

JUVENILE DELINQUENCY AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to juvenile delinquency.

Highlighted Provisions:

This bill:

▶ modifies the definition of a youth offender in the custody of the Division of Juvenile Justice Services;

▶ adds a definition for a referral to a juvenile court for a nonjudicial adjustment;

▶ clarifies and amends the referral, citation, and petition process for the juvenile court;

▶ prohibits the prosecution of an individual for offenses that occurred before the individual was 13 years old with exceptions for certain offenses;

▶ allows for the detention for individuals who are under 13 years old for certain offenses; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



- 28 [17-18a-404](#), as last amended by Laws of Utah 2017, Chapter 330
- 29 [62A-7-101](#), as last amended by Laws of Utah 2019, Chapters 162 and 246
- 30 [76-10-105 \(Superseded 07/01/20\)](#), as last amended by Laws of Utah 2018, Chapter 415
- 31 [76-10-105 \(Effective 07/01/20\)](#), as last amended by Laws of Utah 2019, Chapter 232
- 32 [78A-6-105](#), as last amended by Laws of Utah 2019, Chapters 335 and 388
- 33 [78A-6-113](#), as last amended by Laws of Utah 2018, Chapter 285
- 34 [78A-6-116](#), as last amended by Laws of Utah 2010, Chapter 38
- 35 [78A-6-210](#), as last amended by Laws of Utah 2018, Chapter 117
- 36 [78A-6-601](#), as last amended by Laws of Utah 2010, Chapter 38
- 37 [78A-6-602](#), as last amended by Laws of Utah 2018, Chapters 117 and 415
- 38 [78A-6-603](#), as last amended by Laws of Utah 2018, Chapters 117 and 415
- 39 [78A-6-703](#), as last amended by Laws of Utah 2019, Chapter 326
- 40 [78A-7-106](#), as last amended by Laws of Utah 2019, Chapter 136

41 ENACTS:

42 [78A-6-602.5](#), Utah Code Annotated 1953



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

45 Section 1. Section **17-18a-404** is amended to read:

46 **17-18a-404. Juvenile proceedings.**

47 For a proceeding involving a charge of juvenile delinquency, infraction, or a status
48 offense, a prosecutor shall:

49 (1) review cases [~~pursuant to Section~~] in accordance with Sections [78A-6-602](#),
50 [78A-6-602.5](#), and [78A-6-603](#); and

51 (2) appear and prosecute for the state in the juvenile court of the county.

52 Section 2. Section **62A-7-101** is amended to read:

53 **62A-7-101. Definitions.**

54 As used in this chapter:

55 (1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in
56 Section [62A-7-112](#).

57 (2) "Authority" means the Youth Parole Authority, established in accordance with
58 Section [62A-7-501](#).

59 (3) "Community-based program" means a nonsecure residential or nonresidential
60 program designated to supervise and rehabilitate youth offenders in accordance with
61 Subsection 78A-6-117(2) that prioritizes the least restrictive nonresidential setting, consistent
62 with public safety, and designated or operated by or under contract with the division.

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

65 (5) "Court" means the juvenile court.

66 (6) "Delinquent act" is an act [~~which~~] that would constitute a felony or a misdemeanor
67 if committed by an adult.

68 (7) "Detention" means secure detention or home detention.

69 (8) "Detention center" means a facility established in accordance with Title 62A,
70 Chapter 7, Part 2, Detention Facilities.

71 (9) "Director" means the director of the Division of Juvenile Justice Services.

72 (10) "Discharge" means a written order of the Youth Parole Authority that removes a
73 youth offender from [~~its~~] the Youth Parole Authority's jurisdiction.

74 (11) "Division" means the Division of Juvenile Justice Services.

75 (12) "Home detention" means predispositional placement of a child in the child's home
76 or a surrogate home with the consent of the child's parent, guardian, or custodian for conduct
77 by a child who is alleged to have committed a delinquent act or postdispositional placement
78 [~~pursuant to~~] in accordance with Subsection 78A-6-117(2)(f) or 78A-6-1101(3).

