

1 **JUVENILE JUSTICE RECODIFICATION**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Douglas C. Aagard**

5

6 **LONG TITLE**

7 **General Description:**

8 This bill recodifies Title 62A, Chapter 7, Youth Corrections, to reflect the duties and
9 functions of the Division of Juvenile Justice Services.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ reorganizes, by amendments and by repeal and reenactment, provisions of the
13 chapter into parts within the chapter that set forth the division's functions and duties
14 in an accessible order;
- 15 ▶ clarifies functions of the division and of the Youth Parole Authority;
- 16 ▶ clarifies that the criminal offense of damaging a jail or other confinement facility
17 applies also to juvenile detention facilities; and
- 18 ▶ makes technical corrections and amends cross references as required by the
19 reordering of the chapter provisions and also makes stylistic corrections.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides an immediate effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **62A-7-101**, as last amended by Chapter 171, Laws of Utah 2003

27 **62A-7-104**, as last amended by Chapters 140 and 281, Laws of Utah 2002



- 28 **62A-7-201**, as last amended by Chapter 171, Laws of Utah 2003
- 29 **62A-7-202**, as last amended by Chapter 200, Laws of Utah 1997
- 30 **62A-7-203**, as last amended by Chapter 36, Laws of Utah 1996
- 31 **76-8-306**, as last amended by Chapters 140 and 240, Laws of Utah 2004
- 32 **76-8-418**, as last amended by Chapter 66, Laws of Utah 1996
- 33 **77-37-3**, as last amended by Chapter 35, Laws of Utah 2002
- 34 **78-3a-113**, as last amended by Chapters 102 and 267, Laws of Utah 2004

35 ENACTS:

- 36 **62A-7-401.5**, Utah Code Annotated 1953
- 37 **62A-7-402**, Utah Code Annotated 1953
- 38 **62A-7-403**, Utah Code Annotated 1953
- 39 **62A-7-404**, Utah Code Annotated 1953
- 40 **62A-7-501**, Utah Code Annotated 1953
- 41 **62A-7-502**, Utah Code Annotated 1953
- 42 **62A-7-503**, Utah Code Annotated 1953
- 43 **62A-7-504**, Utah Code Annotated 1953
- 44 **62A-7-505**, Utah Code Annotated 1953
- 45 **62A-7-506**, Utah Code Annotated 1953
- 46 **62A-7-507**, Utah Code Annotated 1953
- 47 **62A-7-601**, Utah Code Annotated 1953
- 48 **62A-7-701**, Utah Code Annotated 1953
- 49 **62A-7-702**, Utah Code Annotated 1953

50 REPEALS AND REENACTS:

- 51 **62A-7-105**, as last amended by Chapter 4, Laws of Utah 1993, Second Special Session
- 52 **62A-7-106**, as last amended by Chapters 240 and 240, Laws of Utah 2004
- 53 **62A-7-107**, as enacted by Chapter 1, Laws of Utah 1988
- 54 **62A-7-108**, as enacted by Chapter 1, Laws of Utah 1988
- 55 **62A-7-109**, as last amended by Chapter 176, Laws of Utah 2002
- 56 **62A-7-110**, as enacted by Chapter 1, Laws of Utah 1988
- 57 **62A-7-111**, as enacted by Chapter 1, Laws of Utah 1988

58 REPEALS:

59 **62A-7-204**, as enacted by Chapter 53, Laws of Utah 1991

60 **62A-7-205**, as enacted by Chapter 267, Laws of Utah 1992

61

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

63 Section 1. Section **62A-7-101** is amended to read:

64 **Part 1. Division of Juvenile Justice Services - Functions and Duties**

65 **62A-7-101. Definitions.**

66 As used in this chapter:

67 ~~[(1) "Alternatives to secure detention" means a nonsecure, nonresidential, or residential~~
 68 ~~program designated to provide intensive supervision in the community, rehabilitation services,~~
 69 ~~or work programs for youth who are diverted from detention. Designated alternatives include~~
 70 ~~home detention, day/night reporting centers, electronic monitoring, and contempt programs.]~~

71 ~~[(2)]~~ (1) "Authority" means the Youth Parole Authority, established in accordance with
 72 Section ~~[62A-7-109]~~ 62A-7-501.

73 ~~[(3)]~~ (2) "Board" means the Board of Juvenile Justice Services established in
 74 accordance with Section 62A-1-105.

75 ~~[(4)]~~ (3) "Community-based program" means a nonsecure residential or nonresidential
 76 program designated to supervise and rehabilitate youth offenders in the least restrictive setting,
 77 consistent with public safety, and designated or operated by or under contract with the division.

78 ~~[(5)]~~ (4) "Control" means the authority to detain, restrict, and supervise a youth in a
 79 manner consistent with public safety and the well being of the youth and division employees.

80 ~~[(6)]~~ (5) "Court" means the juvenile court.

81 ~~[(7)]~~ "Day/night reporting center" means a nonsecure, nonresidential or residential
 82 ~~program designated to provide supervision for youth who may otherwise be held in a more~~
 83 ~~restrictive setting.]~~

84 ~~[(8)]~~ (6) "Delinquent act" is an act which would constitute a felony or a misdemeanor if
 85 committed by an adult.

86 ~~[(9)]~~ (7) "Detention" means secure detention or home detention.

87 ~~[(10)]~~ (8) "Detention center" means a facility established in accordance with Title 62A,
 88 Chapter 7, Part 2, Detention Facilities.

89 ~~[(11)]~~ (9) "Director" means the director of the Division of Juvenile Justice Services.

90 ~~[(12)]~~ (10) "Discharge" means a written order of the ~~[division]~~ Youth Parole Authority
91 that removes a youth offender from its jurisdiction.

92 ~~[(13)]~~ (11) "Division" means the Division of Juvenile Justice Services.

