

**NOTIFICATION TO SCHOOL OF CRIMINAL
PROCEEDINGS**

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the notification requirements to schools of criminal proceedings.

Highlighted Provisions:

This bill:

- ▶ requires notification by an officer or law enforcement agency to a school district that a minor is under investigation for a violent felony or weapons offense; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-8-402, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-8-403, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-8-404, as last amended by Laws of Utah 2019, Chapter 293

53G-8-405, as renumbered and amended by Laws of Utah 2018, Chapter 3

78A-6-112, as last amended by Laws of Utah 2018, Chapter 415



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

29 Section 1. Section **53G-8-402** is amended to read:

30 **53G-8-402. Notification by juvenile court and law enforcement agencies.**

31 (1) Notifications received from the juvenile court or law enforcement agencies by the
32 school district pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(~~b~~)(c) are governed
33 by this part.

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

36 Section 2. Section **53G-8-403** is amended to read:

37 **53G-8-403. Superintendent required to notify school.**

38 (1) Within three days [~~of receiving the information~~] after the day on which the district
39 superintendent receives a notice described in Subsection 78A-6-112(3)(b) or 78A-6-117(1)(c)
40 from the juvenile court or a law enforcement agency, the district superintendent shall [notify]
41 forward the notice to the principal of the school the juvenile attends or last attended.

42 (2) Upon receipt of the [~~information~~] notice, the principal shall:

43 (a) make a notation in a secure file other than the student's permanent file; and

44 (b) if the student is still enrolled in the school, notify staff members who, in [~~his~~] the
45 principal's opinion, should know of the adjudication or investigation.

46 (3) A person receiving information pursuant to this part may only disclose the
47 information to other persons having both a right and a current need to know.

48 (4) Access to secure files shall be limited to persons authorized to receive information
49 under this part.

50 Section 3. Section **53G-8-404** is amended to read:

51 **53G-8-404. State board to set procedures.**

52 The state board shall make rules governing the dissemination of the [~~information~~]
53 notice and other information related to the notice.

54 Section 4. Section **53G-8-405** is amended to read:

55 **53G-8-405. Liability for release of information.**

56 (1) The district superintendent, principal, and any staff member notified by the
57 principal may not be held liable for information [~~which~~] that may become public knowledge
58 unless it can be shown by clear and convincing evidence that the information became public

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

60 (2) A person receiving information under Subsection 78A-6-112(3)(b) or
61 78A-6-117(1)[(b)](c), or Section 53G-8-403 is immune from any liability, civil or criminal, for
62 acting or failing to act in response to the information unless the person acts or fails to act due to
63 malice, gross negligence, or deliberate indifference to the consequences.

64 Section 5. Section 78A-6-112 is amended to read:

65 **78A-6-112. Minor taken into custody by peace officer, private citizen, or**
66 **probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds**
67 **for peace officer to take adult into custody.**

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

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

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

73 (c) the minor:

74 (i) (A) is seriously endangered in the minor's surroundings; or

75 (B) seriously endangers others; and

76 (ii) immediate removal appears to be necessary for the minor's protection or the
77 protection of others;

78 (d) there are reasonable grounds to believe the minor has run away or escaped from the
79 minor's parents, guardian, or custodian; or

80 (e) there is reason to believe that the minor is:

81 (i) subject to the state's compulsory education law; and

82 (ii) absent from school without legitimate or valid excuse, subject to Section
83 53G-6-208.

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

87 (b) A probation officer may also take a minor into custody under Subsection (1) or if
88 the minor has violated the conditions of probation, if the minor is under the continuing
89 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not

90 immediately available.

91 (3) (a) (i) If an officer or other person takes a minor into temporary custody under
92 Subsection (1) or (2), the officer or person shall without unnecessary delay notify the parents,
93 guardian, or custodian.

94 (ii) The minor shall then be released to the care of the minor's parent or other
95 responsible adult, unless the minor's immediate welfare or the protection of the community
96 requires the minor's detention.