79 (13) "Observation and assessment program" means a nonresidential service program
80 operated or purchased by the division that is responsible only for diagnostic assessment of
81 minors, including for substance use disorder, mental health, psychological, and sexual behavior
82 risk assessments.

83 (14) "Parole" means a conditional release of a youth offender from residency in a
84 secure facility to live outside that facility under the supervision of the Division of Juvenile
85 Justice Services or other person designated by the division.

86 (15) "Performance-based contracting" means a system of contracting with service
87 providers for the provision of residential or nonresidential services that:

88 (a) provides incentives for the implementation of evidence-based juvenile justice
89 programs or programs rated as effective for reducing recidivism by a standardized tool pursuant

90 to Section [63M-7-208](#); and

91 (b) provides a premium rate allocation for a minor who receives the evidence-based
92 dosage of treatment and successfully completes the program within three months.

93 (16) "Receiving center" means a nonsecure, nonresidential program established by the
94 division or under contract with the division that is responsible for juveniles taken into custody
95 by a law enforcement officer for status offenses, infractions, or delinquent acts.

96 (17) "Rescission" means a written order of the Youth Parole Authority that rescinds a
97 parole date.

98 (18) "Revocation of parole" means a written order of the Youth Parole Authority that
99 terminates parole supervision of a youth offender and directs return of the youth offender to the
100 custody of a secure facility after a hearing and a determination that there has been a violation of
101 law or of a condition of parole that warrants a return to a secure facility in accordance with
102 Section [62A-7-504](#).

103 (19) "Runaway" means a youth who willfully leaves the residence of a parent or
104 guardian without the permission of the parent or guardian.

105 (20) "Secure detention" means predisposition placement in a facility operated by or
106 under contract with the division, for conduct by a child who is alleged to have committed a
107 delinquent act.

108 (21) "Secure facility" means any facility operated by or under contract with the
109 division, that provides 24-hour supervision and confinement for youth offenders committed to
110 the division for custody and rehabilitation.

111 (22) "Shelter" means the temporary care of children in physically unrestricted facilities
112 pending court disposition or transfer to another jurisdiction.

113 (23) (a) "Temporary custody" means control and responsibility of nonadjudicated youth
114 until the youth can be released to the parent, guardian, a responsible adult, or to an appropriate
115 agency.

116 (b) "Temporary custody" does not include a placement in a secure facility, including
117 secure detention, or a residential community-based program operated or contracted by the
118 division, except pursuant to Subsection [78A-6-117](#)(2).

119 (24) "Termination" means a written order of the Youth Parole Authority that terminates
120 a youth offender from parole.

121 (25) "Ungovernable" means a youth in conflict with a parent or guardian, and the
 122 conflict:

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

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

126 (c) results in the situations described in [~~both~~] Subsections (25)(a) and (b).

127 (26) "Work program" means a nonresidential public or private service work project
 128 established and administered by the division for youth offenders for the purpose of
 129 rehabilitation, education, and restitution to victims.

130 (27) "Youth offender" means [~~a person 12 years of age or older, and who has not~~
 131 ~~reached 21 years of age,~~] an individual who is:

132 (a) under 21 years old; and

133 (b) committed or admitted by the [juvenile] court to the custody, care, and jurisdiction
 134 of the division[;] for confinement in a secure facility or supervision in the community[;]
 135 following an adjudication for a delinquent act [which would constitute a felony or
 136 misdemeanor if committed by an adult] in accordance with Section 78A-6-117.

137 (28) (a) "Youth services" means services provided in an effort to resolve family
 138 conflict:

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

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

141 (b) [~~These~~] "Youth services" include efforts to:

142 (i) resolve family conflict;

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

144 (iii) divert minors from entering or escalating in the juvenile justice system.

145 (c) [~~The~~] "Youth services" may provide:

146 (i) crisis intervention;

147 (ii) short-term shelter;

148 (iii) time out placement; and

149 (iv) family counseling.

