

Representative Douglas C. Aagard proposes the following substitute bill:

JUVENILE JUSTICE RECODIFICATION AND REVISIONS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Douglas C. Aagard

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

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 RENUMBERS AND AMENDS:
- 36 **62A-7-105.5**, (Renumbered from 62A-7-118, as enacted by Chapter 1, Laws of Utah
- 37 1988)
- 38 **62A-7-106.5**, (Renumbered from 62A-7-119, as enacted by Chapter 1, Laws of Utah
- 39 1988)
- 40 **62A-7-107.5**, (Renumbered from 62A-7-120, as last amended by Chapter 4, Laws of
- 41 Utah 1993, Second Special Session)
- 42 **62A-7-108.5**, (Renumbered from 62A-7-121, as enacted by Chapter 1, Laws of Utah
- 43 1988)
- 44 **62A-7-109.5**, (Renumbered from 62A-7-122, as enacted by Chapter 1, Laws of Utah
- 45 1988)
- 46 **62A-7-110.5**, (Renumbered from 62A-7-123, as last amended by Chapter 171, Laws of
- 47 Utah 2003)
- 48 **62A-7-111.5**, (Renumbered from 62A-7-124, as last amended by Chapter 171, Laws of
- 49 Utah 2003)
- 50 **62A-7-401.5**, (Renumbered from 62A-7-105, as last amended by Chapter 4, Laws of
- 51 Utah 1993, Second Special Session)
- 52 **62A-7-402**, (Renumbered from 62A-7-106, as last amended by Chapters 240 and 240,
- 53 Laws of Utah 2004)
- 54 **62A-7-403**, (Renumbered from 62A-7-107, as enacted by Chapter 1, Laws of Utah
- 55 1988)
- 56 **62A-7-404**, (Renumbered from 62A-7-108, as enacted by Chapter 1, Laws of Utah

57 1988)
58 **62A-7-501**, (Renumbered from 62A-7-109, as last amended by Chapter 176, Laws of
59 Utah 2002)

60 **62A-7-502**, (Renumbered from 62A-7-110, as enacted by Chapter 1, Laws of Utah
61 1988)

62 **62A-7-503**, (Renumbered from 62A-7-111, as enacted by Chapter 1, Laws of Utah
63 1988)

64 **62A-7-504**, (Renumbered from 62A-7-112, as last amended by Chapter 267, Laws of
65 Utah 1992)

66 **62A-7-505**, (Renumbered from 62A-7-113, as enacted by Chapter 1, Laws of Utah
67 1988)

68 **62A-7-506**, (Renumbered from 62A-7-114, as enacted by Chapter 1, Laws of Utah
69 1988)

70 **62A-7-507**, (Renumbered from 62A-7-115, as enacted by Chapter 1, Laws of Utah
71 1988)

72 **62A-7-601**, (Renumbered from 62A-7-125, as enacted by Chapter 281, Laws of Utah
73 2002)

74 **62A-7-701**, (Renumbered from 62A-7-116, as last amended by Chapter 4, Laws of
75 Utah 1993, Second Special Session)

76 **62A-7-702**, (Renumbered from 62A-7-117, as last amended by Chapter 200, Laws of
77 Utah 1997)

78 REPEALS:

79 **62A-7-204**, as enacted by Chapter 53, Laws of Utah 1991

80 **62A-7-205**, as enacted by Chapter 267, Laws of Utah 1992



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

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

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

85 **62A-7-101. Definitions.**

86 As used in this chapter:

87 [~~(1) "Alternatives to secure detention" means a nonsecure, nonresidential, or residential~~

88 ~~program designated to provide intensive supervision in the community, rehabilitation services,~~
89 ~~or work programs for youth who are diverted from detention. Designated alternatives include~~
90 ~~home detention, day/night reporting centers, electronic monitoring, and contempt programs.]~~

91 [(2)] (1) "Authority" means the Youth Parole Authority, established in accordance with
92 Section ~~[62A-7-109]~~ 62A-7-501.

93 [(3)] (2) "Board" means the Board of Juvenile Justice Services established in
94 accordance with Section 62A-1-105.

95 [(4)] (3) "Community-based program" means a nonsecure residential or nonresidential
96 program designated to supervise and rehabilitate youth offenders in the least restrictive setting,
97 consistent with public safety, and designated or operated by or under contract with the division.

