

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

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: M. Susan Lawrence**

7 **LONG TITLE**

8 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ requires law enforcement agencies to notify school district superintendents when a
- 15 minor is taken into custody or detention for a violent crime or weapons violation;
- 16 ▶ allows a school district to establish a process with a law enforcement agency for
- 17 providing notice regarding detained minors;
- 18 ▶ requires the notice to include, if available, the victim's name, if the victim resides in
- 19 the same school district or attends the same school as the detained minor;
- 20 ▶ classifies notice to superintendents as protected under the Government Records
- 21 Access and Management Act;
- 22 ▶ requires that the notice to schools of a minor ordered to home detention include any
- 23 no contact orders;
- 24 ▶ requires adjudication notice to include, if available, the name of the victim; and
- 25 ▶ makes technical changes.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 This bill provides an effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53A-11-1001**, as last amended by Chapter 365, Laws of Utah 1997

33 **53A-11-1002**, as enacted by Chapter 256, Laws of Utah 1994

34 **53A-11-1004**, as last amended by Chapter 365, Laws of Utah 1997

35 **78-3a-113 (Superseded 07/01/04)**, as renumbered and amended by Chapter 365, Laws
36 of Utah 1997

37 **78-3a-113 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah 2003

38 **78-3a-114 (Superseded 07/01/04)**, as renumbered and amended by Chapter 365, Laws
39 of Utah 1997

40 **78-3a-114 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah 2003

41 **78-3a-118 (Superseded 07/01/04)**, as last amended by Chapters 68, 176, 195 and 278,
42 Laws of Utah 2003

43 **78-3a-118 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah 2003

44 **78-3a-503 (Superseded 07/01/04)**, as last amended by Chapter 240, Laws of Utah 1998



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

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

48 **53A-11-1001. Notification by juvenile court and law enforcement agencies.**

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

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

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

55 **53A-11-1002. Superintendent required to notify school.**

56 (1) Within five days of receiving the information from the juvenile court or a law
57 enforcement agency, the district superintendent shall notify the principal of the school the
58 juvenile attends or last attended.

- 59 (2) Upon receipt of the information, the principal shall:
- 60 (a) make a notation in a secure file other than the student's permanent file; and
- 61 (b) if the student is still enrolled in the school, notify staff members who, in his
- 62 opinion, should know of the adjudication.
- 63 (3) A person receiving information pursuant to this part may only disclose the
- 64 information to other persons having both a right and a current need to know.
- 65 (4) Access to secure files shall be limited to persons authorized to receive information
- 66 under this part.

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

68 **53A-11-1004. Liability for release of information.**

69 (1) The district superintendent, principal, and any staff member notified by the

70 principal may not be held liable for information which may become public knowledge unless it

71 can be shown by clear and convincing evidence that the information became public knowledge

72 through an intentional act of the superintendent, principal, or a staff member.

73 (2) A person receiving information under Subsection 78-3a-113(3)(b), 78-3a-118(1)(b),

74 or Section 53A-11-1002 is immune from any liability, civil or criminal, for acting or failing to

75 act in response to the information unless the person acts or fails to act due to malice, gross

76 negligence, or deliberate indifference to the consequences.

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

78 **78-3a-113 (Superseded 07/01/04). Minor taken into custody by peace officer,**

79 **private citizen, or probation officer -- Grounds -- Notice requirements -- Release or**

80 **detention -- Grounds for peace officer to take adult into custody.**

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

82 (a) in the presence of the officer the minor has violated a state law, federal law, local

83 law, or municipal ordinance;

84 (b) there are reasonable grounds to believe the minor has committed an act which if

85 committed by an adult would be a felony;

86 (c) the minor is seriously endangered in his surroundings or if the minor seriously

87 endangers others, and immediate removal appears to be necessary for his protection or the

88 protection of others;

89 (d) there are reasonable grounds to believe the minor has run away or escaped from his

90 parents, guardian, or custodian; or

91 (e) there is reason to believe the minor is subject to the state's compulsory education
92 law and that the minor is absent from school without legitimate or valid excuse, subject to
93 Section 53A-11-105.

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

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

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

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

104 (b) If the minor is taken into custody or detention for a violent felony, as defined in
105 Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the
106 custodial or detaining agency shall, as soon as practicable or as established under Subsection
107 53A-11-1001(2), notify the school superintendent of the district in which the minor resides or
108 attends school for the purposes of the minor's supervision and student safety.

109 (i) The notice shall disclose only:

110 (A) the name of the minor;

111 (B) the offense for which the minor was taken into custody or detained; and

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

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

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

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

116 (iii) All other records disclosures are governed by Title 63, Chapter 2, Government
117 Records Access and Management Act.