93 ~~[(14)]~~ ~~"Electronic monitoring" means a method of supervision of youth in the~~
94 ~~community, in nonsecure placements, by way of electronic surveillance that provides 24-hour~~
95 ~~information and immediate reports of violations.]~~

96 ~~[(15)]~~ ~~"Guidelines" means the written statewide rules for admission to secure detention~~
97 ~~and home detention promulgated by the division in accordance with Sections 63-46a-4 and~~
98 ~~63-46a-6.]~~

99 ~~[(16)]~~ (12) "Home detention" means predispositional placement of a child in the child's
100 home or a surrogate home with the consent of the child's parent, guardian, or custodian for
101 conduct by a child who is alleged to have committed a delinquent act or postdispositional
102 placement pursuant to Subsection 78-3a-118(2)(f) or 78-3a-901(3).

103 ~~[(17)]~~ ~~"Juvenile receiving center" means a nonsecure, nonresidential program~~
104 ~~established by the division that is responsible for juveniles taken into custody by law~~
105 ~~enforcement for status offenses or delinquent acts, but who do not meet the criteria for~~
106 ~~admission to secure detention or shelter.]~~

107 ~~[(18)]~~ (13) "Observation and assessment program" means a service program operated
108 or purchased by the division, that is responsible for temporary custody of youth offenders for
109 observation.

110 ~~[(19)]~~ (14) "Parole" means a conditional release of a youth offender from residency in a
111 secure facility to live outside that facility under the supervision of the Division of Juvenile
112 Justice Services or other person designated by the division.

113 (15) "Receiving center" means a nonsecure, nonresidential program established by the
114 division or under contract with the division that is responsible for juveniles taken into custody
115 by a law enforcement officer for status offenses or delinquent acts, but who do not meet the
116 criteria for admission to secure detention or shelter.

117 ~~[(20)]~~ (16) "Rescission" means a written order of the Youth Parole Authority that
118 rescinds a parole date.

119 ~~[(21)]~~ (17) "Revocation of parole" means a written order of the Youth Parole Authority
120 that terminates parole supervision of a youth offender and directs return of the youth offender

121 to the custody of a secure facility because of a violation of the conditions of parole.

122 ~~[(22)]~~ (18) "Runaway [~~youth~~]" means a youth who willfully leaves the residence of a
123 parent or guardian without the permission of the parent or guardian.

124 ~~[(23)]~~ (19) "Secure detention" means predisposition placement in a facility operated by
125 or under contract with the division, for conduct by a child who is alleged to have committed a
126 delinquent act.

127 ~~[(24)]~~ (20) "Secure facility" means any facility operated by or under contract with the
128 division, that provides 24-hour supervision and confinement for youth offenders committed to
129 the division for custody and rehabilitation.

130 ~~[(25)]~~ (21) "Shelter" means the temporary care of children in physically unrestricted
131 facilities pending court disposition or transfer to another jurisdiction.

132 ~~[(26)]~~ (22) "Temporary custody" means control and responsibility of nonadjudicated
133 youth until the youth can be released to the parent, guardian, a responsible adult, or to an
134 appropriate agency.

135 ~~[(27)]~~ (23) "Termination" means a written order of the Youth Parole Authority that
136 terminates a youth offender from parole.

137 ~~[(28)]~~ (24) "Ungovernable" means a youth in conflict with a parent or guardian, and the
138 conflict:

139 (a) results in behavior that is beyond the control or ability of the youth, or the parent or
140 guardian, to manage effectively;

141 (b) poses a threat to the safety or well-being of the youth, the family, or others; or

142 (c) results in the situations in both Subsections ~~[(28)]~~ (24)(a) and (b).

143 ~~[(29)]~~ (25) "Work program" means a public or private service work project established
144 and administered by the division for youth offenders for the purpose of rehabilitation,
145 education, and restitution to victims.

146 ~~[(30)]~~ (26) "Youth offender" means a person 12 years of age or older, and who has not
147 reached 21 years of age, committed or admitted by the juvenile court to the custody, care, and
148 jurisdiction of the division, for confinement in a secure facility or supervision in the
149 community, following adjudication for a delinquent act which would constitute a felony or
150 misdemeanor if committed by an adult.

151 ~~[(31)]~~ (27) (a) "Youth services" means services provided in an effort to resolve family

152 conflict:

153 (i) for families in crisis when a minor is ungovernable or runaway; or

154 (ii) involving a minor and the minor's parent or guardian.

155 (b) These services include efforts to:

156 (i) resolve family conflict;

157 (ii) maintain or reunite minors with their families; and

158 (iii) divert minors from entering or escalating in the juvenile justice system;

159 (c) The services may provide:

160 (i) crisis intervention;

161 (ii) short-term shelter;

162 (iii) time out placement; and

163 (iv) family counseling.

164 Section 2. Section **62A-7-104** is amended to read:

165 **62A-7-104. Division responsibilities.**

166 [~~(1) The division:~~]

167 [~~(a) shall establish and administer youth services; and]~~

168 [~~(b) may enter into contracts with state and local governmental entities and private~~
169 ~~providers to provide the youth services.]~~

170 [(2)] (1) The division is responsible for all youth offenders committed to it by juvenile
171 courts for secure confinement or supervision and treatment in the community.

172 [(3)] (2) The division shall:

173 (a) establish and administer a continuum of community, secure, and nonsecure
174 programs for all youth offenders committed to the division; and

175 (b) establish and maintain all detention and secure facilities and set minimum standards
176 for those facilities.

177 [(4) (a) The division shall, in accordance with Title 63, Chapter 46a, Utah
178 Administrative Rulemaking Act, promulgate written statewide rules as guidelines for
179 admission to secure detention and home detention.]

180 [(b) The division shall implement those rules as guidelines and provide training
181 regarding the implementation of those guidelines to law enforcement agencies, division
182 employees, juvenile court employees, and to other affected agencies and individuals upon their

183 request.]

184 ~~[(5) The division shall establish and administer a continuum of community, secure, and~~
185 ~~nonsecure programs for all youth offenders committed to the division.]~~

186 ~~[(6) The division shall establish and administer Juvenile Receiving Centers, Juvenile~~
187 ~~Assessment Programs, and other programs to provide temporary custody, care, risk-needs~~
188 ~~assessments, evaluations, and control for nonadjudicated youth placed with the division.]~~

189 [(7)] (3) The division shall place youth offenders committed to it in the most
190 appropriate program for supervision and treatment.