98 [(5)] (4) "Control" means the authority to detain, restrict, and supervise a youth in a
99 manner consistent with public safety and the well being of the youth and division employees.

100 [(6)] (5) "Court" means the juvenile court.

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

104 [(8)] (6) "Delinquent act" is an act which would constitute a felony or a misdemeanor if
105 committed by an adult.

106 [(9)] (7) "Detention" means secure detention or home detention.

107 [(10)] (8) "Detention center" means a facility established in accordance with Title 62A,
108 Chapter 7, Part 2, Detention Facilities.

109 [(11)] (9) "Director" means the director of the Division of Juvenile Justice Services.

110 [(12)] (10) "Discharge" means a written order of the ~~[division]~~ Youth Parole Authority
111 that removes a youth offender from its jurisdiction.

112 [(13)] (11) "Division" means the Division of Juvenile Justice Services.

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

116 [(15)] ~~"Guidelines" means the written statewide rules for admission to secure detention~~
117 ~~and home detention promulgated by the division in accordance with Sections 63-46a-4 and~~
118 ~~63-46a-6.]~~

119 ~~[(16)]~~ (12) "Home detention" means predispositional placement of a child in the child's
120 home or a surrogate home with the consent of the child's parent, guardian, or custodian for
121 conduct by a child who is alleged to have committed a delinquent act or postdispositional
122 placement pursuant to Subsection 78-3a-118(2)(f) or 78-3a-901(3).

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

127 ~~[(18)]~~ (13) "Observation and assessment program" means a service program operated
128 or purchased by the division, that is responsible for temporary custody of youth offenders for
129 observation.

130 ~~[(19)]~~ (14) "Parole" means a conditional release of a youth offender from residency in a
131 secure facility to live outside that facility under the supervision of the Division of Juvenile
132 Justice Services or other person designated by the division.

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

137 ~~[(20)]~~ (16) "Rescission" means a written order of the Youth Parole Authority that
138 rescinds a parole date.

139 ~~[(21)]~~ (17) "Revocation of parole" means a written order of the Youth Parole Authority
140 that terminates parole supervision of a youth offender and directs return of the youth offender
141 to the custody of a secure facility because of a violation of the conditions of parole.

142 ~~[(22)]~~ (18) "Runaway [youth]" means a youth who willfully leaves the residence of a
143 parent or guardian without the permission of the parent or guardian.

144 ~~[(23)]~~ (19) "Secure detention" means predisposition placement in a facility operated by
145 or under contract with the division, for conduct by a child who is alleged to have committed a
146 delinquent act.

147 ~~[(24)]~~ (20) "Secure facility" means any facility operated by or under contract with the
148 division, that provides 24-hour supervision and confinement for youth offenders committed to
149 the division for custody and rehabilitation.

150 [~~(25)~~] (21) "Shelter" means the temporary care of children in physically unrestricted
151 facilities pending court disposition or transfer to another jurisdiction.

152 [~~(26)~~] (22) "Temporary custody" means control and responsibility of nonadjudicated
153 youth until the youth can be released to the parent, guardian, a responsible adult, or to an
154 appropriate agency.

155 [~~(27)~~] (23) "Termination" means a written order of the Youth Parole Authority that
156 terminates a youth offender from parole.

157 [~~(28)~~] (24) "Ungovernable" means a youth in conflict with a parent or guardian, and the
158 conflict:

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

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

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

163 [~~(29)~~] (25) "Work program" means a public or private service work project established
164 and administered by the division for youth offenders for the purpose of rehabilitation,
165 education, and restitution to victims.

166 [~~(30)~~] (26) "Youth offender" means a person 12 years of age or older, and who has not
167 reached 21 years of age, committed or admitted by the juvenile court to the custody, care, and
168 jurisdiction of the division, for confinement in a secure facility or supervision in the
169 community, following adjudication for a delinquent act which would constitute a felony or
170 misdemeanor if committed by an adult.

171 [~~(31)~~] (27) (a) "Youth services" means services provided in an effort to resolve family
172 conflict:

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

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

175 (b) These services include efforts to:

176 (i) resolve family conflict;

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

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

179 (c) The services may provide:

180 (i) crisis intervention;

- 181 (ii) short-term shelter;
- 182 (iii) time out placement; and
- 183 (iv) family counseling.

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

185 **62A-7-104. Division responsibilities.**

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

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

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

190 [~~(2)~~] (1) The division is responsible for all youth offenders committed to it by juvenile
191 courts for secure confinement or supervision and treatment in the community.

192 [~~(3)~~] (2) The division shall:

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

195 (b) establish and maintain all detention and secure facilities and set minimum standards
196 for those facilities[.];

197 (c) establish and operate prevention and early intervention youth services programs for
198 nonadjudicated youth placed with the division; and

199 (d) establish observation and assessment programs necessary to serve youth offenders
200 committed by the juvenile court for short-term observation under Subsection 78-3a-118(2)(e),
201 and whenever possible, conduct the programs in settings separate and distinct from secure
202 facilities for youth offenders.

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

206 [~~(b) The division shall implement those rules as guidelines and provide training~~
207 ~~regarding the implementation of those guidelines to law enforcement agencies, division~~
208 ~~employees, juvenile court employees, and to other affected agencies and individuals upon their~~
209 ~~request.]~~

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

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

215 [(7)] (3) The division shall place youth offenders committed to it in the most
216 appropriate program for supervision and treatment.

217 [(8)] (4) In any order committing a youth offender to the division, the juvenile court
218 shall specify whether the youth offender is being committed for secure confinement or
219 placement in a community-based program. The division shall place the youth offender in the
220 most appropriate program within the category specified by the court.

221 [(9)] (5) The division shall employ staff necessary to:

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

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

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

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

231 [(11)] (6) Youth in the custody or temporary custody of the division are controlled or
232 detained in a manner consistent with public safety and rules promulgated by the division. In
233 the event of an unauthorized leave from a secure facility, detention center, community-based
234 program, receiving center, home, or any other designated placement, division employees have
235 the authority and duty to locate and apprehend the youth, or to initiate action with local law
236 enforcement agencies for assistance.

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

240 [(13)] (7) The division [may] shall establish and operate compensatory-service work
241 programs for youth offenders committed to the division by the juvenile court. The
242 compensatory-service work program shall:

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

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

247 (c) provide counseling to youth offenders.

248 ~~[(14)]~~ (8) The division shall establish minimum standards for the operation of all
249 private residential and nonresidential rehabilitation facilities which provide services to
250 juveniles who have committed a delinquent act, in this state or in any other state.

251 ~~[(15)]~~ (9) In accordance with policies established by the board, the division shall
252 provide regular training for staff of secure facilities, detention staff, case management staff, and
253 staff of the community-based programs.

254 ~~[(16)]~~ (10) (a) The division is authorized to employ special function officers, as
255 defined in Section 53-13-105, to locate and apprehend ~~[absconders]~~ minors who have
256 absconded from division custody, transport minors taken into custody pursuant to division
257 policy, investigate cases, and carry out other duties as assigned by the division.

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

260 ~~[(17)]~~ (11) The division shall designate employees to obtain the saliva DNA specimens
261 required under Section 53-10-403. The division shall ensure that the designated employees
262 receive appropriate training and that the specimens are obtained in accordance with accepted
263 protocol.

264 Section 3. Section **62A-7-105.5**, which is renumbered from Section 62A-7-118 is
265 renumbered and amended to read:

266 ~~[62A-7-118].~~ **62A-7-105.5. Information supplied to division.**

267 (1) Juvenile court probation sections shall render full and complete cooperation to the
268 division in supplying the division with all pertinent information relating to youth offenders who
269 have been committed to the division. ~~[That information]~~

270 (2) Information under Subsection (1) may include, but is not limited to, prior criminal
271 history, social history, psychological evaluations, and identifying information specified by the
272 division.

273 Section 4. Section **62A-7-106.5**, which is renumbered from Section 62A-7-119 is

274 renumbered and amended to read:

275 ~~[62A-7-119].~~ **62A-7-106.5. Annual review of programs and facilities.**

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

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

283 (2) Any private facility or program providing services under this chapter that willfully
284 fails to comply with the standards established by the division is ~~[subject to]~~ guilty of a class B
285 misdemeanor.

286 Section 5. Section **62A-7-107.5**, which is renumbered from Section 62A-7-120 is
287 renumbered and amended to read:

288 ~~[62A-7-120].~~ **62A-7-107.5. Contracts with private providers.**

289 (1) ~~[Nothing in this]~~ This chapter ~~[prohibits]~~ does not prohibit the division from
290 contracting with private providers or other agencies for the construction, operation, and
291 maintenance of juvenile facilities or the provision of care, treatment, and supervision of youth
292 offenders who have been committed to the care of the division.

