

HB0132S01 compared with HB0132

~~{deleted text}~~ shows text that was in HB0132 but was deleted in HB0132S01.

Inserted text shows text that was not in HB0132 but was inserted into HB0132S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative V. Lowry Snow proposes the following substitute bill:

JUVENILE JUSTICE MODIFICATIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses treatment of minors who commit offenses or truancy.

Highlighted Provisions:

This bill:

▶ ~~{modifies provisions related to responses to school-based behavior;~~

▶ expands the uses of appropriations for the Enhancement for At-Risk Students Program;

▶ modifies provisions related to responses to school-based behavior;

▶ clarifies when a prosecutor may file a petition or review a referral;

▶ addresses the inquiry a prosecutor shall conduct before filing a petition;

▶ addresses victim related issues;

▶ creates a sunset review for certain provisions; and

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- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

~~{53A-11-911, as enacted by Laws of Utah 2017, Chapter 330~~

~~53A-11-1302, as last~~53F-2-410, as renumbered and amended by Laws of Utah ~~{2017,~~
Chapter 330

~~53A-17a-166}~~2018, Chapter 2

53G-8-211, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-8-506, as renumbered and amended by Laws of Utah 2018, Chapter 3

63I-1-253, as last amended by Laws of Utah 2017, Chapters ~~{173, 372,}~~166 and
~~{378}~~181

78A-6-210, as last amended by Laws of Utah 2017, Chapter 186

78A-6-602, as last amended by Laws of Utah 2017, Chapter 330

78A-6-603, as last amended by Laws of Utah 2017, Chapter 330

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

Section 1. Section ~~{53A-11-911}~~53F-2-410 is amended to read:

53F-2-410. Enhancement for At-Risk Students Program.

(1) (a) Subject to [the requirements of] Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards.

(b) (i) The State Board of Education shall appropriate \$1,200,000 from the appropriation for Enhancement for At-Risk Students Program for a gang prevention and intervention program designed to help students [at-risk] at risk for gang involvement stay in school.

(ii) Money for the gang prevention and intervention program shall be distributed to

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school districts and charter schools through a request for proposals process.

(2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall use the following criteria:

(a) low performance on statewide assessments described in Section 53E-4-301;

(b) poverty;

(c) mobility; and

(d) limited English proficiency.

(3) A local education board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure including addressing truancy.

(4) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program.

(5) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.

Section 2. Section 53G-8-211 is amended to read:

~~{53A-11-911}~~ **53G-8-211. Responses to school-based behavior.**

(1) As used in this section:

~~[(a) "Class A misdemeanor person offense" means a class A misdemeanor described in Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 5b, Sexual Exploitation Act.]~~

~~{(b)}~~ (a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the State Board of Education.

(b) "Mobile crisis outreach team" means the same as that term is defined in Section 78A-6-105.

~~[(c) "Nonperson class A misdemeanor" means a class A misdemeanor that is not a class A misdemeanor person offense.]~~

~~{(d)}~~ ~~{(b)}~~ (c) "Restorative justice program" means a school-based program or a program

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used or adopted by a local education agency that is designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.

(d) "School administrator" means a principal of a school.

(~~f~~~~e~~) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(~~f~~~~d~~~~f~~) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(~~f~~~~e~~~~g~~) (i) "School-sponsored activity" means ~~fa voluntary activity sponsored by a school,~~an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to local board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or ~~an organization sanctioned by~~ local education agency or public school employee;

(B) the activity uses the local education agency ~~that requires a student or faculty to miss normal class time or takes place outside regular school time~~ or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or minimum school program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(~~f~~~~f~~~~h~~) (i) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

(ii) Notwithstanding Subsection (1)(~~f~~~~f~~~~h~~)(i), a status offense does not include a violation that by statute is made a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense at the school where the student is enrolled:

(a) on school property~~;~~~~or~~ where the student is enrolled:

(i) when school is in session; or

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(ii) during a school-sponsored activity; or

(b) that is truancy.