191 ~~[(8) In any order committing a youth offender to the division, the juvenile court shall~~
192 ~~specify whether the youth offender is being committed for secure confinement or placement in~~
193 ~~a community-based program. The division shall place the youth offender in the most~~
194 ~~appropriate program within the category specified by the court.]~~

195 [(9)] (4) The division shall employ staff necessary to:

196 (a) supervise and control youth offenders in secure facilities or in the community;

197 (b) supervise and coordinate treatment of youth offenders committed to the division for
198 placement in community-based programs; and

199 (c) control and supervise nonadjudicated youth placed with the division for temporary
200 services in receiving centers, youth services, and other programs established by the division.

201 ~~[(10) The division shall establish observation and assessment programs necessary to~~
202 ~~serve youth offenders committed by the juvenile court for short-term observation under~~
203 ~~Subsection 78-3a-118(2)(e). Whenever possible, those programs shall be conducted in settings~~
204 ~~separate and distinct from secure facilities for youth offenders.]~~

205 [(11)] (5) Youth in the custody or temporary custody of the division are controlled or
206 detained in a manner consistent with public safety and rules promulgated by the division. In
207 the event of an unauthorized leave from a secure facility, detention center, community-based
208 program, receiving center, home, or any other designated placement, division employees have
209 the authority and duty to locate and apprehend the youth, or to initiate action with local law
210 enforcement agencies for assistance.

211 ~~[(12) The division shall establish and operate compensatory-service work programs~~
212 ~~designed to place youth offenders in public or private service work projects for the purpose of~~
213 ~~rehabilitation, education, and restitution to victims.]~~

214 ~~[(13)]~~ (6) The division ~~[may]~~ shall establish and operate compensatory-service work
215 programs for youth offenders committed to the division by the juvenile court. The
216 compensatory-service work program shall:

217 (a) provide labor to help in the operation, repair, and maintenance of public facilities,
218 parks, highways, and other programs designated by the division;

219 (b) provide educational and prevocational programs in cooperation with the State
220 Board of Education for youth offenders placed in the program; and

221 (c) provide counseling to youth offenders.

222 ~~[(14)]~~ (7) The division shall establish minimum standards for the operation of all
223 private residential and nonresidential rehabilitation facilities which provide services to
224 juveniles who have committed a delinquent act, in this state or in any other state.

225 ~~[(15)]~~ (8) In accordance with policies established by the board, the division shall
226 provide regular training for staff of secure facilities, detention staff, case management staff, and
227 staff of the community-based programs.

228 ~~[(16)]~~ (9) (a) The division is authorized to employ special function officers, as defined
229 in Section 53-13-105, to locate and apprehend ~~[absconders]~~ minors who have absconded from
230 division custody, transport minors taken into custody pursuant to division policy, investigate
231 cases, and carry out other duties as assigned by the division.

232 (b) Special function officers may be employed through contract with the Department of
233 Public Safety, any P.O.S.T. certified law enforcement agency, or directly hired by the division.

234 ~~[(17)]~~ (10) The division shall designate employees to obtain the saliva DNA specimens
235 required under Section 53-10-403. The division shall ensure that the designated employees
236 receive appropriate training and that the specimens are obtained in accordance with accepted
237 protocol.

238 Section 3. Section **62A-7-105** is repealed and reenacted to read:

239 **62A-7-105. Information supplied to division.**

240 (1) Juvenile court probation sections shall render full and complete cooperation to the
241 division in supplying the division with all pertinent information relating to youth offenders who
242 have been committed to the division.

243 (2) Information under Subsection (1) may include, but is not limited to, prior criminal
244 history, social history, psychological evaluations, and identifying information specified by the

245 division.

246 Section 4. Section **62A-7-106** is repealed and reenacted to read:

247 **62A-7-106. Annual review of programs and facilities.**

248 (1) (a) The division shall annually review all programs and facilities that provide
249 services to juveniles who have committed a delinquent act, in this state or in any other state,
250 which would constitute a felony or misdemeanor if committed by an adult, and license those
251 programs and facilities that are in compliance with standards approved by the board. The
252 division shall provide written reviews to the managers of those programs and facilities.

253 (b) Based upon policies established by the board, programs or facilities that are unable
254 or unwilling to comply with the approved standards may not be licensed.

255 (2) Any private facility or program providing services under this chapter that willfully
256 fails to comply with the standards established by the division is guilty of a class B
257 misdemeanor.

258 Section 5. Section **62A-7-107** is repealed and reenacted to read:

259 **62A-7-107. Contracts with private providers.**

260 (1) This chapter does not prohibit the division from contracting with private providers
261 or other agencies for the construction, operation, and maintenance of juvenile facilities or the
262 provision of care, treatment, and supervision of youth offenders who have been committed to
263 the care of the division.

264 (2) All programs for the care, treatment, and supervision of youth offenders committed
265 to the division shall be licensed in compliance with division standards within six months after
266 commencing operation.

267 Section 6. Section **62A-7-108** is repealed and reenacted to read:

268 **62A-7-108. Records -- Property of division.**

269 (1) All records maintained by programs that are under contract with the division to
270 provide services to youth offenders are the property of the division and shall be returned to it
271 when the youth offender is terminated from the program.

272 (2) The division shall maintain an accurate audit trail of information provided to other
273 programs or agencies regarding youth offenders under its jurisdiction.

274 Section 7. Section **62A-7-109** is repealed and reenacted to read:

275 **62A-7-109. Restitution by youth offender.**

276 (1) The division shall make reasonable efforts to ensure that restitution is made to the
277 victim of a youth offender. Restitution shall be made through the employment of youth
278 offenders in work programs. However, reimbursement to the victim of a youth offender is
279 conditional upon that youth offender's involvement in the work program.