150 Section 3. Section **76-10-105 (Superseded 07/01/20)** is amended to read:

151 **76-10-105 (Superseded 07/01/20). Buying or possessing a cigar, cigarette,**

152 **electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

153 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's
154 possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C
155 misdemeanor and subject to:

156 (a) a minimum fine or penalty of \$60; and

157 (b) participation in a court-approved tobacco education program, which may include a
158 participation fee.

159 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
160 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject
161 to ~~[the jurisdiction of the juvenile court and subject to Section 78A-6-602]~~ a citation under
162 Section 78A-6-603, unless the violation is committed on school property. If a violation under
163 this section is adjudicated under Section 78A-6-117, the minor may be subject to the following:

164 (a) a fine or penalty, in accordance with Section 78A-6-117; and

165 (b) participation in a court-approved tobacco education program, which may include a
166 participation fee.

167 (3) A compliance officer appointed by a board of education under Section 53G-4-402
168 may not issue a citation for a violation of this section committed on school property. A cited
169 violation committed on school property shall be addressed in accordance with Section
170 53G-8-211.

171 Section 4. Section 76-10-105 (Effective 07/01/20) is amended to read:

172 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, electronic**
173 **cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

174 (1) (a) An individual who is 18 years old or older, but younger than the age specified in
175 Subsection (1)(b), and buys or attempts to buy, accepts, or has in the individual's possession
176 any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of an infraction and
177 subject to:

178 (i) a minimum fine or penalty of \$60; and

179 (ii) participation in a court-approved tobacco education or cessation program, which
180 may include a participation fee.

181 (b) For purposes of Subsection (1)(a), the individual is younger than:

182 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

183 (ii) beginning July 1, 2021, 21 years old.

184 (2) An individual under [~~the age of~~] 18 years old who buys or attempts to buy, accepts,
185 or has in the individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any
186 form is subject to [~~the jurisdiction of the juvenile court and subject to Section 78A-6-602~~] a
187 citation under Section 78A-6-603, unless the violation is committed on school property. If a
188 violation under this section is adjudicated under Section 78A-6-117, the minor may be subject
189 to the following:

190 (a) a fine or penalty, in accordance with Section 78A-6-117; and

191 (b) participation in a court-approved tobacco education program, which may include a
192 participation fee.

193 (3) A compliance officer appointed by a board of education under Section 53G-4-402
194 may not issue a citation for a violation of this section committed on school property. A cited
195 violation committed on school property shall be addressed in accordance with Section
196 53G-8-211.

197 (4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,
198 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years old or
199 older and is:

200 (i) on active duty in the United States Armed Forces; or

201 (ii) a spouse or dependent of an individual who is on active duty in the United States
202 Armed Forces.

203 (b) A valid, government-issued military identification card is required to verify proof
204 of age under Subsection (4)(a).

205 Section 5. Section 78A-6-105 is amended to read:

206 **78A-6-105. Definitions.**

207 As used in this chapter:

208 (1) (a) "Abuse" means:

209 (i) (A) nonaccidental harm of a child;

210 (B) threatened harm of a child;

211 (C) sexual exploitation;