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

121 to the consequences.

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

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

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

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

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

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

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

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

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

152 of Section 63-2-801.

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

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

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

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

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

170 Section 5. Section **78-3a-113 (Effective 07/01/04)** is amended to read:

171 **78-3a-113 (Effective 07/01/04). Minor taken into custody by peace officer, private**
172 **citizen, or probation officer -- Grounds -- Notice requirements -- Release or detention --**
173 **Grounds for peace officer to take adult into custody.**

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

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

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

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

182 (d) there are reasonable grounds to believe the minor has run away or escaped from his

183 parents, guardian, or custodian; or

184 (e) there is reason to believe the minor is subject to the state's compulsory education
185 law and that the minor is absent from school without legitimate or valid excuse, subject to
186 Section 53A-11-105.

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

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

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

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

197 (b) If the minor is taken into custody or detention for a violent felony, as defined in
198 Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the
199 custodial or detaining agency shall, as soon as practicable or as established under Subsection
200 53A-11-1001(2), notify the school superintendent of the district in which the minor resides or
201 attends school for the purposes of the minor's supervision and student safety.

202 (i) The notice shall disclose only:

203 (A) the name of the minor;

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

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

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

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

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

209 (iii) All other records disclosures are governed by Title 63, Chapter 2, Government
210 Records Access and Management Act.

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

214 to the consequences.

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

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

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

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

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

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

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

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

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

245 of Section 63-2-801.

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

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

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

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

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

263 Section 6. Section **78-3a-114 (Superseded 07/01/04)** is amended to read:

264 **78-3a-114 (Superseded 07/01/04). Placement of minor in detention or shelter**
265 **facility -- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement of**
266 **minors for criminal proceedings -- Bail laws inapplicable, exception.**

267 (1) (a) A minor may not be placed or kept in a secure detention facility pending court
268 proceedings unless it is unsafe for the public to leave the minor with his parents, guardian, or
269 custodian and the minor is detainable based on guidelines promulgated by the Division of
270 Youth Corrections.

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

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

276 (2) After admission to a detention facility pursuant to the guidelines established by the
277 Division of Youth Corrections and immediate investigation by an authorized officer of the
278 court, the judge or the officer shall order the release of the minor to his parents, guardian, or
279 custodian if it is found he can be safely returned to their care, either upon written promise to
280 bring the minor to the court at a time set or without restriction.

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

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

285 (c) Any money collected under Subsection (2) shall be retained by the Division of
286 Youth Corrections to recover the cost of care for the time the minor remains in the facility.

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

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

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

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

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

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

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

305 (d) If the court finds at a detention hearing that it is not safe to release the minor, the
306 judge or commissioner may order the minor to be held in the facility or be placed in another

307 appropriate facility, subject to further order of the court.

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

312 (ii) If the court orders home detention, it shall direct that notice of its order, including
313 any no contact orders, be provided to designated persons in the appropriate local law
314 enforcement agency and the school or transferee school, if applicable, which the minor attends.
315 The designated persons may receive the information for purposes of the minor's supervision
316 and student safety.

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

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

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

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

328 (a) the Division of Youth Corrections or another agency responsible for placement files
329 a written petition with the court requesting the extension and setting forth good cause; and

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

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

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

336 (8) (a) A minor under 16 years of age may not be held in a jail, lockup, or other place
337 for adult detention except as provided by Section 62A-7-201 or unless certified as an adult

338 pursuant to Section 78-3a-603. The provisions of Section 62A-7-201 regarding confinement
339 facilities apply to this Subsection (8).

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

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

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

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

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

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

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

360 (13) Section 76-8-418 is applicable to a minor who willfully and intentionally commits
361 an act against a jail or other place of confinement, including a Division of Youth Corrections
362 detention, shelter, or secure confinement facility which would be a third degree felony if
363 committed by an adult.

364 Section 7. Section **78-3a-114 (Effective 07/01/04)** is amended to read:

365 **78-3a-114 (Effective 07/01/04). Placement of minor in detention or shelter facility**
366 **-- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement of minors**
367 **for criminal proceedings -- Bail laws inapplicable, exception.**

368 (1) (a) A minor may not be placed or kept in a secure detention facility pending court

369 proceedings unless it is unsafe for the public to leave the minor with his parents, guardian, or
370 custodian and the minor is detainable based on guidelines promulgated by the Division of
371 Juvenile Justice Services.

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

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

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

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

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

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

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

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

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

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

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

400 continued detention.

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

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

407 (d) If the court finds at a detention hearing that it is not safe to release the minor, the
408 judge or commissioner may order the minor to be held in the facility or be placed in another
409 appropriate facility, subject to further order of the court.