280 (2) Restitution may be made a condition of release, placement, or parole by the
281 division. In the event of parole revocation or, where there is no court order requiring
282 restitution to the victim and the loss to the victim has been determined, the division shall
283 evaluate whether restitution is appropriate and, if so, the amount or type of restitution to which
284 the victim is entitled.

285 (3) The division shall notify the juvenile court of all restitution paid to victims through
286 the employment of youth offenders in work programs.

287 Section 8. Section **62A-7-110** is repealed and reenacted to read:

288 **62A-7-110. Juvenile Justice Services Victim Restitution Account.**

289 (1) There is created within the General Fund a nonlapsing restricted account known as
290 the "Juvenile Justice Services Victim Restitution Account," which shall be administered by the
291 division.

292 (2) The Juvenile Justice Services Victim Restitution Account shall be used exclusively
293 for establishing work programs, as defined in Section 62A-7-101.

294 Section 9. Section **62A-7-111** is repealed and reenacted to read:

295 **62A-7-111. Cost of support and maintenance of youth offender -- Responsibility.**

296 (1) On commitment of a youth offender to the division, and on recommendation of the
297 division to the juvenile court, the juvenile court may order the youth offender or his parent,
298 guardian, or custodian, to share in the costs of support and maintenance for the youth offender
299 during his term of commitment.

300 (2) After payment of collection expenses, any remaining balance collected under the
301 provisions of Subsection (1) may be deposited in the "Juvenile Justice Services Victim
302 Restitution Account" created in Section 62A-7-110 at the discretion of the director.

303 Section 10. Section **62A-7-201** is amended to read:

304 **Part 2. Detention Facilities**

305 **62A-7-201. Confinement -- Facilities -- Restrictions.**

306 (1) Children under 18 years of age, who are apprehended by any officer or brought

307 before any court for examination under any provision of state law, may not be confined in jails,
308 lockups, or cells used for [~~ordinary criminals or~~] persons 18 years of age or older who are
309 charged with crime, or in secure postadjudication correctional facilities operated by the
310 division, except as provided by specific statute and in conformance with [~~approved~~]
311 approved by the board.

312 (2) (a) Children charged by information or indictment with crimes as a serious youth
313 offender under Section 78-3a-602 or certified to stand trial as an adult pursuant to Section
314 78-3a-603 may be detained in a jail or other place of detention used for adults.

315 (b) Children detained in adult facilities under Section 78-3a-602 or 78-3a-603 prior to a
316 hearing before a magistrate, or under Subsection 78-3a-114(3), may only be held in certified
317 juvenile detention accommodations in accordance with rules promulgated by the division.
318 Those rules shall include standards for acceptable sight and sound separation from adult
319 inmates. The division certifies facilities that are in compliance with the division's standards.

320 (3) In areas of low density population, the division may, by rule, approve juvenile
321 holding accommodations within adult facilities that have acceptable sight and sound
322 separation. Those facilities shall be used only for short-term holding purposes, with a
323 maximum confinement of six hours, for children alleged to have committed an act which
324 would be a criminal offense if committed by an adult. Acceptable short-term holding purposes
325 are: identification, notification of juvenile court officials, processing, and allowance of
326 adequate time for evaluation of needs and circumstances regarding release or transfer to a
327 shelter or detention facility.

328 (4) Children who are alleged to have committed an act which would be a criminal
329 offense if committed by an adult, may be detained in holding rooms in local law enforcement
330 agency facilities for a maximum of two hours, for identification or interrogation, or while
331 awaiting release to a parent or other responsible adult. Those rooms shall be certified by the
332 division, according to the division's rules. Those rules shall include provisions for constant
333 supervision and for sight and sound separation from adult inmates.

334 (5) Willful failure to comply with any of the provisions of this section is a class B
335 misdemeanor.

336 (6) (a) The division is responsible for the custody and detention of children under 18
337 years of age who require detention care prior to trial or examination, or while awaiting

338 assignment to a home or facility, as a dispositional placement under Subsection
339 78-3a-118(2)(f)(i) or 78-3a-901(3)(a), and of youth offenders under Subsection [~~62A-7-112~~]
340 62A-7-504(8).

341 (b) The division shall provide standards for custody or detention under Subsections
342 (2)(b), (3), and (4), and shall determine and set standards for conditions of care and
343 confinement of children in detention facilities.

344 (c) All other custody or detention shall be provided by the division, or by contract with
345 a public or private agency willing to undertake temporary custody or detention upon agreed
346 terms, or in suitable premises distinct and separate from the general jails, lockups, or cells used
347 in law enforcement and corrections systems.

348 [~~(7) A child who willfully and intentionally damages a jail or other place of~~
349 ~~confinement as provided in Section 76-8-418, including a detention, shelter, or secure~~
350 ~~confinement facility, operated by the Division of Juvenile Justice Services, commits an act~~
351 ~~which would be a third-degree felony if committed by an adult.]~~

352 Section 11. Section **62A-7-202** is amended to read:

353 **62A-7-202. Location of detention facilities and services.**

354 (1) The division shall provide detention facilities and services in each county, or group
355 of counties, as the population demands, in accordance with the provisions of this chapter.

356 (2) The division, through its detention centers, is responsible for development,
357 implementation, and administration of home detention services, and shall establish criteria for
358 placement on home detention.

359 (3) The division shall make rules, in accordance with Title 63, Chapter 46a, Utah
360 Administrative Rulemaking Act, establishing standards for admission to secure detention and
361 home detention programs.

362 (4) The division shall provide training regarding implementation of the rules to law
363 enforcement agencies, division employees, juvenile court employees, and other affected
364 agencies and individuals upon their request.