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

296 Section 6. Section **62A-7-108.5**, which is renumbered from Section 62A-7-121 is
297 renumbered and amended to read:

298 ~~[62A-7-121].~~ **62A-7-108.5. Records -- Property of division.**

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

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

304 Section 7. Section **62A-7-109.5**, which is renumbered from Section 62A-7-122 is

305 renumbered and amended to read:

306 ~~[62A-7-122].~~ 62A-7-109.5. **Restitution by youth offender.**

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

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

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

318 Section 8. Section **62A-7-110.5**, which is renumbered from Section 62A-7-123 is
319 renumbered and amended to read:

320 ~~[62A-7-123].~~ 62A-7-110.5. **Juvenile Justice Services Victim Restitution**
321 **Account.**

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

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

327 Section 9. Section **62A-7-111.5**, which is renumbered from Section 62A-7-124 is
328 renumbered and amended to read:

329 ~~[62A-7-124].~~ 62A-7-111.5. **Cost of support and maintenance of youth**
330 **offender -- Responsibility.**

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

335 (2) After payment of collection expenses, any remaining balance collected under the

336 provisions of Subsection (1) may be deposited in the "Juvenile Justice Services Victim
337 Restitution Account[;]" created in Section 62A-7-110 at the discretion of the director.

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

339 **Part 2. Detention Facilities**

340 **62A-7-201. Confinement -- Facilities -- Restrictions.**

341 (1) Children under 18 years of age, who are apprehended by any officer or brought
342 before any court for examination under any provision of state law, may not be confined in jails,
343 lockups, or cells used for [~~ordinary criminals or~~] persons 18 years of age or older who are
344 charged with crime, or in secure postadjudication correctional facilities operated by the
345 division, except as provided by specific statute and in conformance with [~~approved~~]
346 approved by the board.

347 (2) (a) Children charged by information or indictment with crimes as a serious youth
348 offender under Section 78-3a-602 or certified to stand trial as an adult pursuant to Section
349 78-3a-603 may be detained in a jail or other place of detention used for adults.

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

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

363 (4) Children who are alleged to have committed an act which would be a criminal
364 offense if committed by an adult, may be detained in holding rooms in local law enforcement
365 agency facilities for a maximum of two hours, for identification or interrogation, or while
366 awaiting release to a parent or other responsible adult. Those rooms shall be certified by the

367 division, according to the division's rules. Those rules shall include provisions for constant
368 supervision and for sight and sound separation from adult inmates.

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

371 (6) (a) The division is responsible for the custody and detention of children under 18
372 years of age who require detention care prior to trial or examination, or while awaiting
373 assignment to a home or facility, as a dispositional placement under Subsection
374 78-3a-118(2)(f)(i) or 78-3a-901(3)(a), and of youth offenders under Subsection [~~62A-7-112~~]
375 62A-7-504(8).

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

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

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

387 Section 11. Section ~~62A-7-202~~ is amended to read:

388 **62A-7-202. Location of detention facilities and services.**

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

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

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

397 (4) The division shall provide training regarding implementation of the rules to law

398 enforcement agencies, division employees, juvenile court employees, and other affected
399 agencies and individuals upon their request.

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

401 **62A-7-203. Detention -- Physical facilities.**

402 [~~(1) The division, with the aid of the Division of Facilities Construction and~~
403 ~~Management, shall provide suitable physical facilities to meet the detention requirements of~~
404 ~~any county or group of counties. The division may use existing state-owned properties for~~
405 ~~detention purposes.]~~

406 [~~(2) Notwithstanding Subsection (1), the~~

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

412 Section 13. Section **62A-7-401.5**, which is renumbered from Section 62A-7-105 is
413 renumbered and amended to read:

414 **Part 4. Secure Facilities**

415 [~~62A-7-105~~]. **62A-7-401.5. Secure facilities.**

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

421 (2) [~~At~~] The director shall appoint an administrator for each secure facility [~~shall be~~
422 ~~appointed by the director~~]. An administrator of a secure facility shall have experience in social
423 work, law, criminology, corrections, or a related field, and also in administration.

424 (3) (a) The division, in cooperation with the State Board of Education, shall provide
425 instruction, or make instruction available, to youth offenders in secure facilities. [~~That~~] The
426 instruction shall be appropriate to the age, needs, and range of abilities of the youth offender.

427 (b) An assessment shall be made of each youth offender by the appropriate secure
428 facility to determine [~~his~~] the offender's abilities, possible learning disabilities, interests,

429 attitudes, and [~~similar matters~~] other attributes related to appropriate educational programs.

430 (c) Prevocational education shall be provided to acquaint youth offenders with
431 vocations, and vocational requirements and opportunities.

432 (4) The division shall place youth offenders who have been committed to the division
433 for secure confinement and rehabilitation in a secure facility, operated by the division or by a
434 private entity, that is appropriate to [~~insure~~] ensure that humane care and rehabilitation
435 opportunities are afforded to the youth offender.

436 (5) The division shall adopt, subject to approval by the board, standards, policies, and
437 procedures for the regulation and operation of secure facilities, consistent with state and federal
438 law. [~~Policies are subject to the approval of the board.~~]

439 Section 14. Section **62A-7-402**, which is renumbered from Section 62A-7-106 is
440 renumbered and amended to read:

441 [~~62A-7-106~~]. **62A-7-402. Aiding or concealing youth offender -- Trespass**
442 **-- Criminal penalties.**

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

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

447 (b) entering any premises belonging to a secure facility and committing or attempting
448 to commit a trespass or [~~degradation~~] damage on those premises; or

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

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

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

453 (i) escaped from a secure facility; or

454 (ii) absconded from:

455 (A) a facility or supervision; or

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

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

459 (3) As used in this section:

- 460 (a) a youth offender absconds from a facility when he:
461 (i) leaves the facility without permission; or
462 (ii) fails to return at a prescribed time.
463 (b) A youth offender absconds from supervision when he:
464 (i) changes his residence from the residence that he reported to the division as his
465 correct address to another residence, without notifying the Division of Juvenile Justice Services
466 or obtaining permission; or
467 (ii) for the purpose of avoiding supervision:
468 (A) hides at a different location from his reported residence; or
469 (B) leaves his reported residence.

470 Section 15. Section **62A-7-403**, which is renumbered from Section 62A-7-107 is
471 renumbered and amended to read:

472 ~~[62A-7-107].~~ **62A-7-403. Care of pregnant youth offender.**

473 (1) When a youth offender in a secure facility is pregnant, the division shall [~~insure~~]
474 ensure that adequate prenatal and postnatal care is provided, and shall place her in an
475 accredited hospital before delivery. As soon as her condition after delivery will permit, the
476 youth offender may be returned to the secure facility.

477 (2) If [~~there is a question of~~] the division has concern regarding the youth offender's
478 fitness to raise her child, the division shall petition the juvenile court to hold a custody
479 hearing[~~, where that decision shall be made~~].

480 Section 16. Section **62A-7-404**, which is renumbered from Section 62A-7-108 is
481 renumbered and amended to read:

482 ~~[62A-7-108].~~ **62A-7-404. Commitment -- Termination and review.**

483 (1) A youth offender who has been committed to a secure facility shall remain until
484 [~~he~~] the offender reaches the age of 21, is paroled, or is discharged.

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

488 Section 17. Section **62A-7-501**, which is renumbered from Section 62A-7-109 is
489 renumbered and amended to read:

490 **Part 5. Youth Parole Authority**

491 ~~[62A-7-109].~~ 62A-7-501. Youth Parole Authority -- Expenses --
492 **Responsibilities -- Procedures.**

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

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

497 (b) Throughout this section, the term "member" ~~[shall refer]~~ refers to both part-time
498 and pro tempore members of the Youth Parole Authority.

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

501 (b) ~~[Notwithstanding the requirements of Subsection (3)(a), the]~~ The governor shall, at
502 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
503 authority members are staggered so that approximately half of the authority is appointed every
504 two years.

505 (4) Each member shall have training or experience in social work, law, juvenile or
506 criminal justice, or related behavioral sciences.

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

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

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

512 (b) hold any public office;

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

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

516 (7) In extraordinary circumstances or when a regular ~~[board]~~ member is absent or
517 otherwise unavailable, the chair may assign a pro tempore member to act in the absent ~~[board]~~
518 member's place.

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

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

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

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

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

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

535 Section 18. Section **62A-7-502**, which is renumbered from Section 62A-7-110 is
536 renumbered and amended to read:

537 ~~[62A-7-110].~~ **62A-7-502. Youth Parole Authority -- Parole procedures.**

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

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

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

546 (4) The authority shall establish policies and procedures ~~[for its]~~, subject to board
547 approval, for the authority's governance, meetings, hearings, the conduct of proceedings before
548 it, the parole of youth offenders, and the general conditions under which parole may be granted,
549 rescinded, revoked, modified, and terminated. ~~[The authority's policies and procedures are~~
550 ~~subject to the approval of the board.]~~

551 Section 19. Section **62A-7-503**, which is renumbered from Section 62A-7-111 is
552 renumbered and amended to read:

553 ~~[62A-7-111].~~ **62A-7-503. Administrative officer of Youth Parole**
554 **Authority.**

555 The director shall appoint an administrative officer of the authority, ~~[to be]~~ who is
556 responsible for the day-to-day operations of the authority.

557 Section 20. Section **62A-7-504**, which is renumbered from Section 62A-7-112 is
558 renumbered and amended to read:

559 ~~[62A-7-112].~~ **62A-7-504. Parole revocation -- Hearing -- Procedures.**

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

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

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

572 (4) The authority and the administrative officer have power to issue subpoenas, compel
573 attendance of witnesses, compel production of books, papers and other documents, administer
574 oaths, and take testimony under oath for the purposes of conducting the hearings.

575 (5) (a) A youth offender shall receive timely advance notice of the date, time, place,
576 and reason for the hearing, and ~~[shall have]~~ has the right to appear at the hearing.

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

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

582 (7) The administrative officer shall maintain summary records of all hearings and
583 provide written notice to the youth offender of the decision and reason for the decision ~~[in the~~

584 case].

585 (8) (a) The authority may issue a warrant to order any peace officer or division
586 employee to [~~retake~~] take into custody a youth offender alleged to be in violation of parole
587 conditions.

588 (b) The division may issue a warrant to any peace officer or division employee to
589 retake a youth offender who has escaped from a secure facility.

590 (c) Based upon [~~that~~] the warrant issued under this Subsection (8), a youth offender
591 may be held in a local detention facility for no longer than 48 hours, excluding weekends and
592 legal holidays, to allow time for a prerevocation hearing of the alleged parole violation, or in
593 the case of an escapee, arrangement for transportation to the secure facility.

594 Section 21. Section **62A-7-505**, which is renumbered from Section 62A-7-113 is
595 renumbered and amended to read:

596 [~~62A-7-113~~]. **62A-7-505. Conditions of parole.**

597 Conditions of parole shall be specified in writing and agreed to by the youth offender.
598 That agreement shall be evidenced by the signature of the youth offender, which shall be
599 affixed to the parole document.

600 Section 22. Section **62A-7-506**, which is renumbered from Section 62A-7-114 is
601 renumbered and amended to read:

602 [~~62A-7-114~~]. **62A-7-506. Discharge of youth offender.**

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

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

608 (3) Discharge of a youth offender is a complete release of all penalties incurred by
609 adjudication of the offense for which the youth offender was committed.

610 Section 23. Section **62A-7-507**, which is renumbered from Section 62A-7-115 is
611 renumbered and amended to read:

612 [~~62A-7-115~~]. **62A-7-507. Appeal regarding parole release or revocation.**

613 (1) A youth offender, or the parent or legal guardian of a youth offender, may appeal to
614 the executive director or his designee any decision of the authority regarding parole release,

615 rescission, or revocation[~~, to the executive director or his designee~~].

616 (2) The executive director or his designee may set aside or remand the authority's
617 decision only if it is arbitrary, capricious, an abuse of discretion, or contrary to law.

618 Section 24. Section **62A-7-601**, which is renumbered from Section 62A-7-125 is
619 renumbered and amended to read:

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

621 ~~[62A-7-125].~~ **62A-7-601. Youth services for prevention and early**
622 **intervention -- Program standards -- Program services.**

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

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

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

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

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

636 Section 25. Section **62A-7-701**, which is renumbered from Section 62A-7-116 is
637 renumbered and amended to read:

638 **Part 7. Community Based Programs**

639 ~~[62A-7-116].~~ **62A-7-701. Community-based programs.**

640 (1) The division shall ~~[provide]~~ operate residential and nonresidential
641 community-based programs to provide care, treatment, and supervision for paroled youth
642 offenders and for youth offenders committed to the division by juvenile courts.

643 (2) The division shall adopt, with the approval of the board, minimum standards for the
644 organization and operation of community-based corrections programs for youth offenders.