(3) (a) If the alleged offense is a class C misdemeanor, an infraction, a status offense on school property, or truancy, the minor may not be referred to law enforcement or court but may be referred to alternative ~~[school-related]~~ evidence-based interventions, including:

~~[(a)]~~ (i) a mobile crisis outreach team, as defined in Section 78A-6-105;

~~[(b)]~~ (ii) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104; ~~[and]~~

~~[(c)]~~ (iii) a youth court or comparable restorative justice program~~[-];~~

(iv) evidence-based interventions created and developed by the school or school district; and

(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the State Board of Education, the juvenile court, local counties and municipalities, the Utah Department of Health, or the Utah Department of Human Services.

(b) Notwithstanding Subsection (3)(a), a school resource officer may:

(i) investigate possible offenses;

(ii) consult with a school administration about the conduct of a minor enrolled in a school;

(iii) transport a minor enrolled in a school to a location if the location is permitted by law;

(iv) take temporary custody of a minor pursuant to Subsection 78A-6-112(1);

(v) conduct reasonable searches on school property; or

(vi) use reasonable and necessary physical restraint in self-defense or when otherwise appropriate to the circumstances ~~{ to:}.~~

~~{ — (A) obtain possession of a weapon or other dangerous object in the possession or under the control of a minor;~~

~~— (B) protect a minor or another individual from physical injury;~~

~~— (C) remove from a situation a minor who is violent; or~~

~~— (D) protect property from being damaged, when physical safety is at risk; or~~

~~— (vii) engage in conduct similar to that described in this Subsection (3)(b).~~

~~†~~ (c) Notwithstanding other provisions of this section, a law enforcement officer who has

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cause to believe a minor has committed an offense on school property when school is not in session nor during a school-sponsored activity, the law enforcement officer may refer the minor to court or may refer the minor to alternative evidence-based interventions at the discretion of the law enforcement officer.

(4) Notwithstanding Subsection (3)(a), a local education agency may refer a minor to court for a class C misdemeanor committed on school property or truancy if the minor refuses to participate in an alternative evidence-based intervention described in Subsection (3)(a).

~~[(4)]~~ (5) If the alleged offense is a class B misdemeanor or a [nonperson] class A misdemeanor, the minor may be referred directly to the juvenile court by the school administrator [or], the school administrator's designee, or a school resource officer, or the minor may be referred to the alternative evidence-based interventions in Subsection (3)(a).

Section ~~{2}~~ 3. Section ~~{53A-11-1302}~~ 53G-8-506 is amended to read:

~~{~~ ~~53A-11-1302. Reporting of prohibited acts affecting a school -- Confidentiality.~~

~~—— (1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall, in accordance with Section 53A-11-911, immediately notify:~~

~~—— (a) the principal;~~

~~—— (b) an administrator of the affected school;~~

~~—— (c) the superintendent of the affected school district; or~~

~~—— (d) an administrator of the affected school district.~~

~~—— (2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees:~~

~~—— (3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school [grounds] property or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section 53A-11-911.~~

~~—— (4) The identity of persons making reports pursuant to this section shall be kept confidential.~~

~~—— Section 3. Section 53A-17a-166 is amended to read:~~

~~—— 53A-17a-166. Enhancement for At-Risk Students Program:~~

~~—— (1) (a) Subject to [the requirements of] Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of~~

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~~Education, after consultation with local education boards:~~

~~—— (b) (i) The State Board of Education shall appropriate \$1,200,000 from the appropriation for Enhancement for At-Risk Students Program for a gang prevention and intervention program designed to help students [at-risk] at risk for gang involvement stay in school.~~

~~—— (ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.~~

~~—— (2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall use the following criteria:~~

~~—— (a) low performance on statewide assessments described in Section 53A-1-602;~~

~~—— (b) poverty;~~

~~—— (c) mobility; and~~

~~—— (d) limited English proficiency.~~

~~—— (3) A local education board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure and to address truancy.~~