365 Section 12. Section **62A-7-203** is amended to read:

366 **62A-7-203. Detention -- Physical facilities.**

367 [~~(1) The division, with the aid of the Division of Facilities Construction and~~
368 ~~Management, shall provide suitable physical facilities to meet the detention requirements of~~

369 ~~any county or group of counties. The division may use existing state-owned properties for~~
370 ~~detention purposes.]~~

371 ~~[(2) Notwithstanding Subsection (1), the]~~

372 The division may issue requests for proposals to allow for the private construction of
373 facilities suitable to meet the detention requirements of any county or group of counties,
374 subject to approval by the governor. The governor shall furnish an analysis of the benefits of
375 the proposals received to the Capital Facilities and Administrative Services Appropriations
376 Subcommittee for its review.

377 Section 13. Section **62A-7-401.5** is enacted to read:

378 **Part 4. Secure Facilities**

379 **62A-7-401.5. Secure facilities.**

380 (1) The division shall maintain and operate secure facilities for the custody and
381 rehabilitation of youth offenders who pose a danger of serious bodily harm to others, who
382 cannot be controlled in a less secure setting, or who have engaged in a pattern of conduct
383 characterized by persistent and serious criminal offenses which, as demonstrated through the
384 use of other alternatives, cannot be controlled in a less secure setting.

385 (2) The director shall appoint an administrator for each secure facility. An
386 administrator of a secure facility shall have experience in social work, law, criminology,
387 corrections, or a related field, and also in administration.

388 (3) (a) The division, in cooperation with the State Board of Education, shall provide
389 instruction, or make instruction available, to youth offenders in secure facilities. The
390 instruction shall be appropriate to the age, needs, and range of abilities of the youth offender.

391 (b) An assessment shall be made of each youth offender by the appropriate secure
392 facility to determine the offender's abilities, possible learning disabilities, interests, attitudes,
393 and other attributes related to appropriate educational programs.

394 (c) Prevocational education shall be provided to acquaint youth offenders with
395 vocations and vocational requirements and opportunities.

396 (4) The division shall place youth offenders who have been committed to the division
397 for secure confinement and rehabilitation in a secure facility, operated by the division or by a
398 private entity, that is appropriate to ensure that humane care and rehabilitation opportunities are
399 afforded to the youth offender.

400 (5) The division shall adopt, subject to approval by the board, standards, policies, and
401 procedures for the regulation and operation of secure facilities, consistent with state and federal
402 law.

403 Section 14. Section **62A-7-402** is enacted to read:

404 **62A-7-402. Aiding or concealing youth offender -- Trespass -- Criminal penalties.**

405 (1) A person who commits any of the following offenses is guilty of a class A
406 misdemeanor:

407 (a) entering, or attempting to enter, a building or enclosure appropriated to the use of
408 youth offenders, without permission;

409 (b) entering any premises belonging to a secure facility and committing or attempting
410 to commit a trespass or damage on those premises; or

411 (c) willfully annoying or disturbing the peace and quiet of a secure facility or of a youth
412 offender in a secure facility.

413 (2) A person is guilty of a third degree felony who:

414 (a) knowingly harbors or conceals a youth offender who has:

415 (i) escaped from a secure facility; or

416 (ii) absconded from:

417 (A) a facility or supervision; or

418 (B) supervision of the Division of Juvenile Justice Services; or

419 (b) willfully aided or assisted a youth offender who has been lawfully committed to a
420 secure facility in escaping or attempting to escape from that facility.

421 (3) As used in this section:

422 (a) a youth offender absconds from a facility when he:

423 (i) leaves the facility without permission; or

424 (ii) fails to return at a prescribed time.

425 (b) A youth offender absconds from supervision when he:

426 (i) changes his residence from the residence that he reported to the division as his

427 correct address to another residence, without notifying the Division of Juvenile Justice Services
428 or obtaining permission; or

429 (ii) for the purpose of avoiding supervision:

430 (A) hides at a different location from his reported residence; or

431 (B) leaves his reported residence.

432 Section 15. Section **62A-7-403** is enacted to read:

433 **62A-7-403. Care of pregnant youth offender.**

434 (1) When a youth offender in a secure facility is pregnant, the division shall ensure that
435 adequate prenatal and postnatal care is provided, and shall place her in an accredited hospital
436 before delivery. As soon as her condition after delivery will permit, the youth offender may be
437 returned to the secure facility.

438 (2) If the division has concern regarding the youth offender's fitness to raise her child,
439 the division shall petition the juvenile court to hold a custody hearing.

440 Section 16. Section **62A-7-404** is enacted to read:

441 **62A-7-404. Commitment -- Termination and review.**

442 (1) A youth offender who has been committed to a secure facility shall remain until the
443 offender reaches the age of 21, is paroled, or is discharged.

444 (2) A youth offender who has been committed to a secure facility shall appear before
445 the authority within 90 days after commitment, for review of treatment plans and establishment
446 of parole release guidelines.

447 Section 17. Section **62A-7-501** is enacted to read:

448 **Part 5. Youth Parole Authority**

449 **62A-7-501. Youth Parole Authority -- Expenses -- Responsibilities -- Procedures.**

450 (1) There is created within the division a Youth Parole Authority.

451 (2) (a) The authority is composed of ten part-time members and five pro tempore
452 members who are residents of this state. No more than three pro tempore members may serve
453 on the authority at any one time.

454 (b) Throughout this section, the term "member" refers to both part-time and pro
455 tempore members of the Youth Parole Authority.

456 (3) (a) Except as required by Subsection (3)(b), members shall be appointed to
457 four-year terms by the governor with the consent of the Senate.

458 (b) The governor shall, at the time of appointment or reappointment, adjust the length
459 of terms to ensure that the terms of authority members are staggered so that approximately half
460 of the authority is appointed every two years.

461 (4) Each member shall have training or experience in social work, law, juvenile or

462 criminal justice, or related behavioral sciences.

463 (5) When a vacancy occurs in the membership for any reason, the replacement member
464 shall be appointed for the unexpired term.

465 (6) During the tenure of his appointment, a member may not:

466 (a) be an employee of the department, other than in his capacity as a member of the
467 authority;

468 (b) hold any public office;

469 (c) hold any position in the state's juvenile justice system; or

470 (d) be an employee, officer, advisor, policy board member, or subcontractor of any
471 juvenile justice agency or its contractor.