645 ~~[Standards approved by the board shall be promulgated for implementation of those programs.]~~

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

649 Section 26. Section **62A-7-702**, which is renumbered from Section 62A-7-117 is
650 renumbered and amended to read:

651 ~~[62A-7-117].~~ **62A-7-702. Case management staff.**

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

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

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

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

663 (3) Case management staff shall:

664 (a) conduct investigations and make reports requested by the courts to aid them in
665 determining appropriate case dispositions~~[- Case management staff shall also];~~ and

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

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

669 **76-8-306. Obstruction of justice -- Elements -- Penalties -- Exceptions.**

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

673 (a) provides any person with a weapon;

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

- 677 (c) alters, destroys, conceals, or removes any item or other thing;
- 678 (d) makes, presents, or uses any item or thing known by the actor to be false;
- 679 (e) harbors or conceals a person;
- 680 (f) provides a person with transportation, disguise, or other means of avoiding
681 discovery or apprehension;
- 682 (g) warns any person of impending discovery or apprehension;
- 683 (h) conceals information that is not privileged and that concerns the offense, after a
684 judge or magistrate has ordered the actor to provide the information; or
- 685 (i) provides false information regarding a suspect, a witness, the conduct constituting
686 an offense, or any other material aspect of the investigation.
- 687 (2) (a) As used in this section, "conduct that constitutes a criminal offense" means
688 conduct that would be punishable as a crime and is separate from a violation of this section,
689 and includes:
- 690 (i) any violation of a criminal statute or ordinance of this state, its political
691 subdivisions, any other state, or any district, possession, or territory of the United States; and
- 692 (ii) conduct committed by a juvenile which would be a crime if committed by an adult.
- 693 (b) A violation of a criminal statute that is committed in another state, or any district,
694 possession, or territory of the United States, is a:
- 695 (i) capital felony if the penalty provided includes death or life imprisonment without
696 parole;
- 697 (ii) a first degree felony if the penalty provided includes life imprisonment with parole
698 or a maximum term of imprisonment exceeding 15 years;
- 699 (iii) a second degree felony if the penalty provided exceeds five years;
- 700 (iv) a third degree felony if the penalty provided includes imprisonment for any period
701 exceeding one year; and
- 702 (v) a misdemeanor if the penalty provided includes imprisonment for any period of one
703 year or less.
- 704 (3) The penalties for obstruction of justice are:
- 705 (a) a second degree felony if the conduct which constitutes an offense would be a
706 capital felony or first degree felony;
- 707 (b) a third degree felony if:

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

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

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

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

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

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

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

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

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

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

725 (d) retaliation against a witness, victim, or informant, which is governed by Section
726 76-8-508.3; or

727 (e) extortion or bribery to dismiss a criminal proceeding, which is governed by Section
728 76-8-509.

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

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

733 **76-8-418. Damaging jails.**

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

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

738 **77-37-3. Bill of Rights.**

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

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

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

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

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

755 (e) Victims are entitled to restitution or reparations, including medical costs, as
756 provided in Title 63, Chapter 25a, Criminal Justice and Substance Abuse, and Sections
757 [~~62A-7-122~~] 62A-7-109, 77-38a-302, and 77-27-6. State and local government agencies that
758 serve victims have the duty to have a functional knowledge of the procedures established by the
759 Utah Crime Victims' Reparations Board and to inform victims of these procedures.

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

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

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

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

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

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

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

786 **78-3a-113. Minor taken into custody by peace officer, private citizen, or**
787 **probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds**
788 **for peace officer to take adult into custody.**

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

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

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

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

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

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

801 Section 53A-11-105.

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

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

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

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

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

818 (i) The notice shall disclose only:

819 (A) the name of the minor;

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

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

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

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

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

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

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

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

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

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

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

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

844 (b) (i) The designated youth corrections facility staff person shall immediately review
845 the form and determine, based on the guidelines for detention admissions established by the
846 Division of Juvenile Justice Services under [~~Sections 62A-7-104 and 62A-7-205~~] Section
847 62A-7-202, whether to admit the minor to secure detention, admit the minor to home detention,
848 place the minor in a placement other than detention, or return the minor home upon written
849 promise to bring the minor to the court at a time set, or without restriction.

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

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

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

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

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

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

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

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

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

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

879 **Section 31. Repealer.**

880 This bill repeals:

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

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

883 **Section 32. Effective date.**

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