212 (D) sexual abuse; or

213 (E) human trafficking of a child in violation of Section 76-5-308.5; or

- 214 (ii) that a child's natural parent:
215 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
216 child;
217 (B) is identified by a law enforcement agency as the primary suspect in an investigation
218 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
219 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
220 recklessly causing the death of another parent of the child.
- 221 (b) "Abuse" does not include:
222 (i) reasonable discipline or management of a child, including withholding privileges;
223 (ii) conduct described in Section 76-2-401; or
224 (iii) the use of reasonable and necessary physical restraint or force on a child:
225 (A) in self-defense;
226 (B) in defense of others;
227 (C) to protect the child; or
228 (D) to remove a weapon in the possession of a child for any of the reasons described in
229 Subsections (1)(b)(iii)(A) through (C).
- 230 (2) "Abused child" means a child who has been subjected to abuse.
- 231 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the
232 facts alleged in the petition have been proved. [A]
- 233 (b) "Adjudication" does not mean a finding of not competent to proceed [pursuant to]
234 in accordance with Section 78A-6-1302 [is not an adjudication].
- 235 (4) (a) "Adult" means an individual [~~18 years of age or over, except that an individual~~
236 ~~18 years or over under~~] who is 18 years old or older.
- 237 (b) "Adult" does not include an individual who is 18 years old or older and under the
238 continuing jurisdiction of the juvenile court [pursuant to] in accordance with Section
239 78A-6-120 [shall be referred to as a minor].
- 240 (5) "Board" means the Board of Juvenile Court Judges.
- 241 (6) "Child" means an individual under 18 years [~~of age~~] old.
- 242 (7) "Child placement agency" means:
243 (a) a private agency licensed to receive a child for placement or adoption under this
244 code; or

245 (b) a private agency that receives a child for placement or adoption in another state,
246 which agency is licensed or approved where such license or approval is required by law.

247 (8) "Clandestine laboratory operation" means the same as that term is defined in
248 Section [58-37d-3](#).

249 (9) "Commit" means, unless specified otherwise:

250 (a) with respect to a child, to transfer legal custody; and

251 (b) with respect to a minor who is at least 18 years [~~of age~~] old, to transfer custody.

252 (10) "Court" means the juvenile court.

253 (11) "Criminogenic risk factors" means evidence-based factors that are associated with
254 a minor's likelihood of reoffending.

255 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if
256 committed by an adult.

257 (13) "Department" means the Department of Human Services created in Section
258 [62A-1-102](#).

259 (14) "Dependent child" includes a child who is homeless or without proper care
260 through no fault of the child's parent, guardian, or custodian.

261 (15) "Deprivation of custody" means transfer of legal custody by the court from a
262 parent or the parents or a previous legal custodian to another person, agency, or institution.

263 (16) "Detention" means home detention and secure detention as defined in Section
264 [62A-7-101](#) for the temporary care of a minor who requires secure custody in a physically
265 restricting facility:

266 (a) pending court disposition or transfer to another jurisdiction; or

267 (b) while under the continuing jurisdiction of the court.

268 (17) "Detention risk assessment tool" means an evidence-based tool established under
269 Section [78A-6-124](#), on and after July 1, 2018, that assesses a minor's risk of failing to appear in
270 court or reoffending pre-adjudication and designed to assist in making detention
271 determinations.

272 (18) "Developmental immaturity" means incomplete development in one or more
273 domains which manifests as a functional limitation in the minor's present ability to consult with
274 counsel with a reasonable degree of rational understanding and have a rational as well as
275 factual understanding of the proceedings.

- 276 (19) "Division" means the Division of Child and Family Services.
- 277 (20) "Educational neglect" means that, after receiving a notice of compulsory education
278 violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to
279 ensure that the child receives an appropriate education.
- 280 (21) "Evidence-based" means a program or practice that has had multiple randomized
281 control studies or a meta-analysis demonstrating that the program or practice is effective for a
282 specific population or has been rated as effective by a standardized program evaluation tool.
- 283 (22) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 284 (23) "Formal probation" means a minor is under field supervision by the probation
285 department or other agency designated by the court and subject to return to the court in
286 accordance with Section 78A-6-123 on and after July 1, 2018.
- 287 (24) "Formal referral" means a written report from a peace officer or other person
288 informing the court that a minor is or appears to be within the court's jurisdiction and that [a]
289 the minor's case must be reviewed by the court's probation department or a prosecuting
290 attorney.
- 291 (25) "Group rehabilitation therapy" means psychological and social counseling of one
292 or more individuals in the group, depending upon the recommendation of the therapist.
- 293 (26) "Guardianship of the person" includes the authority to consent to:
- 294 (a) marriage;
- 295 (b) enlistment in the armed forces;
- 296 (c) major medical, surgical, or psychiatric treatment; or
- 297 (d) legal custody, if legal custody is not vested in another individual, agency, or
298 institution.
- 299 (27) "Habitual truant" means the same as that term is defined in Section 53G-6-201.
- 300 (28) "Harm" means:
- 301 (a) physical or developmental injury or damage;
- 302 (b) emotional damage that results in a serious impairment in the child's growth,
303 development, behavior, or psychological functioning;
- 304 (c) sexual abuse; or
- 305 (d) sexual exploitation.
- 306 (29) (a) "Incest" means engaging in sexual intercourse with an individual whom the

307 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
308 nephew, niece, or first cousin.

309 (b) The relationships described in Subsection (29)(a) include:

310 (i) blood relationships of the whole or half blood, without regard to legitimacy;

311 (ii) relationships of parent and child by adoption; and

312 (iii) relationships of stepparent and stepchild while the marriage creating the
313 relationship of a stepparent and stepchild exists.

314 (30) "Intake probation" means a period of court monitoring that does not include field
315 supervision, but is overseen by a juvenile probation officer, during which a minor is subject to
316 return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

317 (31) "Intellectual disability" means a significant subaverage general intellectual
318 functioning existing concurrently with deficits in adaptive behavior that constitutes a
319 substantial limitation to the individual's ability to function in society.

320 (32) "Legal custody" means a relationship embodying the following rights and duties:

321 (a) the right to physical custody of the minor;

322 (b) the right and duty to protect, train, and discipline the minor;

323 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
324 medical care;

325 (d) the right to determine where and with whom the minor shall live; and

326 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

327 (33) "Material loss" means an uninsured:

328 (a) property loss;

329 (b) out-of-pocket monetary loss;

330 (c) lost wages; or

331 (d) medical [~~expenses~~] expense.

332 (34) "Mental illness" means:

333 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
334 behavioral, or related functioning; or

335 (b) the same as that term is defined in:

336 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
337 published by the American Psychiatric Association; or

338 (ii) the current edition of the International Statistical Classification of Diseases and
339 Related Health Problems.

340 (35) "Minor" means:

341 (a) a child; or

342 (b) an individual who is:

343 (i) at least 18 years [~~of age~~] old and younger than 21 years [~~of age~~] old; and

344 (ii) under the jurisdiction of the juvenile court.

345 (36) "Mobile crisis outreach team" means a crisis intervention service for minors or
346 families of minors experiencing behavioral health or psychiatric emergencies.

347 (37) "Molestation" means that an individual, with the intent to arouse or gratify the
348 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
349 or the breast of a female child, or takes indecent liberties with a child as defined in Section
350 [76-5-416](#).

351 (38) (a) "Natural parent" means a minor's biological or adoptive parent[~~and~~].

352 (b) "Natural parent" includes the minor's noncustodial parent.

353 (39) (a) "Neglect" means action or inaction causing:

354 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
355 Relinquishment of a Newborn Child;

356 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
357 guardian, or custodian;

358 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
359 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or
360 well-being;

361 (iv) a child to be at risk of being neglected or abused because another child in the same
362 home is neglected or abused;

363 (v) abandonment of a child through an unregulated custody transfer; or

364 (vi) educational neglect.

365 (b) "Neglect" does not include:

366 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
367 reason, does not provide specified medical treatment for a child;

368 (ii) a health care decision made for a child by the child's parent or guardian, unless the

369 state or other party to a proceeding shows, by clear and convincing evidence, that the health
370 care decision is not reasonable and informed;

371 (iii) a parent or guardian exercising the right described in Section 78A-6-301.5; or

372 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
373 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,
374 including:

375 (A) traveling to and from school, including by walking, running, or bicycling;

376 (B) traveling to and from nearby commercial or recreational facilities;

377 (C) engaging in outdoor play;

378 (D) remaining in a vehicle unattended, except under the conditions described in

379 Subsection 76-10-2202(2);

380 (E) remaining at home unattended; or

381 (F) engaging in a similar independent activity.

382 (40) "Neglected child" means a child who has been subjected to neglect.