472 (7) In extraordinary circumstances or when a regular member is absent or otherwise
473 unavailable, the chair may assign a pro tempore member to act in the absent board member's
474 place.

475 (8) (a) Members shall receive no compensation or benefits for their services, but may
476 receive per diem and expenses incurred in the performance of the member's official duties at
477 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

478 (b) Members may decline to receive per diem and expenses for their service.

479 (9) The authority shall determine appropriate parole dates for youth offenders, based on
480 guidelines established by the board. The board shall review and update policy guidelines
481 annually.

482 (10) Youth offenders may be paroled to their own homes, to a residential
483 community-based program, to a nonresidential community-based treatment program, to an
484 approved independent living setting, or to other appropriate residences, but shall remain on
485 parole until parole is terminated by the authority.

486 (11) The division's case management staff shall implement parole release plans and
487 shall supervise youth offenders while on parole.

488 (12) The division shall permit the authority to have reasonable access to youth
489 offenders in secure facilities and shall furnish all pertinent data requested by the authority in
490 matters of parole, revocation, and termination.

491 Section 18. Section **62A-7-502** is enacted to read:

492 **62A-7-502. Youth Parole Authority -- Parole procedures.**

493 (1) The authority has responsibility for parole release, rescission, revocation, and
494 termination for youth offenders who have been committed to the division for secure
495 confinement. The authority shall determine when and under what conditions youth offenders
496 who have been committed to a secure facility are eligible for parole.

497 (2) Each youth offender shall be served with notice of parole hearings, and has the
498 right to personally appear before the authority for parole consideration.

499 (3) Orders and decisions of the authority shall be in writing, and each youth offender
500 shall be provided written notice of the authority's reasoning and decision in his case.

501 (4) The authority shall establish policies and procedures, subject to board approval, for
502 the authority's governance, meetings, hearings, the conduct of proceedings before it, the parole
503 of youth offenders, and the general conditions under which parole may be granted, rescinded,
504 revoked, modified, and terminated.

505 Section 19. Section **62A-7-503** is enacted to read:

506 **62A-7-503. Administrative officer of Youth Parole Authority.**

507 The director shall appoint an administrative officer of the authority, who is responsible
508 for the day-to-day operations of the authority.

509 Section 20. Section **62A-7-504** is enacted to read:

510 **62A-7-504. Parole revocation -- Hearing -- Procedures.**

511 (1) The authority may revoke the parole of a youth offender after a hearing and upon
512 determination that there has been a violation of law or of a condition of parole by the youth
513 offender which warrants his return to a secure facility. The parole revocation hearing shall be
514 held at a secure facility.

515 (2) Before returning a youth offender to a secure facility for a parole revocation
516 hearing, the division shall provide a prerevocation hearing within the vicinity of the alleged
517 violation, to determine whether there is probable cause to believe that the youth offender
518 violated the conditions of his parole. Upon a finding of probable cause, the youth offender may
519 be remanded to a secure facility, pending a revocation hearing.

520 (3) A paroled youth offender is entitled to legal representation at the parole revocation
521 hearing, and if the youth offender or his family has requested but cannot afford legal
522 representation, the authority shall appoint legal counsel.

523 (4) The authority and the administrative officer have power to issue subpoenas, compel

524 attendance of witnesses, compel production of books, papers, and other documents, administer
525 oaths, and take testimony under oath for the purposes of conducting the hearings.

526 (5) (a) A youth offender shall receive timely advance notice of the date, time, place,
527 and reason for the hearing, and has the right to appear at the hearing.

528 (b) The authority shall provide the youth offender an opportunity to be heard, to
529 present witnesses and evidence, and to confront and cross-examine adverse witnesses, unless
530 there is good cause for disallowing that confrontation.

531 (6) Decisions in parole revocation hearings shall be reached by a majority vote of the
532 present members of the authority.

533 (7) The administrative officer shall maintain summary records of all hearings and
534 provide written notice to the youth offender of the decision and reason for the decision.

535 (8) The authority may issue a warrant to order any peace officer or division employee
536 to take into custody a youth offender alleged to be in violation of parole conditions. The
537 division may issue a warrant to any peace officer or division employee to retake a youth
538 offender who has escaped from a secure facility. Based upon that warrant, a youth offender
539 may be held in a local detention facility for no longer than 48 hours, excluding weekends and
540 legal holidays, to allow time for a prerevocation hearing of the alleged parole violation, or in
541 the case of an escapee, arrangement for transportation to the secure facility.

542 Section 21. Section **62A-7-505** is enacted to read:

543 **62A-7-505. Conditions of parole.**

544 Conditions of parole shall be specified in writing and agreed to by the youth offender.
545 That agreement shall be evidenced by the signature of the youth offender, affixed to the parole
546 document.

547 Section 22. Section **62A-7-506** is enacted to read:

548 **62A-7-506. Discharge of youth offender.**

549 (1) A youth offender may be discharged from the jurisdiction of the division at any
550 time, by written order of the Youth Parole Authority, upon a finding that no further purpose
551 would be served by secure confinement or supervision in a community setting.

552 (2) Discharge of a youth offender shall be in accordance with policies approved by the
553 board.

554 (3) Discharge of a youth offender is a complete release of all penalties incurred by

555 adjudication of the offense for which the youth offender was committed.

556 Section 23. Section **62A-7-507** is enacted to read:

557 **62A-7-507. Appeal regarding parole release or revocation.**

558 A youth offender, or the parent or legal guardian of a youth offender, may appeal any
559 decision of the authority regarding parole release, rescission, or revocation, to the executive
560 director or his designee. The executive director or his designee may set aside or remand the
561 authority's decision only if it is arbitrary, capricious, an abuse of discretion, or contrary to law.

562 Section 24. Section **62A-7-601** is enacted to read:

563 **Part 6. Prevention and Early Intervention**

564 **62A-7-601. Youth services for prevention and early intervention -- Director of**
565 **programs -- Program standards.**

566 (1) The division shall establish and operate prevention and early intervention youth
567 services programs.

