

## HB0207S01 compared with HB0207

~~{deleted text}~~ shows text that was in HB0207 but was deleted in HB0207S01.

inserted text shows text that was not in HB0207 but was inserted into HB0207S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this document will not be a totally accurate comparison. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Representative Wayne A. Harper proposes the following substitute bill:

### JUVENILE AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends provisions of the Utah Human Services Code and the Juvenile Court Act of 1996 in relation to juveniles.

##### Highlighted Provisions:

This bill:

- ▶ makes an exception to the requirement that consent to interview a child who is in the custody of the Division of Child and Family Services be obtained from the child's guardian ad litem if the child is 14 years of age or older, or if:
  - the child is interviewed solely in relation to a matter in which the child is not a suspect; and
  - the interview is recorded, unless exigent circumstances exist that make recording impracticable;

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- ~~{ } → provides that a court may commit a minor to a place of detention for a period not to exceed 30 days, or an alternative to detention for a period not to exceed 60 days, subject to the court retaining continuing jurisdiction over the minor;~~
- ~~{ } ▶ gives the court the option to identify in writing, rather than on the record, the responsibilities of a parent under a child and family plan;~~
- ~~→ gives the court the discretion to determine whether a disposition, including detention, will run concurrent with any other order of detention;~~ } and
  - ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**62A-4a-415**, as enacted by Laws of Utah 2010, Chapter 322

~~{ } → **78A-6-117 (Superseded 07/01/11)**, as renumbered and amended by Laws of Utah 2008, Chapter 3~~

~~→ **78A-6-117 (Effective 07/01/11)**, as last amended by Laws of Utah 2010, Chapter 276~~

~~{ } **78A-6-312**, as last amended by Laws of Utah 2010, Chapter 322~~

~~{ } → **78A-6-604**, as renumbered and amended by Laws of Utah 2008, Chapter 3~~

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

Section 1. Section **62A-4a-415** is amended to read:

**62A-4a-415. Law enforcement interviews of children in state custody.**

(1) Except as provided in Subsection (2), the division may not consent to the interview of a child in the division's custody by a law enforcement officer, unless consent for the interview is obtained from the child's guardian ad litem.

(2) Subsection (1) does not apply if:

(a) a guardian ad litem is not appointed for the child[~~;~~]; ~~{ or }~~

(b) (i) the child is interviewed solely in relation to a matter in which the child is not a suspect; and

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(ii) the interview is recorded, unless exigent circumstances exist that make recording impracticable;

~~Section 2. Section 78A-6-117 (Superseded 07/01/11) is amended to read:~~

~~78A-6-117 (Superseded 07/01/11). Adjudication of jurisdiction of juvenile court -- Disposition of cases -- Enumeration of possible court orders -- Considerations of court -- Obtaining DNA sample:~~

~~(1) (a) When a minor is found to come within the provisions of Section 78A-6-103, the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over the minor. However, in cases within the provisions of Subsection 78A-6-103(1), findings of fact are not necessary.~~

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

~~(i) the specific offenses for which the minor was adjudicated; and~~

~~(ii) if available, if the victim:~~

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

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

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

~~(a) (i) The court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including compensatory service as provided in Subsection (2)(m)(iii);~~

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

~~(A) the minor's parent or guardian;~~

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

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

~~(iii) If the court orders probation or state supervision, the court shall direct that notice of its order be provided to designated persons in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated persons may~~

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~~receive the information for purposes of the minor's supervision and student safety:~~

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

~~—— (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and~~

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

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

~~—— (c) (i) The court may:~~

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

~~—— (B) order the Department of Human Services to provide dispositional recommendations and services:~~

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

~~—— (iii) (A) A minor who is committed to the custody of the Division of Child and Family Services on grounds other than abuse or neglect is subject to the provisions of Title 78A, Chapter 6, Part 4, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.~~

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

~~—— (C) Prior to committing a child to the custody of the Division of Child and Family Services, the court shall make a finding as to what reasonable efforts have been attempted to prevent the child's removal from the child's home:~~