~~—— (4) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program.~~

~~—— **53F-2-410. Enhancement for At-Risk Students Program.**~~

~~—— (1) (a) Subject to the requirements of Subsection (1)(b), the State Board of Education shall distribute money appropriated for the Enhancement for At-Risk Students Program to school districts and charter schools according to a formula adopted by the State Board of Education, after consultation with local education boards:~~

~~—— (b) (i) The State Board of Education shall appropriate \$1,200,000 from the appropriation for Enhancement for At-Risk Students for a gang prevention and intervention program designed to help students at-risk for gang involvement stay in school.~~

~~—— (ii) Money for the gang prevention and intervention program shall be distributed to school districts and charter schools through a request for proposals process.~~

~~—— (2) In establishing a distribution formula under Subsection (1)(a), the State Board of Education shall use the following criteria:~~

~~—— (a) low performance on statewide assessments described in Section 53E-4-301;~~

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~~—— (b) poverty;~~

~~—— (c) mobility; and~~

~~—— (d) limited English proficiency.~~

~~—— (3) A local education board shall use money distributed under this section to improve the academic achievement of students who are at risk of academic failure.~~

~~—— (4) The State Board of Education shall develop performance criteria to measure the effectiveness of the Enhancement for At-Risk Students Program.~~

~~—— (5) If a school district or charter school receives an allocation of less than \$10,000 under this section, the school district or charter school may use the allocation as described in Section 53F-2-206.~~

~~—— **53G-8-211. Responses to school-based behavior:**~~

~~—— (1) As used in this section:~~

~~—— (a) "Class A misdemeanor person offense" means a class A misdemeanor described in Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 5b, Sexual Exploitation Act.~~

~~—— (b) "Mobile crisis outreach team" means the same as that term is defined in Section 78A-6-105.~~

~~—— (c) "Nonperson class A misdemeanor" means a class A misdemeanor that is not a class A misdemeanor person offense.~~

~~—— (d) "Restorative justice program" means a school-based program that is designed to enhance school safety, reduce school suspensions, and limit referrals to court, and is designed to help minors take responsibility for and repair the harm of behavior that occurs in school.~~

~~—— (2) This section applies to a minor enrolled in school who is alleged to have committed an offense:~~

~~—— (a) on school property; or~~

~~—— (b) that is truancy.~~

~~—— (3) If the alleged offense is a class C misdemeanor, an infraction, a status offense on school property, or truancy, the minor may not be referred to law enforcement or court but may be referred to alternative school-related interventions, including:~~

~~—— (a) a mobile crisis outreach team, as defined in Section 78A-6-105;~~

~~—— (b) a receiving center operated by the Division of Juvenile Justice Services in~~

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~~accordance with Section 62A-7-104; and~~

~~— (c) a youth court or comparable restorative justice program;~~

~~— (4) If the alleged offense is a class B misdemeanor or a nonperson class A misdemeanor, the minor may be referred directly to the juvenile court by the school administrator or the school administrator's designee, or the minor may be referred to the alternative interventions in Subsection (3).~~

‡ **53G-8-506. Reporting of prohibited acts affecting a school -- Confidentiality.**

(1) A person who has reasonable cause to believe that an individual has committed a prohibited act shall, in accordance with Section 53G-8-211, immediately notify:

- (a) the principal;
- (b) an administrator of the affected school;
- (c) the superintendent of the affected school district; or
- (d) an administrator of the affected school district.

(2) If notice is given to a school official, the official may authorize an investigation into allegations involving school property, students, or school district employees.

(3) A school official may only refer a complaint of an alleged prohibited act reported as occurring on school ~~grounds~~ property or in connection with school-sponsored activities to an appropriate law enforcement agency in accordance with Section 53G-8-211.

(4) The identity of persons making reports pursuant to this section shall be kept confidential.

Section 4. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53, 53A, and 53B.

