the facility  
372 has been approved or has otherwise complied with all applicable state and local laws. A minor  
373 placed in a forestry camp or similar facility may be required to work on fire prevention,  
374 forestation and reforestation, recreational works, forest roads, and on other works on or off the  
375 grounds of the facility and may be paid wages, subject to the approval of and under conditions  
376 set by the court.

377 (i) The court may order the minor to repair, replace, or otherwise make restitution for  
378 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in  
379 Section 78-3a-318 and impose fines in limited amounts. If a minor has been returned to this  
380 state under the Interstate Compact on Juveniles, the court may order the minor to make  
381 restitution for costs expended by any governmental entity for the return.

382 (j) The court may issue orders necessary for the collection of restitution and fines  
383 ordered by the court, including garnishments, wage withholdings, and executions.

384 (k) (i) The court may through its probation department encourage the development of  
385 employment or work programs to enable minors to fulfill their obligations under Subsection  
386 (2)(i) and for other purposes considered desirable by the court.

387 (ii) Consistent with the order of the court, the probation officer may permit the minor  
388 found to be within the jurisdiction of the court to participate in a program of work restitution or  
389 compensatory service in lieu of paying part or all of the fine imposed by the court.

390 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in  
391 addition to any other disposition authorized by this section:

392 (A) restrain the minor from driving for periods of time the court considers necessary;  
393 and

394 (B) take possession of the minor's driver license.

395 (ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the  
396 suspension of driving privileges for an offense under Section 78-3a-506 are governed only by  
397 Section 78-3a-506.

398 (m) (i) When a minor is found within the jurisdiction of the juvenile court under  
399 Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug

400 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court  
401 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a  
402 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory  
403 completion of an approved substance abuse prevention or treatment program may be credited  
404 by the court as compensatory service hours.

405 (ii) When a minor is found within the jurisdiction of the juvenile court under Section  
406 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court  
407 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order  
408 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory  
409 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an  
410 approved substance abuse prevention or treatment program may be credited by the court as  
411 compensatory service hours.

412 (n) The court may order that the minor be examined or treated by a physician, surgeon,  
413 psychiatrist, or psychologist or that he receive other special care. For these purposes the court  
414 may place the minor in a hospital or other suitable facility.

415 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the  
416 interest of the minor, and may appoint as guardian a public or private institution or agency in  
417 which legal custody of the minor is vested.

418 (ii) In placing a minor under the guardianship or legal custody of an individual or of a  
419 private agency or institution, the court shall give primary consideration to the welfare of the  
420 minor. When practicable, the court may take into consideration the religious preferences of the  
421 minor and of the minor's parents.

422 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable  
423 conditions to be complied with by the parents or guardian, the minor, the minor's custodian, or  
424 any other person who has been made a party to the proceedings. Conditions may include:

- 425 (A) parent-time by the parents or one parent;
- 426 (B) restrictions on the minor's associates;
- 427 (C) restrictions on the minor's occupation and other activities; and
- 428 (D) requirements to be observed by the parents or custodian.

429 (ii) A minor whose parents or guardians successfully complete a family or other  
430 counseling program may be credited by the court for detention, confinement, or probation time.

431 (q) The court may order the minor to be ~~[placed in the legal custody of the Division of~~  
432 ~~Substance Abuse and Mental Health or]~~ committed to the physical custody of a local mental  
433 health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15,  
434 Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental  
435 Health.

436 (r) (i) The court may make an order committing a minor within its jurisdiction to the  
437 Utah State Developmental Center if the minor has mental retardation in accordance with the  
438 provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.

439 (ii) The court shall follow the procedure applicable in the district courts with respect to  
440 judicial commitments to the Utah State Developmental Center when ordering a commitment  
441 under Subsection (2)(r)(i).

442 (s) The court may terminate all parental rights upon a finding of compliance with the  
443 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.

444 (t) The court may make any other reasonable orders for the best interest of the minor or  
445 as required for the protection of the public, except that a person younger than 18 years of age  
446 may not be committed to jail or prison.

447 (u) The court may combine the dispositions listed in this section if they are compatible.

448 (v) Before depriving any parent of custody, the court shall give due consideration to the  
449 rights of parents concerning their minor. The court may transfer custody of a minor to another  
450 person, agency, or institution in accordance with the requirements and procedures of Title 78,  
451 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

452 (w) Except as provided in Subsection (2)(y)(i), an order under this section for  
453 probation or placement of a minor with an individual or an agency shall include a date certain  
454 for a review of the case by the court. A new date shall be set upon each review.

455 (x) In reviewing foster home placements, special attention shall be given to making  
456 adoptable minors available for adoption without delay.