568 (2) The division shall adopt with the approval of the board statewide policies and
569 procedures, including minimum standards for the organization and operation of youth services
570 programs.

571 (3) The division shall establish housing, programs, and procedures to ensure that youth
572 who are receiving services under this section and who are not in the custody of the division are
573 served separately from youth who are in custody of the division.

574 (4) The division may enter into contracts with state and local governmental entities and
575 private providers to provide the youth services.

576 (5) The division shall establish and administer juvenile receiving centers and other
577 programs to provide temporary custody, care, risk-needs assessments, evaluations, and control
578 for nonadjudicated youth placed with the division.

579 Section 25. Section **62A-7-701** is enacted to read:

580 **Part 7. Community-Based Programs**

581 **62A-7-701. Community-based programs.**

582 (1) The division shall operate residential and nonresidential community-based
583 programs to provide care, treatment, and supervision for paroled youth offenders and for youth
584 offenders committed to the division by juvenile courts.

585 (2) The division shall adopt, with the approval of the board, minimum standards for the

586 organization and operation of community-based corrections programs for youth offenders.

587 (3) The division shall place youth offenders committed to it for community-based
588 programs in the most appropriate program based upon the division's evaluation of the youth
589 offender's needs and the division's available resources.

590 Section 26. Section **62A-7-702** is enacted to read:

591 **62A-7-702. Case management staff.**

592 (1) The division shall provide a sufficient number of case management staff members
593 to provide care, treatment, and supervision for youth offenders on parole and for youth
594 offenders committed to the division by the juvenile courts for community-based programs.

595 (2) (a) Case management staff shall develop treatment programs for each youth
596 offender in the community, provide appropriate services, and monitor individual progress.

597 (b) Progress reports shall be filed every three months with the juvenile court for each
598 youth offender committed to the division for community-based programs and with the authority
599 for each parolee.

600 (c) The authority, in the case of parolees, or the juvenile court, in the case of youth
601 committed to the division for placement in community programs, shall be immediately
602 notified, in writing, of any violation of law or of conditions of parole or placement.

603 (3) Case management staff shall:

604 (a) conduct investigations and make reports requested by the courts to aid them in
605 determining appropriate case dispositions; and

606 (b) conduct investigations and make reports requested by the authority to aid it in
607 making appropriate dispositions in cases of parole, revocation, and termination.

608 Section 27. Section **76-8-306** is amended to read:

609 **76-8-306. Obstruction of justice -- Elements -- Penalties -- Exceptions.**

610 (1) An actor commits obstruction of justice if the actor, with intent to hinder, delay, or
611 prevent the investigation, apprehension, prosecution, conviction, or punishment of any person
612 regarding conduct that constitutes a criminal offense:

613 (a) provides any person with a weapon;

614 (b) prevents by force, intimidation, or deception, any person from performing any act
615 that might aid in the discovery, apprehension, prosecution, conviction, or punishment of any
616 person;

- 617 (c) alters, destroys, conceals, or removes any item or other thing;
- 618 (d) makes, presents, or uses any item or thing known by the actor to be false;
- 619 (e) harbors or conceals a person;
- 620 (f) provides a person with transportation, disguise, or other means of avoiding
621 discovery or apprehension;
- 622 (g) warns any person of impending discovery or apprehension;
- 623 (h) conceals information that is not privileged and that concerns the offense, after a
624 judge or magistrate has ordered the actor to provide the information; or
- 625 (i) provides false information regarding a suspect, a witness, the conduct constituting
626 an offense, or any other material aspect of the investigation.
- 627 (2) (a) As used in this section, "conduct that constitutes a criminal offense" means
628 conduct that would be punishable as a crime and is separate from a violation of this section,
629 and includes:
- 630 (i) any violation of a criminal statute or ordinance of this state, its political
631 subdivisions, any other state, or any district, possession, or territory of the United States; and
- 632 (ii) conduct committed by a juvenile which would be a crime if committed by an adult.
- 633 (b) A violation of a criminal statute that is committed in another state, or any district,
634 possession, or territory of the United States, is a:
- 635 (i) capital felony if the penalty provided includes death or life imprisonment without
636 parole;
- 637 (ii) a first degree felony if the penalty provided includes life imprisonment with parole
638 or a maximum term of imprisonment exceeding 15 years;
- 639 (iii) a second degree felony if the penalty provided exceeds five years;
- 640 (iv) a third degree felony if the penalty provided includes imprisonment for any period
641 exceeding one year; and
- 642 (v) a misdemeanor if the penalty provided includes imprisonment for any period of one
643 year or less.
- 644 (3) The penalties for obstruction of justice are:
- 645 (a) a second degree felony if the conduct which constitutes an offense would be a
646 capital felony or first degree felony;
- 647 (b) a third degree felony if:

648 (i) the conduct that constitutes an offense would be a second or third degree felony and
649 the actor violates Subsection (1)(b), (c), (d), (e), or (f);

650 (ii) the conduct that constitutes an offense would be any offense other than a capital or
651 first degree felony and the actor violates Subsection (1)(a); or

652 (iii) the obstruction of justice is presented or committed before a court of law; or

653 (c) a class A misdemeanor for any violation of this section that is not enumerated under
654 Subsection (3)(a) or (b).

655 (4) It is not a defense that the actor was unaware of the level of penalty for the conduct
656 constituting an offense.

657 (5) Subsection (1)(e) does not apply to harboring a youth offender, which is governed
658 by Section [62A-7-106] 62A-7-402.

659 (6) Subsection (1)(b) does not apply to:

660 (a) tampering with a juror, which is governed by Section 76-8-508.5;

661 (b) influencing, impeding, or retaliating against a judge or member of the Board of
662 Pardons and Parole, which is governed by Section 76-8-316;

663 (c) tampering with a witness or soliciting or receiving a bribe, which is governed by
664 Section 76-8-508;

665 (d) retaliation against a witness, victim, or informant, which is governed by Section
666 76-8-508.3; or

667 (e) extortion or bribery to dismiss a criminal proceeding, which is governed by Section
668 76-8-509.