The following provisions are repealed on the following dates:

- (1) Subsection 53-10-202(18) is repealed July 1, 2018.
- (2) Section 53-10-202.1 is repealed July 1, 2018.
- (3) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program, is repealed July 1, 2020.
- (4) Section 53A-13-106.5 is repealed July 1, 2019.
- (5) Section 53A-15-106 is repealed July 1, 2019.
- (6) Sections 53A-15-206 and 53A-15-207 are repealed January 1, 2023.
- (7) Title 53A, Chapter 31, Part 4, American Indian and Alaskan Native Education State

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Plan Pilot Program, is repealed July 1, 2022.

(8) Section 53B-24-402, Rural residency training program, is repealed July 1, 2020.

(9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells, other hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

(10) Subsection 53G-8-211(4) is repealed July 1, 2020.

Section 5. Section 78A-6-210 is amended to read:

78A-6-210. Fines -- Fees -- Deposit with state treasurer -- Restricted account.

(1) There is created within the General Fund a restricted account known as the "Nonjudicial Adjustment Account."

(2) (a) The account shall be funded from the financial penalty established under Subsection 78A-6-602(2)~~(d)~~(e)(i).

(b) The court shall deposit all money collected as a result of penalties assessed as part of the nonjudicial adjustment of a case in the account.

(c) The account shall be used to pay the expenses of juvenile compensatory service, victim restitution, and diversion programs.

(3) (a) Except under Subsections (3)(b), (4), and as otherwise provided by law, all fines, fees, penalties, and forfeitures imposed and collected by the juvenile court shall be paid to the state treasurer for deposit in the General Fund.

(b) Not more than 50% of any fine or forfeiture collected may be paid to a state rehabilitative employment program for delinquent minors that provides for employment of the minor in the county of the minor's residence if:

(i) reimbursement for the minor's labor is paid to the victim of the minor's delinquent behavior;

(ii) the amount earned and paid is set by court order;

(iii) the minor is not paid more than the hourly minimum wage; and

(iv) no payments to victims are made without the minor's involvement in a rehabilitative work program.

(c) Fines withheld under Subsection (3)(b) and any private contributions to the rehabilitative employment program are accounted for separately and are subject to audit at any time by the state auditor.

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(d) Funds withheld under Subsection (3)(b) and private contributions are nonlapsing. The Board of Juvenile Court Judges shall establish policies for the use of the funds described in this subsection.

(4) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 80% to the General Fund.

(5) No fee may be charged by any state or local public officer for the service of process in any proceedings initiated by a public agency.

Section ~~(4)~~6. Section **78A-6-602** is amended to read:

78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal referral -- Citation -- Failure to appear.

(1) A proceeding in a minor's case is commenced by petition, except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703.

(2) (a) A peace officer or a public official of the state, a county, city, or town charged with the enforcement of the laws of the state or local jurisdiction shall file a formal referral with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a detention facility, the formal referral shall be filed with the juvenile court within 72 hours, excluding weekends and holidays. A formal referral under Section ~~[53A-11-911]~~ [53G-8-211] may not be filed with the juvenile court on an offense unless the offense is subject to referral under Section ~~[53A-11-911]~~ [53G-8-211].

(b) (i) When the court is informed by a peace officer or other person that a minor is or appears to be within the court's jurisdiction, the probation department shall make a preliminary inquiry to determine whether the minor is eligible to enter into a written consent agreement with the probation department and, if the minor is a child, the minor's parent, guardian, or custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2). ~~[The]~~

(ii) Except as provided in Subsection (2)(~~(i)~~k), the court's probation department shall offer a nonjudicial adjustment if the minor:

~~(i)~~ (A) is referred with a misdemeanor, infraction, or status offense;

~~(ii)~~ (B) has ~~[fewer than three]~~ no more than two prior adjudications; and

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~~[(iii)]~~ (C) has no more than three prior unsuccessful nonjudicial adjustment attempts.

(iii) For purposes of this Subsection (2)(b), an adjudication or nonjudicial adjustment means an action based on a single episode of conduct that is closely related in time and is incident to an attempt or an accomplishment of a single objective.