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

414 (ii) If the court orders home detention, it shall direct that notice of its order, including
415 any no contact orders, be provided to designated persons in the appropriate local law
416 enforcement agency and the school or transferee school, if applicable, which the minor attends.
417 The designated persons may receive the information for purposes of the minor's supervision
418 and student safety.

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

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

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

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

430 (a) the Division of Juvenile Justice Services or another agency responsible for

431 placement files a written petition with the court requesting the extension and setting forth good
432 cause; and

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

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

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

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

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

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

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

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

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

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

461 (b) when a minor who need not be detained comes within one of the classes in

462 Subsection 78-3a-503(11).

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

467 Section 8. Section **78-3a-118 (Superseded 07/01/04)** is amended to read:

468 **78-3a-118 (Superseded 07/01/04). Adjudication of jurisdiction of juvenile court --**
469 **Disposition of cases -- Enumeration of possible court orders -- Considerations of court --**
470 **Obtaining DNA sample.**

471 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the
472 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
473 jurisdiction over the minor. However, in cases within the provisions of Subsection
474 78-3a-104(1), findings of fact are not necessary.

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

480 (A) the specific offenses for which the minor was adjudicated[-]; and

481 (B) if available, if the victim:

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

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

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

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

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

490 (A) his parent or guardian;

491 (B) the Division of Youth Corrections; or

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

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

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

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

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

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

506 (c) (i) The court may:

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

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

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

513 (iii) (A) Minors who are committed to the custody of the Division of Child and Family
514 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,
515 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title
516 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

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

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

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

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

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

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

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

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

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

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

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

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

554 (B) The court may also require the minor to reimburse an individual, entity, or

555 governmental agency who offered and paid a reward to a person or persons for providing
556 information resulting in a court adjudication that the minor is within the jurisdiction of the
557 juvenile court due to the commission of a criminal offense.

558 (C) If a minor has been returned to this state under the Interstate Compact on Juveniles,
559 the court may order the minor to make restitution for costs expended by any governmental
560 entity for the return.

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

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

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

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

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

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

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

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

584 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
585 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court

586 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
587 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory
588 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
589 approved substance abuse prevention or treatment program may be credited by the court as
590 compensatory service hours.

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

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

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

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

- 604 (A) parent-time by the parents or one parent;
- 605 (B) restrictions on the minor's associates;
- 606 (C) restrictions on the minor's occupation and other activities; and
- 607 (D) requirements to be observed by the parents or custodian.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

647 (3) In addition to the dispositions described in Subsection (2), when a minor comes

648 within the court's jurisdiction he may be given a choice by the court to serve in the National
649 Guard in lieu of other sanctions, provided:

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

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

653 (i) would be a felony if committed by an adult;

654 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

655 (iii) was committed with a weapon; and

656 (c) the court retains jurisdiction over the minor under conditions set by the court and
657 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

658 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
659 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
660 designated employees of the court or, if the minor is in the legal custody of the Division of
661 Youth Corrections, then by designated employees of the division under Subsection
662 53-10-404(5)(b).

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

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

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

670 Section 9. Section **78-3a-118 (Effective 07/01/04)** is amended to read:

671 **78-3a-118 (Effective 07/01/04). Adjudication of jurisdiction of juvenile court --**
672 **Disposition of cases -- Enumeration of possible court orders -- Considerations of court --**
673 **Obtaining DNA sample.**

674 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the
675 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
676 jurisdiction over the minor. However, in cases within the provisions of Subsection
677 78-3a-104(1), findings of fact are not necessary.

678 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of

679 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
680 to the school superintendent of the district in which the minor resides or attends school. Notice
681 shall be made to the district superintendent within three days of the adjudication and shall
682 include:

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

684 (ii) if available, if the victim:

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

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

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

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

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

693 (A) his parent or guardian;

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

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

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

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

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

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

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

709 (c) (i) The court may:

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

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

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

717 (iii) (A) Minors who are committed to the custody of the Division of Child and Family
718 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,
719 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title
720 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

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

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

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

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

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

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

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

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

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

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

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

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

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

762 (C) If a minor has been returned to this state under the Interstate Compact on Juveniles,
763 the court may order the minor to make restitution for costs expended by any governmental
764 entity for the return.

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

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

770 (ii) Consistent with the order of the court, the probation officer may permit the minor
771 found to be within the jurisdiction of the court to participate in a program of work restitution or

772 compensatory service in lieu of paying part or all of the fine imposed by the court.

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

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

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

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

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

788 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
789 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court
790 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
791 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory
792 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
793 approved substance abuse prevention or treatment program may be credited by the court as
794 compensatory service hours.

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

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

801 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
802 private agency or institution, the court shall give primary consideration to the welfare of the

803 minor. When practicable, the court may take into consideration the religious preferences of the
804 minor and of the minor's parents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

857 (i) would be a felony if committed by an adult;

858 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

859 (iii) was committed with a weapon; and

860 (c) the court retains jurisdiction over the minor under conditions set by the court and
861 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

862 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
863 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
864 designated employees of the court or, if the minor is in the legal custody of the Division of

865 Juvenile Justice Services, then by designated employees of the division under Subsection
866 53-10-404(5)(b).

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

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

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

874 Section 10. Section **78-3a-503 (Superseded 07/01/04)** is amended to read:

875 **78-3a-503 (Superseded 07/01/04). Citation procedure -- Citation -- Offenses --**
876 **Time limits -- Failure to appear.**

877 (1) As used in this section, "citation" means an abbreviated referral and is sufficient to
878 invoke the jurisdiction of the court in lieu of a petition.

879 (2) A citation shall be submitted to the court within five days of its issuance.

880 (3) Each copy of the citation shall contain:

881 (a) the name and address of the juvenile court before which the minor is to appear;

882 (b) the name of the minor cited;

883 (c) the statute or local ordinance that is alleged to have been violated;

884 (d) a brief description of the offense charged;

885 (e) the date, time, and location at which the offense is alleged to have occurred;

886 (f) the date the citation was issued;

887 (g) the name and badge or identification number of the peace officer or public official
888 who issued the citation;

889 (h) the name of the arresting person if an arrest was made by a private party and the
890 citation was issued in lieu of taking the arrested minor into custody as provided in Section
891 78-3a-113;

892 (i) the date and time when the minor is to appear, or a statement that the minor and
893 parent or legal guardian are to appear when notified by the juvenile court; and

894 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to
895 appear at the juvenile court as designated on the citation.

896 (4) Each copy of the citation shall contain space for the following information to be
897 entered if known:

898 (a) the minor's address;

899 (b) the minor's date of birth;

900 (c) the name and address of the minor's custodial parent or legal guardian, if different
901 from the minor; and

902 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that
903 this information shall be removed from the documents the minor receives.

904 (5) A citation received by the court beyond the time designated in Subsection (2) shall
905 include a written explanation for the delay.

906 (6) The following offenses may be sent to the juvenile court as a citation:

907 (a) violations of fish and game laws;

908 (b) violations of boating laws;

909 (c) violations of curfew laws;

910 (d) any class B misdemeanor or less traffic violations where the person is under the age
911 of 16;

912 (e) any class B or class C misdemeanor or infraction;

913 (f) any other infraction or misdemeanor as designated by general order of the Board of
914 Juvenile Court Judges; and

915 (g) violations of Section 76-10-105 subject to the jurisdiction of the Juvenile Court.

916 (7) A preliminary inquiry is not required unless requested by the court.

917 (8) The provisions of Subsection (5) may not apply to a runaway, ungovernable, or
918 habitually truant minor.

919 (9) In the case of Section 76-10-105 violations committed on school property when a
920 citation is issued under this section, the peace officer, public official, or compliance officer
921 shall issue one copy to the minor cited, provide the parent or legal guardian with a copy, and
922 file a duplicate with the juvenile court specified in the citation within five days.

923 (10) (a) A minor receiving a citation described in this section shall appear at the
924 juvenile court designated in the citation on the time and date specified in the citation or when
925 notified by the juvenile court.

926 (b) A citation may not require a minor to appear sooner than five days following its

927 issuance.

928 (11) A minor who receives a citation and willfully fails to appear before the juvenile
929 court pursuant to a citation is subject to arrest and may be found in contempt of court. The
930 court may proceed against the minor as provided in Section 78-3a-901 regardless of the
931 disposition of the offense upon which the minor was originally cited.

932 (12) When a citation is issued under this section, bail may be posted and forfeited
933 under Subsection 78-3a-114~~(10)~~(12) with the consent of the court and parent or legal
934 guardian of the minor cited.

935 Section 11. **Effective date.**

936 If approved by two-thirds of all the members elected to each house, this bill takes effect
937 upon approval by the governor, or the day following the constitutional time limit of Utah
938 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
939 the date of veto override, except that the amendments to Sections 78-3a-113 (Effective
940 07/01/04), 78-3a-114 (Effective 07/01/04), and 78-3a-118 (Effective 07/01/04) take effect on
941 July 1, 2004.

Legislative Review Note
as of 2-5-04 12:30 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0135

Notification of School District of Violent Offense by a Student

11-Feb-04

11:00 AM

State Impact

Provisions of this bill may be handled within existing resources.

Individual and Business Impact

No Fiscal Impact

Office of the Legislative Fiscal Analyst