~~—— (d) (i) The court may commit a minor to the Division of Juvenile Justice Services for secure confinement:~~

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~~—— (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(c) may not be committed to the Division of Juvenile Justice Services.~~

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

~~—— (f) (i) The court may commit a minor to a place of detention for a period not to exceed 30 days, or an alternative to detention for a period not to exceed [30] 60 days, subject to the court retaining continuing jurisdiction over the minor. This commitment may be stayed or suspended upon conditions ordered by the court.~~

~~—— (ii) This Subsection (2)(f) applies only to a minor adjudicated for:~~

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

~~—— (B) contempt of court under Section 78A-6-1101.~~

~~—— (g) The court may vest legal custody of an abused, neglected, or dependent minor in the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.~~

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

~~—— (i) (i) The court may order a minor to repair, replace, or otherwise make restitution for damage or loss caused by the minor's wrongful act, including costs of treatment as stated in Section 78A-6-321 and impose fines in limited amounts.~~

~~—— (ii) The court may also require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person or persons for providing~~

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~~information resulting in a court adjudication that the minor is within the jurisdiction of the juvenile court due to the commission of a criminal offense:~~

~~—— (iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return:~~

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

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

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

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

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

~~—— (B) take possession of the minor's driver license:~~

~~—— (ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the suspension of driving privileges for an offense under Section 78A-6-606 are governed only by Section 78A-6-606:~~

~~—— (m) (i) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court shall, in addition to any fines or fees otherwise imposed, order that the minor perform a minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours:~~

~~—— (ii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order~~

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~~that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.~~

~~—— (iii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other person at a time and place within the jurisdiction of the court. Compensatory service required under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The minor or the minor's parent or legal guardian, if applicable, shall be responsible for removal costs as determined under Section 76-6-107, unless waived by the court for good cause. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection 77-18-1(8).~~

~~—— (A) For a first adjudication, the court may require the minor to clean up graffiti for not less than eight hours.~~

~~—— (B) For a second adjudication, the court may require the minor to clean up graffiti for not less than 16 hours.~~

~~—— (C) For a third adjudication, the court may require the minor to clean up graffiti for not less than 24 hours.~~

~~—— (n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:~~

~~—— (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or~~

~~—— (B) receive other special care.~~

~~—— (ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.~~

~~—— (iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(n)(i), the court shall consider:~~

~~—— (A) the desires of the minor;~~

~~—— (B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and~~

~~—— (C) whether the potential benefits of the examination, treatment, or care outweigh the~~

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~~potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care:~~

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

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

~~—— (p) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:~~

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

~~—— (B) restrictions on the minor's associates;~~

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

~~—— (D) requirements to be observed by the parents or custodian:~~

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

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

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

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

~~—— (s) The court may terminate all parental rights upon a finding of compliance with the provisions of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act:~~



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~~—— (t) The court may make any other reasonable orders for the best interest of the minor or as required for the protection of the public, except that a child may not be committed to jail or prison.~~

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

~~—— (v) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another person, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.~~

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

~~—— (x) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay.~~

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

~~—— (ii) Orders under Subsection (2)(y)(i):~~

~~—— (A) shall remain in effect until the child reaches majority;~~

~~—— (B) are not subject to review under Section 78A-6-118; and~~

~~—— (C) may be modified by petition or motion as provided in Section 78A-6-1103.~~

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

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

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

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

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- ~~(i) would be a felony if committed by an adult;~~
- ~~(ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or~~
- ~~(iii) was committed with a weapon; and~~
- ~~(c) the court retains jurisdiction over the minor under conditions set by the court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.~~
- ~~(4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by designated employees of the court or, if the minor is in the legal custody of the Division of Juvenile Justice Services, then by designated employees of the division under Subsection 53-10-404(5)(b).~~
- ~~(b) The responsible agency shall ensure that employees designated to collect the saliva DNA specimens receive appropriate training and that the specimens are obtained in accordance with accepted protocol.~~
- ~~(c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.~~
- ~~(d) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under this section and treatment under Section 78A-6-321.~~
- ~~Section 3. Section 78A-6-117 (Effective 07/01/11) is amended to read:~~
- ~~**78A-6-117 (Effective 07/01/11). Adjudication of jurisdiction of juvenile court == Disposition of cases == Enumeration of possible court orders == Considerations of court == Obtaining DNA sample.**~~
- ~~(1) (a) When a minor is found to come within the provisions of Section 78A-6-103, the court shall so adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over the minor. However, in cases within the provisions of Subsection 78A-6-103(1), findings of fact are not necessary.~~
- ~~(b) If the court adjudicates a minor for a crime of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to the school superintendent of the district in which the minor resides or attends school. Notice shall be made to the district superintendent within three days of the adjudication and shall include:~~
- ~~(i) the specific offenses for which the minor was adjudicated; and~~

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- ~~—— (ii) if available, if the victim;~~
- ~~—— (A) resides in the same school district as the minor; or~~
- ~~—— (B) attends the same school as the minor;~~
- ~~—— (2) Upon adjudication the court may make the following dispositions by court order:~~
- ~~—— (a) (i) The court may place the minor on probation or under protective supervision in the minor's own home and upon conditions determined by the court, including compensatory service as provided in Subsection (2)(m)(iii):~~
  - ~~—— (ii) The court may place the minor in state supervision with the probation department of the court, under the legal custody of:~~
    - ~~—— (A) the minor's parent or guardian;~~
    - ~~—— (B) the Division of Juvenile Justice Services; or~~
    - ~~—— (C) the Division of Child and Family Services;~~
  - ~~—— (iii) If the court orders probation or state supervision, the court shall direct that notice of its order be provided to designated persons in the local law enforcement agency and the school or transferee school, if applicable, that the minor attends. The designated persons may receive the information for purposes of the minor's supervision and student safety:~~
  - ~~—— (iv) Any employee of the local law enforcement agency and the school that the minor attends who discloses the court's order of probation is not:~~
    - ~~—— (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and~~
    - ~~—— (B) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.~~
- ~~—— (b) The court may place the minor in the legal custody of a relative or other suitable person, with or without probation or protective supervision, but the juvenile court may not assume the function of developing foster home services:~~
- ~~—— (c) (i) The court may:~~
  - ~~—— (A) vest legal custody of the minor in the Division of Child and Family Services, Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health; and~~
  - ~~—— (B) order the Department of Human Services to provide dispositional recommendations and services:~~

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

~~—— (iii) (A) A minor who is committed to the custody of the Division of Child and Family Services on grounds other than abuse or neglect is subject to the provisions of Title 78A, Chapter 6, Part 4, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.~~

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

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

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

~~—— (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or dependency under Subsection 78A-6-103(1)(c) may not be committed to the Division of Juvenile Justice Services.~~

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

~~—— (f) (i) The court may commit a minor to a place of detention for a period not to exceed 30 days, or an alternative to detention for a period not to exceed [30] 60 days, subject to the court retaining continuing jurisdiction over the minor. This commitment may be stayed or suspended upon conditions ordered by the court.~~

~~—— (ii) This Subsection (2)(f) applies only to a minor adjudicated for:~~

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

~~—— (B) contempt of court under Section 78A-6-1101.~~

~~—— (g) The court may vest legal custody of an abused, neglected, or dependent minor in~~

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~~the Division of Child and Family Services or any other appropriate person in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings:~~

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

~~—— (i) (i) The court may order a minor to repair, replace, or otherwise make restitution for damage or loss caused by the minor's wrongful act, including costs of treatment as stated in Section 78A-6-321 and impose fines in limited amounts.~~

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

~~—— (iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the court may order the minor to make restitution for costs expended by any governmental entity for the return.~~

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

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

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

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

~~—— (A) restrain the minor from driving for periods of time the court considers necessary;~~

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and

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

~~—— (ii) The court may enter any other disposition under Subsection (2)(1)(i). However, the suspension of driving privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.~~

~~—— (m) (i) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court shall, in addition to any fines or fees otherwise imposed, order that the minor perform a minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.~~

~~—— (ii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 32B-4-409 or Subsection 76-9-701(1), the court may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an approved substance abuse prevention or treatment program may be credited by the court as compensatory service hours.~~

~~—— (iii) When a minor is found within the jurisdiction of the juvenile court under Section 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may order the minor to clean up graffiti created by the minor or any other person at a time and place within the jurisdiction of the court. Compensatory service required under this section may be performed in the presence and under the direct supervision of the minor's parent or legal guardian. The parent or legal guardian shall report completion of the order to the court. The minor or the minor's parent or legal guardian, if applicable, shall be responsible for removal costs as determined under Section 76-6-107, unless waived by the court for good cause. The court may also require the minor to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection 77-18-1(8).~~

~~—— (A) For a first adjudication, the court may require the minor to clean up graffiti for not less than eight hours.~~

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- ~~—— (B) For a second adjudication, the court may require the minor to clean up graffiti for not less than 16 hours.~~
- ~~—— (C) For a third adjudication, the court may require the minor to clean up graffiti for not less than 24 hours.~~
- ~~—— (n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:~~
- ~~—— (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or~~
- ~~—— (B) receive other special care.~~
- ~~—— (ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.~~
- ~~—— (iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(n)(i), the court shall consider:~~
- ~~—— (A) the desires of the minor;~~
- ~~—— (B) if the minor is under the age of 18, the desires of the parents or guardian of the minor; and~~
- ~~—— (C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.~~
- ~~—— (o) (i) The court may appoint a guardian for the minor if it appears necessary in the interest of the minor, and may appoint as guardian a public or private institution or agency in which legal custody of the minor is vested.~~
- ~~—— (ii) In placing a minor under the guardianship or legal custody of an individual or of a private agency or institution, the court shall give primary consideration to the welfare of the minor. When practicable, the court may take into consideration the religious preferences of the minor and of a child's parents.~~
- ~~—— (p) (i) In support of a decree under Section 78A-6-103, the court may order reasonable conditions to be complied with by a minor's parents or guardian, a minor, a minor's custodian, or any other person who has been made a party to the proceedings. Conditions may include:~~
- ~~—— (A) parent-time by the parents or one parent;~~
- ~~—— (B) restrictions on the minor's associates;~~
- ~~—— (C) restrictions on the minor's occupation and other activities; and~~

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- ~~—— (D) requirements to be observed by the parents or custodian:~~
- ~~—— (ii) A minor whose parents or guardians successfully complete a family or other counseling program may be credited by the court for detention, confinement, or probation time:~~
- ~~—— (q) The court may order the child to be committed to the physical custody of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health:~~
- ~~—— (r) (i) The court may make an order committing a minor within the court's jurisdiction to the Utah State Developmental Center if the minor has mental retardation in accordance with the provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility:~~
- ~~—— (ii) The court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(r)(i):~~
- ~~—— (s) The court may terminate all parental rights upon a finding of compliance with the provisions of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act:~~
- ~~—— (t) The court may make any other reasonable orders for the best interest of the minor or as required for the protection of the public, except that a child may not be committed to jail or prison:~~
- ~~—— (u) The court may combine the dispositions listed in this section if they are compatible:~~
- ~~—— (v) Before depriving any parent of custody, the court shall give due consideration to the rights of parents concerning their child. The court may transfer custody of a minor to another person, agency, or institution in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings:~~
- ~~—— (w) Except as provided in Subsection (2)(y)(i), an order under this section for probation or placement of a minor with an individual or an agency shall include a date certain for a review of the case by the court. A new date shall be set upon each review:~~
- ~~—— (x) In reviewing foster home placements, special attention shall be given to making adoptable children available for adoption without delay:~~
- ~~—— (y) (i) The juvenile court may enter an order of permanent custody and guardianship with an individual or relative of a child where the court has previously acquired jurisdiction as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an~~



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~~order for child support on behalf of the child against the natural or adoptive parents of the child.~~

~~—— (ii) Orders under Subsection (2)(y)(i):~~

~~—— (A) shall remain in effect until the child reaches majority;~~

~~—— (B) are not subject to review under Section 78A-6-118; and~~

~~—— (C) may be modified by petition or motion as provided in Section 78A-6-1103.~~

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

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

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

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

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

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

~~—— (iii) was committed with a weapon; and~~

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

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

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

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

~~—— (d) Payment of the reimbursement is second in priority to payments the minor is~~

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~~ordered to make for restitution under this section and treatment under Section 78A-6-321.~~

~~Section 4}; or~~

(c) the child is 14 years of age or older.

Section 2. Section 78A-6-312 is amended to read:

### **78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.**

(1) The court may:

(a) make any of the dispositions described in Section 78A-6-117;

(b) place the minor in the custody or guardianship of any:

(i) individual; or

(ii) public or private entity or agency; or

(c) order:

(i) protective supervision;

(ii) family preservation;

(iii) subject to Subsection 78A-6-117(2)(n)(iii), medical or mental health treatment; or

(iv) other services.

(2) (a) (i) Whenever the court orders continued removal at the dispositional hearing, and that the minor remain in the custody of the division, the court shall first:

(A) establish a primary permanency goal for the minor; and

(B) determine whether, in view of the primary permanency goal, reunification services are appropriate for the minor and the minor's family, pursuant to Subsection (3).

(ii) Subject to Subsection (2)(b), if the court determines that reunification services are appropriate for the minor and the minor's family, the court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(iii) (A) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to attempt to rehabilitate the offending parent or parents.

(B) In all cases, the minor's health, safety, and welfare shall be the court's paramount concern in determining whether reasonable efforts to reunify should be made.

(b) (i) For purposes of Subsection (2)(a)(ii), parent-time is in the best interests of a

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minor unless the court makes a finding that it is necessary to deny parent-time in order to:

- (A) protect the physical safety of the minor;
- (B) protect the life of the minor; or
- (C) prevent the minor from being traumatized by contact with the parent due to the

minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(ii) Notwithstanding Subsection (2)(a)(ii), a court may not deny parent-time based solely on a parent's failure to:

- (A) prove that the parent has not used legal or illegal substances; or
- (B) comply with an aspect of the child and family plan that is ordered by the court.

(c) (i) In addition to the primary permanency goal, the court shall establish a concurrent permanency goal that shall include:

(A) a representative list of the conditions under which the primary permanency goal will be abandoned in favor of the concurrent permanency goal; and

(B) an explanation of the effect of abandoning or modifying the primary permanency goal.

(ii) A permanency hearing shall be conducted in accordance with Subsection 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if something other than reunification is initially established as a minor's primary permanency goal.

(iii) (A) The court may amend a minor's primary permanency goal before the establishment of a final permanency plan under Section 78A-6-314.

(B) The court is not limited to the terms of the concurrent permanency goal in the event that the primary permanency goal is abandoned.

(C) If, at any time, the court determines that reunification is no longer a minor's primary permanency goal, the court shall conduct a permanency hearing in accordance with Section 78A-6-314 on or before the earlier of:

(I) 30 days after the day on which the court makes the determination described in this Subsection (2)(c)(iii)(C); or

(II) the day on which the provision of reunification services, described in Section 78A-6-314, ends.

(d) (i) (A) If the court determines that reunification services are appropriate, it shall

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order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(B) In providing the services described in Subsection (2)(d)(i)(A), the minor's health, safety, and welfare shall be the division's paramount concern, and the court shall so order.

(ii) The court shall:

(A) determine whether the services offered or provided by the division under the child and family plan constitute "reasonable efforts" on the part of the division;

(B) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(C) identify on the record, or in writing, the responsibilities described in Subsection (2)(d)(ii)(B), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(iii) (A) The time period for reunification services may not exceed 12 months from the date that the minor was initially removed from the minor's home, unless the time period is extended under Subsection 78A-6-314(8).

(B) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(iv) If reunification services are ordered, the court may terminate those services at any time.

(v) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established pursuant to Section 78A-6-314, then measures shall be taken, in a timely manner, to:

(A) place the minor in accordance with the permanency plan; and

(B) complete whatever steps are necessary to finalize the permanent placement of the minor.

(e) Any physical custody of the minor by the parent or a relative during the period described in Subsection (2)(d) does not interrupt the running of the period.

(f) (i) If reunification services are ordered, a permanency hearing shall be conducted by the court in accordance with Section 78A-6-314 at the expiration of the time period for reunification services.

(ii) The permanency hearing shall be held no later than 12 months after the original

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removal of the minor.

(iii) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

(g) With regard to a minor who is 36 months of age or younger at the time the minor is initially removed from the home, the court shall:

(i) hold a permanency hearing eight months after the date of the initial removal, pursuant to Section 78A-6-314; and

(ii) order the discontinuance of those services after eight months from the initial removal of the minor from the home if the parent or parents have not made substantial efforts to comply with the child and family plan.

(h) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the date that reunification services were ordered:

(i) the court shall terminate reunification services; and

(ii) the division shall petition the court for termination of parental rights.

(i) When a court conducts a permanency hearing for a minor under Section 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(3) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining "reasonable efforts" to be made with respect to a minor, and in making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount concern.

(d) (i) There is a presumption that reunification services should not be provided to a

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parent if the court finds, by clear and convincing evidence, that any of the following circumstances exist:

(A) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(B) subject to Subsection (3)(d)(ii), the parent is suffering from a mental illness of such magnitude that it renders the parent incapable of utilizing reunification services;

(C) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the minor:

(I) was removed from the custody of the minor's parent;

(II) was subsequently returned to the custody of the parent; and

(III) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(D) the parent:

(I) caused the death of another minor through abuse or neglect; or

(II) committed, aided, abetted, attempted, conspired, or solicited to commit:

(Aa) murder or manslaughter of a child; or

(Bb) child abuse homicide;

(E) the minor suffered severe abuse by the parent or by any person known by the parent, if the parent knew or reasonably should have known that the person was abusing the minor;

(F) the minor is adjudicated an abused child as a result of severe abuse by the parent, and the court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(G) the parent's rights are terminated with regard to any other minor;

(H) the minor is removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(I) the parent has abandoned the minor for a period of six months or longer;

(J) the parent permitted the child to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located; or

(K) any other circumstance that the court determines should preclude reunification

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efforts or services.

(ii) The finding under Subsection (3)(d)(i)(B) shall be based on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the court finding is made.

(4) In determining whether reunification services are appropriate, the court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the child or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(5) (a) If reunification services are not ordered pursuant to Subsection (3), and the whereabouts of a parent become known within six months after the day on which the out-of-home placement of the minor is made, the court may order the division to provide reunification services.

(b) The time limits described in Subsection (2) are not tolled by the parent's absence.

(6) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable services unless it determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (6)(a), the court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

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- (v) the nature of the crime or illness;
- (vi) the degree of detriment to the minor if services are not offered;
- (vii) for a minor 10 years of age or older, the minor's attitude toward the implementation of family reunification services; and
- (viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitation imposed in Subsection (2).

(d) Reunification services for an institutionalized parent are subject to the time limitation imposed in Subsection (2), unless the court determines that continued reunification services would be in the minor's best interest.

(7) If, pursuant to Subsections (3)(d)(i)(B) through (K), the court does not order reunification services, a permanency hearing shall be conducted within 30 days, in accordance with Section 78A-6-314.

~~{ Section 5. Section 78A-6-604 is amended to read:~~

~~78A-6-604. Minor held in detention -- Credit for good behavior.~~

~~(1) The judge may order whether a minor held in detention under Subsection 78A-6-117(2)(f) or 78A-6-1101(3) is eligible to receive credit for good behavior against the period of detention. The rate of credit is one day for every three days served. The Division of Juvenile Justice Services shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish rules describing good behavior for which credit may be earned.~~

~~(2) Any disposition including detention under Subsection 78A-6-117(2)(f) or 78A-6-1101(3) [shall be] may, in the court's discretion, run concurrent with any other order of detention.~~

**Legislative Review Note**

~~as of 12-30-10 7:52 AM~~

~~Office of Legislative Research and General Counsel}~~