383 (41) "Nonjudicial adjustment" means closure of the case by the assigned probation
384 officer without judicial determination upon the consent in writing of:

385 (a) the assigned probation officer; and

386 (b) (i) the minor; or

387 (ii) the minor and the minor's parent, legal guardian, or custodian.

388 (42) "Not competent to proceed" means that a minor, due to a mental illness,
389 intellectual disability or related condition, or developmental immaturity, lacks the ability to:

390 (a) understand the nature of the proceedings against [~~them~~] the minor or of the
391 potential disposition for the offense charged; or

392 (b) consult with counsel and participate in the proceedings against [~~them~~] the minor
393 with a reasonable degree of rational understanding.

394 (43) "Physical abuse" means abuse that results in physical injury or damage to a child.

395 (44) "Probation" means a legal status created by court order following an adjudication
396 on the ground of a violation of law or under Section 78A-6-103, whereby the minor is
397 permitted to remain in the minor's home under prescribed conditions.

398 (45) "Prosecuting attorney" means:

399 (a) the attorney general and any assistant attorney general;

- 400 (b) any district attorney or deputy district attorney;
401 (c) any county attorney or assistant county attorney; and
402 (d) any other attorney authorized to commence an action on behalf of the state.

403 ~~[(45)]~~ (46) "Protective supervision" means a legal status created by court order
404 following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor
405 is permitted to remain in the minor's home, and supervision and assistance to correct the abuse,
406 neglect, or dependency is provided by the probation department or other agency designated by
407 the court.

408 ~~[(46)]~~ (47) (a) "Related condition" means a condition that:

- 409 (i) is found to be closely related to intellectual disability;
410 (ii) results in impairment of general intellectual functioning or adaptive behavior
411 similar to that of an intellectually disabled individual;
412 (iii) is likely to continue indefinitely; and
413 (iv) constitutes a substantial limitation to the individual's ability to function in society.

414 (b) "Related condition" does not include mental illness, psychiatric impairment, or
415 serious emotional or behavioral disturbance.

416 ~~[(47)]~~ (48) (a) "Residual parental rights and duties" means those rights and duties
417 remaining with the parent after legal custody or guardianship, or both, have been vested in
418 another person or agency, including:

- 419 (i) the responsibility for support;
420 (ii) the right to consent to adoption;
421 (iii) the right to determine the child's religious affiliation; and
422 (iv) the right to reasonable parent-time unless restricted by the court.

423 (b) If no guardian has been appointed, "residual parental rights and duties" ~~[also~~
424 ~~include]~~ includes the right to consent to:

- 425 (i) marriage;
426 (ii) enlistment; and
427 (iii) major medical, surgical, or psychiatric treatment.

428 ~~[(48)]~~ (49) "Secure facility" means any facility operated by or under contract with the
429 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
430 youth offenders committed to the division for custody and rehabilitation pursuant to Subsection

431 78A-6-117(2)(d).

432 [~~(49)~~] (50) "Severe abuse" means abuse that causes or threatens to cause serious harm
433 to a child.

434 [~~(50)~~] (51) "Severe neglect" means neglect that causes or threatens to cause serious
435 harm to a child.

436 [~~(51)~~] (52) "Sexual abuse" means:

437 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
438 adult directed towards a child;

439 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
440 committed by a child towards another child if:

441 (i) there is an indication of force or coercion;

442 (ii) the children are related, as described in Subsection (29), including siblings by
443 marriage while the marriage exists or by adoption;

444 (iii) there have been repeated incidents of sexual contact between the two children,
445 unless the children are 14 years of age or older; or

446 (iv) there is a disparity in chronological age of four or more years between the two
447 children;

448 (c) engaging in any conduct with a child that would constitute an offense under any of
449 the following, regardless of whether the individual who engages in the conduct is actually
450 charged with, or convicted of, the offense:

451 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
452 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

453 (ii) child bigamy, Section 76-7-101.5;

454 (iii) incest, Section 76-7-102;

455 (iv) lewdness, Section 76-9-702;

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

457 (vi) lewdness involving a child, Section 76-9-702.5; or

458 (vii) voyeurism, Section 76-9-702.7; or

459 (d) subjecting a child to participate in or threatening to subject a child to participate in
460 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
461 marriage.