97 (b) If the minor is under investigation, taken into custody under Subsection (1) or (2),
98 or placed in detention under Subsection (4), for a violent felony, as defined in Section
99 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the officer or
100 other law enforcement agent investigating the minor or taking the minor into custody shall, as
101 soon as practicable or as established under Subsection 53G-8-402(2), notify the school
102 superintendent of the district in which the minor resides or attends school for the purposes of
103 the minor's supervision and student safety.

104 (i) The notice shall disclose only:

105 (A) the name of the minor;

106 (B) the offense for which the minor is being investigated or was taken into custody or
107 detention; and

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

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

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

111 (ii) The notice shall be classified as a protected record under Section 63G-2-305.

112 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government
113 Records Access and Management Act, and the federal Family Educational Rights and Privacy
114 Act.

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

118 (d) Before the minor is released, the parent or other person to whom the minor is
119 released shall be required to sign a written promise on forms supplied by the court to bring the
120 minor to the court at a time set or to be set by the court.

121 (4) (a) A child may not be held in temporary custody by law enforcement any longer
122 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
123 information and to contact the child's parents, guardian, or custodian.

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

126 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
127 file with the detention or shelter facility a written report on a form provided by the division
128 stating:

129 (i) the details of the presently alleged offense;

130 (ii) the facts that bring the minor within the jurisdiction of the juvenile court;

131 (iii) the reason the minor was not released by law enforcement; and

132 (iv) the eligibility of the minor under the division guidelines for detention admissions
133 established by the Division of Juvenile Justice Services under Section 62A-7-202 if the minor
134 is under consideration for detention.

135 (b) (i) The designated facility staff person shall immediately review the form and
136 determine, based on the guidelines for detention admissions established by the Division of
137 Juvenile Justice Services under Section 62A-7-202, the results of the detention risk assessment,
138 and the criteria for detention eligibility under Section 78A-6-113, whether to:

139 (A) admit the minor to secure detention;

140 (B) admit the minor to home detention;

141 (C) place the minor in another alternative to detention; or

142 (D) return the minor home upon written promise to bring the minor to the court at a
143 time set, or without restriction.

144 (ii) (A) If the designated facility staff person determines to admit the minor to home
145 detention, that staff person shall notify the juvenile court of that determination.

146 (B) The court shall order that notice be provided to the designated persons in the local
147 law enforcement agency and the school or transferee school, if applicable, which the minor
148 attends of the home detention.

149 (C) The designated persons may receive the information for purposes of the minor's
150 supervision and student safety.

151 (iii) Any employee of the local law enforcement agency [~~and~~] or the school [~~which~~]

152 that the minor attends who discloses the notification of home detention is not:

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

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

157 (iv) The person who takes a minor to a detention facility or the designated facility staff
158 person may release a minor to a less restrictive alternative ~~[even if]~~, regardless of whether the
159 minor is eligible for secure detention under this Subsection (5).

160 (c) A minor may not be admitted to detention unless the minor is detainable based on
161 the guidelines or the minor has been brought to detention pursuant to a judicial order or
162 division warrant pursuant to Section 62A-7-504.

163 (d) If a minor taken to detention does not qualify for admission under the guidelines
164 established by the division under Section 62A-7-104, ~~or [the eligibility criteria under]~~ with
165 Subsection (4) and this Subsection (5), detention staff shall arrange an appropriate alternative.

166 (e) If a minor is taken into custody and admitted to a secure detention or shelter
167 facility, facility staff shall:

- 168 (i) immediately notify the minor's parents, guardian, or custodian; and
- 169 (ii) promptly notify the court of the placement.

170 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
171 the minor's residence and it is determined in the hearing held under Subsection
172 78A-6-113~~(3)~~(4) that detention shall continue, the judge or commissioner shall direct the
173 sheriff of the county of the minor's residence to transport the minor to a detention or shelter
174 facility as provided in this section.

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