(c) (i) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment pursuant to Subsection (2)(b), the probation department shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(ii) The victim shall be responsible to provide to the division upon request:

(A) invoices, bills, receipts, and other evidence of injury, loss of earnings, and out-of-pocket loss;

(B) documentation and evidence of compensation or reimbursement from insurance companies or agencies of Utah, any other state, or federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(C) proof of identification, including home and work address and telephone numbers.

(iii) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the probation department determining restitution based on the best information available.

~~[(e)]~~ (d) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a validated risk and needs assessment and may request that the prosecutor review the referral pursuant to Subsection (2)~~[(g)]~~ (h) to determine whether to dismiss the referral or file a petition instead of offering a nonjudicial adjustment if:

(A) the results of the assessment indicate the youth is high risk; or

(B) the results of the assessment indicate the youth is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(ii) ~~[The]~~ Except as provided in Subsection (2)~~[(f)]~~ (k), the court's probation department, may offer a nonjudicial adjustment to any other minor who does not meet the criteria provided in Subsection (2)(b).

(iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an admission of guilt.

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(iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to pay a financial penalty under Subsection (2)~~(f)~~(e).

(v) Efforts to effect a nonjudicial adjustment may not extend for a period of more than 90 days without leave of a judge of the court, who may extend the period for an additional 90 days.

(vi) A prosecutor may not file a petition against a minor unless:

(A) the minor does not qualify for nonjudicial adjustment under Subsection (2)(b) or ~~(f)~~(d)(ii):

(B) the minor declines nonjudicial adjustment or, if the minor is a child, the minor's parent, guardian, or custodian declines nonjudicial adjustment;

(C) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;

(D) the minor fails to respond to the probation department's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or

~~(D)~~E) the prosecutor is acting under Subsection (2)~~(f)~~(k).

~~(f)~~(e) The nonjudicial adjustment of a case may include the following conditions agreed upon as part of the nonjudicial closure:

(i) payment of a financial penalty of not more than \$250 to the juvenile court subject to the terms established under Subsection (2)~~(e)~~(f);

(ii) payment of victim restitution;

(iii) satisfactory completion of compensatory service;

(iv) referral to an appropriate provider for counseling or treatment;

(v) attendance at substance use disorder programs or counseling programs;

(vi) compliance with specified restrictions on activities and associations; [and]

(vii) victim-offender mediation, if requested by the victim; and

~~(vii)~~ (viii) other reasonable actions that are in the interest of the child or minor [and], the community, and the victim.

~~(e)~~(f) A fee, fine, or restitution included in a nonjudicial closure in accordance with Subsection (2)~~(f)~~(e) shall be based upon the ability of the minor's family to pay as determined by a statewide sliding scale developed as provided in Section 63M-7-208 on and after July 1,

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2018.

~~[(f)](g)~~ If a prosecutor learns of a referral involving an offense identified in Subsection (2)(~~(f)](k)~~, if a minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial closure, or if a minor is not offered or declines a nonjudicial adjustment pursuant to Subsection (2)(~~(f)](b)~~ ~~[or]~~, (2)(c)(ii)~~(f)]~~, or (2)(d)(vi), the prosecutor shall review the case and take one of the following actions:

- (i) dismiss the case;
- (ii) refer the case back to the probation department for a new attempt at nonjudicial adjustment; or
- (iii) in accordance with Subsections (2)~~(f)](i)~~, file a petition with the court.

~~[(g)](h)~~ Notwithstanding Subsection (2)~~(f)](g)~~, a petition may only be filed upon reasonable belief that:

- (i) the charges are supported by probable cause;
- (ii) admissible evidence will be sufficient to support ~~[conviction]~~ adjudication beyond a reasonable doubt; and
- (iii) the decision to charge is in the interests of justice.

~~[(h)](i)~~ Failure to [a] pay a fine or fee may not serve as a basis for filing of a petition under Subsection (2)~~(f)](g)~~(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection (2)~~(f)](e)~~ or those imposed through any other court diversion program.