669 (7) Notwithstanding Subsection (1), (2), or (3), an actor commits a third degree felony
670 if the actor harbors or conceals an offender who has escaped from official custody as defined in
671 Section 76-8-309.

672 Section 28. Section **76-8-418** is amended to read:

673 **76-8-418. Damaging jails.**

674 A person who willfully and intentionally breaks down, pulls down, destroys, floods, or
675 otherwise damages any public jail or other place of confinement, including a detention, shelter,
676 or secure confinement facility for juveniles, is guilty of a felony of the third degree.

677 Section 29. Section **77-37-3** is amended to read:

678 **77-37-3. Bill of Rights.**

679 (1) The bill of rights for victims and witnesses is:

680 (a) Victims and witnesses have a right to be informed as to the level of protection from
681 intimidation and harm available to them, and from what sources, as they participate in criminal
682 justice proceedings as designated by Section 76-8-508, regarding witness tampering, and
683 Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and
684 corrections personnel have the duty to timely provide this information in a form that is useful
685 to the victim.

686 (b) Victims and witnesses, including children and their guardians, have a right to be
687 informed and assisted as to their role in the criminal justice process. All criminal justice
688 agencies have the duty to provide this information and assistance.

689 (c) Victims and witnesses have a right to clear explanations regarding relevant legal
690 proceedings; these explanations shall be appropriate to the age of child victims and witnesses.
691 All criminal justice agencies have the duty to provide these explanations.

692 (d) Victims and witnesses should have a secure waiting area that does not require them
693 to be in close proximity to defendants or the family and friends of defendants. Agencies
694 controlling facilities shall, whenever possible, provide this area.

695 (e) Victims are entitled to restitution or reparations, including medical costs, as
696 provided in Title 63, Chapter 25a, Criminal Justice and Substance Abuse, and Sections
697 [~~62A-7-122~~] 62A-7-109, 77-38a-302, and 77-27-6. State and local government agencies that
698 serve victims have the duty to have a functional knowledge of the procedures established by the
699 Utah Crime Victims' Reparations Board and to inform victims of these procedures.

700 (f) Victims and witnesses have a right to have any personal property returned as
701 provided in Sections 77-24-1 through 77-24-5. Criminal justice agencies shall expeditiously
702 return the property when it is no longer needed for court law enforcement or prosecution
703 purposes.

704 (g) Victims and witnesses have the right to reasonable employer intercession services,
705 including pursuing employer cooperation in minimizing employees' loss of pay and other
706 benefits resulting from their participation in the criminal justice process. Officers of the court
707 shall provide these services and shall consider victims' and witnesses' schedules so that
708 activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may
709 request that the responsible agency intercede with employers or other parties.

710 (h) Victims and witnesses, particularly children, should have a speedy disposition of
711 the entire criminal justice process. All involved public agencies shall establish policies and
712 procedures to encourage speedy disposition of criminal cases.

713 (i) Victims and witnesses have the right to timely notice of judicial proceedings they
714 are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies
715 have the duty to provide these notifications. Defense counsel and others have the duty to
716 provide timely notice to prosecution of any continuances or other changes that may be required.

717 (j) Victims of sexual offenses have a right to be informed of their right to request
718 voluntary testing for themselves for HIV infection as provided in Section 76-5-503 and to
719 request mandatory testing of the convicted sexual offender for HIV infection as provided in
720 Section 76-5-502. The law enforcement office where the sexual offense is reported shall have
721 the responsibility to inform victims of this right.

722 (2) Informational rights of the victim under this chapter are based upon the victim
723 providing his current address and telephone number to the criminal justice agencies involved in
724 the case.

725 Section 30. Section **78-3a-113** is amended to read:

726 **78-3a-113. Minor taken into custody by peace officer, private citizen, or**
727 **probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds**
728 **for peace officer to take adult into custody.**

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

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

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

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

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

739 (e) there is reason to believe the minor is subject to the state's compulsory education
740 law and that the minor is absent from school without legitimate or valid excuse, subject to

741 Section 53A-11-105.

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

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

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

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

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

758 (i) The notice shall disclose only:

759 (A) the name of the minor;

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

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

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

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

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

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

768 (c) Employees of a governmental agency are immune from any criminal liability for
769 providing or failing to provide the information required by this section unless the person acts or
770 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

771 (d) Before the minor is released, the parent or other person to whom the minor is

772 released shall be required to sign a written promise on forms supplied by the court to bring the
773 minor to the court at a time set or to be set by the court.

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

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

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

784 (b) (i) The designated youth corrections facility staff person shall immediately review
785 the form and determine, based on the guidelines for detention admissions established by the
786 Division of Juvenile Justice Services under [~~Sections 62A-7-104 and 62A-7-205~~] Section
787 62A-7-202, whether to admit the minor to secure detention, admit the minor to home detention,
788 place the minor in a placement other than detention, or return the minor home upon written
789 promise to bring the minor to the court at a time set, or without restriction.

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

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

798 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as
799 provided in Section 63-30d-202; and

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

802 (c) A minor may not be admitted to detention unless the minor is detainable based on

803 the guidelines or the minor has been brought to detention pursuant to a judicial order or
804 division warrant pursuant to [~~Subsection 62A-7-112(8)~~] Section 62A-7-504.

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

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

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

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

819 **Section 31. Repealer.**

820 This bill repeals:

821 **Section 62A-7-204, Detention -- Home detention services.**

822 **Section 62A-7-205, Detention -- Admission guidelines.**

823 **Section 32. Effective date.**

824 If approved by two-thirds of all the members elected to each house, this bill takes effect
825 upon approval by the governor, or the day following the constitutional time limit of Utah
826 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
827 the date of veto override.

Legislative Review Note
as of 12-7-04 8:42 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-08-04 3:21 PM

The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

Fiscal Note
Bill Number HB0028

Juvenile Justice Recodification

15-Jan-05

5:17 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst