

Representative M. Susan Lawrence proposes the following substitute bill:

**NOTIFICATION OF SCHOOL DISTRICT OF
VIOLENT OFFENSE BY A STUDENT**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: M. Susan Lawrence

LONG TITLE

General Description:

This bill requires law enforcement officers or agents taking a minor into custody or detention for violent crimes or weapons violations to notify the school district in which the minor resides or attends school.

Highlighted Provisions:

This bill:

- ▶ requires law enforcement officers or agents to notify school district superintendents when a minor is taken into custody or detention for a violent crime or weapons violation;

- ▶ allows a school district to establish a process with a law enforcement agency for providing notice regarding detained minors;

- ▶ requires the notice to include, if available, the victim's name, if the victim resides in the same school district or attends the same school as the detained minor;

- ▶ classifies notice to superintendents as protected under the Government Records Access and Management Act and the Federal Family Educational Rights and Privacy Act;

- ▶ requires notification to the school district of the court's findings of the detention hearings in cases involving violent felonies or weapons offenses, including any no contact



26 orders;

27 ▶ requires adjudication notice to include, if available, the name of the victim; and

28 ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 This bill provides an effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **53A-11-1001**, as last amended by Chapter 365, Laws of Utah 1997

36 **53A-11-1002**, as enacted by Chapter 256, Laws of Utah 1994

37 **53A-11-1004**, as last amended by Chapter 365, Laws of Utah 1997

38 **78-3a-113 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah 2003

39 **78-3a-114 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah 2003

40 **78-3a-118 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah 2003

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

43 Section 1. Section **53A-11-1001** is amended to read:

44 **53A-11-1001. Notification by juvenile court and law enforcement agencies.**

45 (1) Notifications received from the juvenile court or law enforcement agencies by the
46 school district pursuant to ~~[Subsection]~~ Subsections 78-3a-113(3)(b) and 78-3a-118(1)(b)
47 ~~[shall be]~~ are governed by this part.

48 (2) School districts may enter into agreements with law enforcement agencies for
49 notification under Subsection (1).

50 Section 2. Section **53A-11-1002** is amended to read:

51 **53A-11-1002. Superintendent required to notify school.**

52 (1) Within ~~Ŕ [five]~~ **THREE** ~~ŕ~~ days of receiving the information from the juvenile court or a
52a law
53 enforcement agency, the district superintendent shall notify the principal of the school the
54 juvenile attends or last attended.

55 (2) Upon receipt of the information, the principal shall:

56 (a) make a notation in a secure file other than the student's permanent file; and

57 (b) if the student is still enrolled in the school, notify staff members who, in his
58 opinion, should know of the adjudication.

59 (3) A person receiving information pursuant to this part may only disclose the
60 information to other persons having both a right and a current need to know.

61 (4) Access to secure files shall be limited to persons authorized to receive information
62 under this part.

63 Section 3. Section **53A-11-1004** is amended to read:

64 **53A-11-1004. Liability for release of information.**

65 (1) The district superintendent, principal, and any staff member notified by the
66 principal may not be held liable for information which may become public knowledge unless it
67 can be shown by clear and convincing evidence that the information became public knowledge
68 through an intentional act of the superintendent, principal, or a staff member.

69 (2) A person receiving information under Subsection 78-3a-113(3)(b), 78-3a-118(1)(b),
70 or Section 53A-11-1002 is immune from any liability, civil or criminal, for acting or failing to
71 act in response to the information unless the person acts or fails to act due to malice, gross
72 negligence, or deliberate indifference to the consequences.

73 Section 4. Section **78-3a-113 (Effective 07/01/04)** is amended to read:

74 **78-3a-113 (Effective 07/01/04). Minor taken into custody by peace officer, private**
75 **citizen, or probation officer -- Grounds -- Notice requirements -- Release or detention --**
76 **Grounds for peace officer to take adult into custody.**

77 (1) A minor may be taken into custody by a peace officer without order of the court if:

78 (a) in the presence of the officer the minor has violated a state law, federal law, local
79 law, or municipal ordinance;

80 (b) there are reasonable grounds to believe the minor has committed an act which if
81 committed by an adult would be a felony;

82 (c) the minor is seriously endangered in his surroundings or if the minor seriously
83 endangers others, and immediate removal appears to be necessary for his protection or the
84 protection of others;

85 (d) there are reasonable grounds to believe the minor has run away or escaped from his
86 parents, guardian, or custodian; or

87 (e) there is reason to believe the minor is subject to the state's compulsory education

88 law and that the minor is absent from school without legitimate or valid excuse, subject to
89 Section 53A-11-105.

90 (2) (a) A private citizen or a probation officer may take a minor into custody if under
91 the circumstances he could make a citizen's arrest if the minor was an adult.

92 (b) A probation officer may also take a minor into custody under Subsection (1) or if
93 the minor has violated the conditions of probation, if the minor is under the continuing
94 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not
95 immediately available.

96 (3) (a) (i) If an officer or other person takes a minor into temporary custody, he shall
97 without unnecessary delay notify the parents, guardian, or custodian.

98 (ii) The minor shall then be released to the care of his parent or other responsible adult,
99 unless his immediate welfare or the protection of the community requires his detention.

100 (b) If the minor is taken into custody or detention for a violent felony, as defined in
101 Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the
102 officer or other law enforcement agent taking the minor into custody shall, as soon as
103 practicable or as established under Subsection 53A-11-1001(2), notify the school
104 superintendent of the district in which the minor resides or attends school for the purposes of
105 the minor's supervision and student safety.

106 (i) The notice shall disclose only:

107 (A) the name of the minor;

108 (B) the offense for which the minor was taken into custody or detention; and

109 (C) if available, the name of the victim, if the victim:

110 (I) resides in the same school district as the minor; or

111 (II) attends the same school as the minor.

112 (ii) The notice shall be classified as a protected record under Section 63-2-304.

113 (iii) All other records disclosures are governed by Title 63, Chapter 2, Government
114 Records Access and Management Act and the Federal Family Educational Rights and Privacy
115 Act.

116 (c) Employees of a governmental agency are immune from any criminal liability for
117 providing or failing to provide the information required by Section 78-3a-113 unless the person
118 acts or fails to act due to malice, gross negligence, or deliberate indifference to the

119 consequences.

120 [~~(b)~~] (d) Before the minor is released, the parent or other person to whom the minor is
121 released shall be required to sign a written promise on forms supplied by the court to bring the
122 minor to the court at a time set or to be set by the court.

123 (4) (a) A minor may not be held in temporary custody by law enforcement any longer
124 than is reasonably necessary to obtain his name, age, residence, and other necessary
125 information and to contact his parents, guardian, or custodian.

126 (b) If the minor is not released under Subsection (3), he shall be taken to a place of
127 detention or shelter without unnecessary delay.

128 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
129 file with the detention or shelter facility a written report on a form provided by the division
130 stating the details of the presently alleged offense, the facts which bring the minor within the
131 jurisdiction of the juvenile court, and the reason the minor was not released by law
132 enforcement.

133 (b) (i) The designated youth corrections facility staff person shall immediately review
134 the form and determine, based on the guidelines for detention admissions established by the
135 Division of Juvenile Justice Services under Sections 62A-7-104 and 62A-7-205, whether to
136 admit the minor to secure detention, admit the minor to home detention, place the minor in a
137 placement other than detention, or return the minor home upon written promise to bring the
138 minor to the court at a time set, or without restriction.

139 (ii) If the designated youth corrections facility staff person determines to admit the
140 minor to home detention, that staff person shall notify the juvenile court of that determination.
141 The court shall order that notice be provided to the designated persons in the local law
142 enforcement agency and the school or transferee school, if applicable, which the minor attends
143 of the home detention. The designated persons may receive the information for purposes of the
144 minor's supervision and student safety.

145 (iii) Any employee of the local law enforcement agency and the school which the
146 minor attends who discloses the notification of home detention is not:

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

149 (B) civilly or criminally liable except when disclosure constitutes a knowing violation

150 of Section 63-2-801.

151 (c) A minor may not be admitted to detention unless the minor is detainable based on
152 the guidelines or the minor has been brought to detention pursuant to a judicial order or
153 division warrant pursuant to Subsection 62A-7-112(8).

154 (d) If a minor taken to detention does not qualify for admission under the guidelines
155 established by the division under Sections 62A-7-104 and 62A-7-205, detention staff shall
156 arrange appropriate placement.

157 (e) If a minor is taken into custody and admitted to a secure detention or shelter
158 facility, facility staff shall immediately notify the minor's parents, guardian, or custodian and
159 shall promptly notify the court of the placement.

160 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
161 his residence and it is determined in the hearing held under Subsection 78-3a-114(3) that
162 detention shall continue, the judge or commissioner shall direct the sheriff of the county of the
163 minor's residence to transport the minor to a detention or shelter facility as provided in this
164 section.

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

168 Section 5. Section **78-3a-114 (Effective 07/01/04)** is amended to read:

169 **78-3a-114 (Effective 07/01/04). Placement of minor in detention or shelter facility**
170 **-- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement of minors**
171 **for criminal proceedings -- Bail laws inapplicable, exception.**

172 (1) (a) A minor may not be placed or kept in a secure detention facility pending court
173 proceedings unless it is unsafe for the public to leave the minor with his parents, guardian, or
174 custodian and the minor is detainable based on guidelines promulgated by the Division of
175 Juvenile Justice Services.

176 (b) A minor who must be taken from his home but who does not require physical
177 restriction shall be given temporary care in a shelter facility and may not be placed in a
178 detention facility.

179 (c) A minor may not be placed or kept in a shelter facility pending court proceedings
180 unless it is unsafe for the minor to leave him with his parents, guardian, or custodian.

181 (2) After admission to a detention facility pursuant to the guidelines established by the
182 Division of Juvenile Justice Services and immediate investigation by an authorized officer of
183 the court, the judge or the officer shall order the release of the minor to his parents, guardian, or
184 custodian if it is found he can be safely returned to their care, either upon written promise to
185 bring the minor to the court at a time set or without restriction.

186 (a) If the minor's parent, guardian, or custodian fails to retrieve the minor from a
187 facility within 24 hours after notification of release, the parent, guardian, or custodian is
188 responsible for the cost of care for the time the minor remains in the facility.

189 (b) The facility shall determine the cost of care.

190 (c) Any money collected under this Subsection (2) shall be retained by the Division of
191 Juvenile Justice Services to recover the cost of care for the time the minor remains in the
192 facility.

193 (3) (a) When a minor is detained in a detention or shelter facility, the parents or
194 guardian shall be informed by the person in charge of the facility that they have the right to a
195 prompt hearing in court to determine whether the minor is to be further detained or released.

196 (b) Detention hearings shall be held by the judge or by a commissioner.

197 (c) The court may, at any time, order the release of the minor, whether a detention
198 hearing is held or not.

199 (d) If the minor is released, and the minor remains in the facility, because the parents,
200 guardian, or custodian fails to retrieve the minor, the parents, guardian, or custodian shall be
201 responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).

202 (4) (a) A minor may not be held in a detention facility longer than 48 hours prior to a
203 detention hearing, excluding weekends and holidays, unless the court has entered an order for
204 continued detention.

205 (b) A minor may not be held in a shelter facility longer than 48 hours prior to a shelter
206 hearing, excluding weekends and holidays, unless a court order for extended shelter has been
207 entered by the court after notice to all parties described in Section 78-3a-306.

208 (c) A hearing for detention or shelter may not be waived. Detention staff shall provide
209 the court with all information received from the person who brought the minor to the detention
210 facility.

211 (d) If the court finds at a detention hearing that it is not safe to release the minor, the

212 judge or commissioner may order the minor to be held in the facility or be placed in another
213 appropriate facility, subject to further order of the court.

214 (e) (i) After a detention hearing has been held, only the court may release a minor from
215 detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to
216 the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued
217 detention is necessary.

218 (ii) (A) ~~[H]~~ After a detention hearing for a violent felony, as defined in Section
219 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court
220 ~~[orders home detention, it]~~ shall direct that notice of its ~~[order]~~ decision, including any
221 disposition, order, or no contact orders, be provided to designated persons in the appropriate
222 local law enforcement agency and district superintendent or the school or transferee school, if
223 applicable, which the minor attends. The designated persons may receive the information for
224 purposes of the minor's supervision and student safety.

225 (iii) Any employee of the local law enforcement agency, school district, and the school
226 which the minor attends who discloses the court's order of probation is not:

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

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

231 (5) A minor may not be held in a detention facility, following a dispositional order of
232 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for
233 community-based placement under Section 62A-7-101 for longer than 72 hours, excluding
234 weekends and holidays. The period of detention may be extended by the court for one period
235 of seven calendar days if:

236 (a) the Division of Juvenile Justice Services or another agency responsible for
237 placement files a written petition with the court requesting the extension and setting forth good
238 cause; and

239 (b) the court enters a written finding that it is in the best interests of both the minor and
240 the community to extend the period of detention.

241 (6) The agency requesting an extension shall promptly notify the detention facility that
242 a written petition has been filed.

243 (7) The court shall promptly notify the detention facility regarding its initial disposition
244 and any ruling on a petition for an extension, whether granted or denied.

245 (8) (a) A minor under 16 years of age may not be held in a jail, lockup, or other place
246 for adult detention except as provided by Section 62A-7-201 or unless certified as an adult
247 pursuant to Section 78-3a-603. The provisions of Section 62A-7-201 regarding confinement
248 facilities apply to this Subsection (8).

249 (b) A minor 16 years of age or older whose conduct or condition endangers the safety
250 or welfare of others in the detention facility for minors may, by court order that specifies the
251 reasons, be detained in another place of confinement considered appropriate by the court,
252 including a jail or other place of confinement for adults. However, a secure youth corrections
253 facility is not an appropriate place of confinement for detention purposes under this section.

254 (9) A sheriff, warden, or other official in charge of a jail or other facility for the
255 detention of adult offenders or persons charged with crime shall immediately notify the
256 juvenile court when a minor who is or appears to be under 18 years of age is received at the
257 facility and shall make arrangements for the transfer of the minor to a detention facility, unless
258 otherwise ordered by the juvenile court.

259 (10) This section does not apply to a minor who is brought to the adult facility under
260 charges pursuant to Section 78-3a-602 or by order of the juvenile court to be held for criminal
261 proceedings in the district court under Section 78-3a-603.

262 (11) A minor held for criminal proceedings under Section 78-3a-602 or 78-3a-603 may
263 be detained in a jail or other place of detention used for adults charged with crime.

264 (12) Provisions of law regarding bail are not applicable to minors detained or taken
265 into custody under this chapter, except that bail may be allowed:

266 (a) if a minor who need not be detained lives outside this state; or

267 (b) when a minor who need not be detained comes within one of the classes in
268 Subsection 78-3a-503(11).

269 (13) Section 76-8-418 is applicable to a minor who willfully and intentionally commits
270 an act against a jail or other place of confinement, including a Division of Juvenile Justice
271 Services detention, shelter, or secure confinement facility which would be a third degree felony
272 if committed by an adult.

273 Section 6. Section **78-3a-118 (Effective 07/01/04)** is amended to read:

274 **78-3a-118 (Effective 07/01/04). Adjudication of jurisdiction of juvenile court --**
275 **Disposition of cases -- Enumeration of possible court orders -- Considerations of court --**
276 **Obtaining DNA sample.**

277 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the
278 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
279 jurisdiction over the minor. However, in cases within the provisions of Subsection
280 78-3a-104(1), findings of fact are not necessary.

281 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
282 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
283 to the school superintendent of the district in which the minor resides or attends school. Notice
284 shall be made to the district superintendent within three days of the adjudication and shall
285 include:

286 (i) the specific offenses for which the minor was adjudicated[-]; and

287 (ii) if available, if the victim:

288 (A) resides in the same school district as the minor; or

289 (B) attends the same school as the minor.

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

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

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

296 (A) his parent or guardian;

297 (B) the Division of Juvenile Justice Services; or

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

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

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

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

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

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

312 (c) (i) The court may:

313 (A) vest legal custody of the minor in the Division of Child and Family Services,
314 Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health;
315 and

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

318 (ii) For minors who may qualify for services from two or more divisions within the
319 Department of Human Services, the court may vest legal custody with the department.

320 (iii) (A) Minors who are committed to the custody of the Division of Child and Family
321 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,
322 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title
323 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

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

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

331 (d) (i) The court may commit the minor to the Division of Juvenile Justice Services for
332 secure confinement.

333 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
334 or dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of
335 Juvenile Justice Services.

336 (e) The court may commit the minor, subject to the court retaining continuing
337 jurisdiction over him, to the temporary custody of the Division of Juvenile Justice Services for
338 observation and evaluation for a period not to exceed 45 days, which period may be extended
339 up to 15 days at the request of the director of the Division of Juvenile Justice Services.

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

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

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

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

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

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

358 (i) (A) The court may order the minor to repair, replace, or otherwise make restitution
359 for damage or loss caused by the minor's wrongful act, including costs of treatment as stated in
360 Section 78-3a-318 and impose fines in limited amounts.

361 (B) The court may also require the minor to reimburse an individual, entity, or
362 governmental agency who offered and paid a reward to a person or persons for providing
363 information resulting in a court adjudication that the minor is within the jurisdiction of the
364 juvenile court due to the commission of a criminal offense.

365 (C) If a minor has been returned to this state under the Interstate Compact on Juveniles,
366 the court may order the minor to make restitution for costs expended by any governmental

367 entity for the return.

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

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

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

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

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

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

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

384 (m) (i) When a minor is found within the jurisdiction of the juvenile court under
385 Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug
386 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court
387 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a
388 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
389 completion of an approved substance abuse prevention or treatment program may be credited
390 by the court as compensatory service hours.

391 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
392 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court
393 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
394 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory
395 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
396 approved substance abuse prevention or treatment program may be credited by the court as
397 compensatory service hours.

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

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

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

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

411 (A) parent-time by the parents or one parent;

412 (B) restrictions on the minor's associates;

413 (C) restrictions on the minor's occupation and other activities; and

414 (D) requirements to be observed by the parents or custodian.

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

417 (q) The court may order the minor to be committed to the physical custody of a local
418 mental health authority, in accordance with the procedures and requirements of Title 62A,
419 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
420 Mental Health.

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

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

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

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

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

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

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

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

442 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
443 with a relative or individual of a minor where the court has previously acquired jurisdiction as
444 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
445 order for child support on behalf of the minor child against the natural or adoptive parents of
446 the child.

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

448 (A) shall remain in effect until the minor reaches majority;

449 (B) are not subject to review under Section 78-3a-119; and

450 (C) may be modified by petition or motion as provided in Section 78-3a-903.

451 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
452 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
453 of the juvenile court.

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

457 (a) the minor meets the current entrance qualifications for service in the National
458 Guard as determined by a recruiter, whose determination is final;

459 (b) the minor is not under the jurisdiction of the court for any act that:

460 (i) would be a felony if committed by an adult;
461 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
462 (iii) was committed with a weapon; and
463 (c) the court retains jurisdiction over the minor under conditions set by the court and
464 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

465 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
466 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
467 designated employees of the court or, if the minor is in the legal custody of the Division of
468 Juvenile Justice Services, then by designated employees of the division under Subsection
469 53-10-404(5)(b).

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

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

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

477 **Section 7. Effective date.**

478 This bill takes effect on July 1, 2004, except that the amendments to Section 78-3a-114
479 take effect on May 1, 2005.