~~[(i)](A)](j)~~ Notwithstanding Subsection (2)(h), a violation of Section 76-10-105 that is subject to the jurisdiction of the juvenile court may include a fine or penalty and participation in a court-approved tobacco education program, which may include a participation fee.

~~(f)](k)~~ Notwithstanding the other provisions of this section, the probation department shall request that a prosecutor review a referral in accordance with Subsection (2)(~~(f)](g)~~ if the referral involves a violation of:

- (i) Section 76-5-206, negligent homicide; ~~for~~
- ~~(ii) Subsection 41-6a-503(1)(b)(i) or (ii), class A misdemeanor for~~
- (ii) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

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(iii) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;

(iv) Section 76-10-509, possession of dangerous weapon by minor, but only if the dangerous weapon is a firearm;

(v) Section 76-9-702.1, sexual battery; or

(vi) Section 41-6a-502, driving under the influence if:

(A) the driver license of the minor is not suspended or revoked by the Driver License Division; and

(B) the minor has been subject to a drug and alcohol assessment and, if warranted, provided drug and alcohol treatment.

~~(f)~~ ~~(k)~~ If the prosecutor files a petition in court, the court may refer the case to the probation department for another offer of nonjudicial adjustment.

(3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor 14 years of age or older, the county attorney, district attorney, or attorney general may commence an action by filing a criminal information and a motion requesting the juvenile court to waive its jurisdiction and certify the minor to the district court.

(4) (a) In cases of violations of wildlife laws, boating laws, class B and class C misdemeanors, other infractions or misdemeanors as designated by general order of the Board of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the juvenile court, a petition is not required and the issuance of a citation as provided in Section 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry in accordance with Subsection (2)(b)(i) is required.

(b) Any failure to comply with the time deadline on a formal referral may not be the basis of dismissing the formal referral.

Section ~~5~~7. Section **78A-6-603** is amended to read:

78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to appear.

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

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

(3) A copy of the citation shall contain:

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(a) the name and address of the juvenile court before which the minor may be required to appear;

(b) the name of the minor cited;

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

(d) a brief description of the offense charged;

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

(f) the date the citation was issued;

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

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the arrested minor into custody as provided in Section 78A-6-112;

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

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

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

(a) the minor's address;

(b) the minor's date of birth;

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

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

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

(6) In accordance with Section ~~[53A-11-911]~~ 53G-8-211, the following offenses may be sent to the juvenile court as a citation:

(a) violations of wildlife laws;

(b) violations of boating laws;

(c) violations of curfew laws;

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

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

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

(g) violations of Section 76-10-105 subject to the jurisdiction of the juvenile court.

(7) A minor offense defined under Section 78A-6-1202, alleged to have been committed by an enrolled child on school property or related to school attendance, may only be sent to the prosecutor or the juvenile court in accordance with Section ~~[53A-11-911]~~ 53G-8-211.

~~[(8) A preliminary inquiry by the prosecutor, and]~~

(8) An inquiry shall be conducted:

(a) by the prosecutor to determine upon reasonable belief that:

(i) the charges are supported by probable cause;

(ii) admissible evidence will be sufficient to support ~~conviction~~ adjudication beyond a reasonable doubt; and

(iii) the decision to charge is in the interests of justice; and

(b) if appropriate, by the court[;] under Section 78A-6-117 ~~[is required]~~.

(9) Subsection (5) may not apply to a runaway child.

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

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

(11) A minor who receives a citation and willfully fails to appear before the juvenile court pursuant to a citation may be found in contempt of court. The court may proceed against the minor as provided in Section 78A-6-1101.

(12) When a citation is issued under this section, bail may be posted and forfeited under Section 78A-6-113 with the consent of:

(a) the court; and

(b) if the minor is a child, the parent or legal guardian of the child cited.

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Section ~~6~~8. **Effective date.**

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

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Legislative Review Note

~~Office of Legislative Research and General Counsel~~