457 (y) (i) The juvenile court may enter an order of permanent custody and guardianship  
458 with a relative or individual of a minor where the court has previously acquired jurisdiction as  
459 a result of an adjudication of abuse, neglect, or dependency, excluding cases arising under  
460 Subsection 78-3a-105(4).

461 (ii) Orders under Subsection (2)(y)(i):

- 462 (A) shall remain in effect until the minor reaches majority;
- 463 (B) are not subject to review under Section 78-3a-119; and
- 464 (C) may be modified by petition or motion as provided in Section 78-3a-903.
- 465 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
- 466 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
- 467 of the juvenile court.

468 (3) In addition to the dispositions described in Subsection (2), when a minor comes  
469 within the court's jurisdiction he may be given a choice by the court to serve in the National  
470 Guard in lieu of other sanctions, provided:

- 471 (a) the minor meets the current entrance qualifications for service in the National
- 472 Guard as determined by a recruiter, whose determination is final;
- 473 (b) the minor is not under the jurisdiction of the court for any act that:
  - 474 (i) would be a felony if committed by an adult;
  - 475 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
  - 476 (iii) was committed with a weapon; and
- 477 (c) the court retains jurisdiction over the minor under conditions set by the court and
- 478 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

479 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of  
480 the court as described in Subsection 53-10-403(3). The specimen shall be obtained by  
481 designated employees of the court or, if the minor is in the legal custody of the Division of  
482 Youth Corrections, then by designated employees of the division under Subsection  
483 53-10-404(5)(b).

484 (b) The responsible agency shall ensure that employees designated to collect the saliva  
485 DNA specimens receive appropriate training and that the specimens are obtained in accordance  
486 with accepted protocol.

487 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA  
488 Specimen Restricted Account created in Section 53-10-407.

489 (d) Payment of the reimbursement is second in priority to payments the minor is  
490 ordered to make for restitution under this section and treatment under Section 78-3a-318.

491 Section 9. Section **78-3a-121** is amended to read:

492 **78-3a-121. Continuing jurisdiction of juvenile court -- Period of and termination**



493 of jurisdiction -- Notice of discharge from custody of Division of Substance Abuse and  
494 Mental Health or Utah State Developmental Center -- Transfer of continuing jurisdiction  
495 to other district.

496 (1) Jurisdiction of a minor obtained by the court through adjudication under Section  
497 78-3a-118 continues for purposes of this chapter until he becomes 21 years of age, unless  
498 terminated earlier. However, the court retains jurisdiction beyond the age of 21 of a person  
499 who has refused or failed to pay any fine or victim restitution ordered by the court, but only for  
500 the purpose of causing compliance with existing orders.

501 (2) (a) The continuing jurisdiction of the court terminates:

502 (i) upon order of the court;

503 (ii) upon commitment to a secure youth corrections facility; or

504 (iii) upon commencement of proceedings in adult cases under Section 78-3a-801.

505 (b) The continuing jurisdiction of the court is not terminated by marriage.

506 (3) When a minor has been committed by the court to the physical custody of [~~the~~  
507 ~~Division of Substance Abuse and Mental Health,~~] a local mental health authority or its  
508 designee[;] or to the Utah State Developmental Center, [~~the director of the Division of~~  
509 ~~Substance Abuse and Mental Health,~~] the local mental health authority or its designee[;] or the  
510 superintendent of the Utah State Developmental Center shall give the court written notice of its  
511 intention to discharge, release, or parole the minor not fewer than five days prior to the  
512 discharge, release, or parole.

513 (4) Jurisdiction over a minor on probation or under protective supervision, or of a  
514 minor who is otherwise under the continuing jurisdiction of the court, may be transferred by the  
515 court to the court of another district, if the receiving court consents, or upon direction of the  
516 chair of the Board of Juvenile Court Judges. The receiving court has the same powers with  
517 respect to the minor that it would have if the proceedings originated in that court.

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**Legislative Review Note**  
as of 12-11-02 5:36 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
**as of 12-12-02 4:12 PM**

The Health and Human Services Interim Committee recommended this bill.

**Mixed Membership Committee Note**  
**as of 12-12-02 4:12 PM**

The Funding of State and County Health and Human Services Task Force recommended this bill.

Membership:	8 legislators	2 non-legislators	
Legislative Vote:	7 voting for	0 voting against	1 absent

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**Fiscal Note**  
**Bill Number SB0025**

**Commitment and Custody of Adults and Minors Amendments**

*22-Jan-03*

*10:50 AM*

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**AMENDED NOTE**

**State Impact**

It is estimated that cost associated with provisions of this bill can be handled within existing budgets.

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**Individual and Business Impact**

None

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**Office of the Legislative Fiscal Analyst**