462 [~~(52)~~] (53) "Sexual exploitation" means knowingly:
463 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
464 (i) pose in the nude for the purpose of sexual arousal of any individual; or
465 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
466 filming, recording, or displaying in any way the sexual or simulated sexual conduct;
467 (b) displaying, distributing, possessing for the purpose of distribution, or selling
468 material depicting a child:
469 (i) in the nude, for the purpose of sexual arousal of any individual; or
470 (ii) engaging in sexual or simulated sexual conduct; or
471 (c) engaging in any conduct that would constitute an offense under Section [76-5b-201](#),
472 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct
473 is actually charged with, or convicted of, the offense.
474 [~~(53)~~] (54) "Shelter" means the temporary care of a child in a physically unrestricted
475 facility pending court disposition or transfer to another jurisdiction.
476 (55) "Same or single criminal episode" means the same as that term is defined in
477 Section [76-1-401](#).
478 [~~(54)~~] (56) "Status offense" means a violation of the law that would not be a violation
479 but for the age of the offender.
480 [~~(55)~~] (57) "Substance abuse" means the misuse or excessive use of alcohol or other
481 drugs or substances.
482 [~~(56)~~] (58) "Substantiated" means the same as that term is defined in Section
483 [62A-4a-101](#).
484 [~~(57)~~] (59) "Supported" means the same as that term is defined in Section [62A-4a-101](#).
485 [~~(58)~~] (60) "Termination of parental rights" means the permanent elimination of all
486 parental rights and duties, including residual parental rights and duties, by court order.
487 [~~(59)~~] (61) "Therapist" means:
488 (a) an individual employed by a state division or agency for the purpose of conducting
489 psychological treatment and counseling of a minor in its custody; or
490 (b) any other individual licensed or approved by the state for the purpose of conducting
491 psychological treatment and counseling.
492 [~~(60)~~] (62) "Threatened harm" means actions, inactions, or credible verbal threats,

493 indicating that the child is at an unreasonable risk of harm or neglect.

494 ~~[(61)]~~ (63) "Unregulated custody transfer" means the placement of a child:

495 (a) with an individual who is not the child's parent, step-parent, grandparent, adult
496 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with
497 whom the child is familiar, or a member of the child's federally recognized tribe;

498 (b) with the intent of severing the child's existing parent-child or guardian-child
499 relationship; and

500 (c) without taking:

501 (i) reasonable steps to ensure the safety of the child and permanency of the placement;
502 and

503 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
504 guardianship to the individual taking custody of the child.

505 ~~[(62)]~~ (64) "Unsupported" means the same as that term is defined in Section
506 62A-4a-101.

507 ~~[(63)]~~ (65) "Unsubstantiated" means the same as that term is defined in Section
508 62A-4a-101.

509 ~~[(64)]~~ (66) "Validated risk and needs assessment" means an evidence-based tool that
510 assesses a minor's risk of reoffending and a minor's criminogenic needs.

511 ~~[(65)]~~ (67) "Without merit" means the same as that term is defined in Section
512 62A-4a-101.

513 Section 6. Section 78A-6-113 is amended to read:

514 **78A-6-113. Placement of minor in detention or shelter facility -- Grounds --**
515 **Detention hearings -- Period of detention -- Notice -- Confinement for criminal**
516 **proceedings -- Bail laws inapplicable -- Exception.**

517 (1) (a) A minor may not be placed or kept in a secure detention facility pending court
518 proceedings except in accordance with Section 78A-6-112.

519 (b) A child may not be placed or kept in a shelter facility pending court proceedings
520 unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

521 (c) (i) A court may temporarily place in a detention facility, as provided in Subsection
522 (4), a child who is taken into custody based upon a warrant issued under Subsection
523 78A-6-106(6), if the court finds that detention is the least restrictive placement available to

524 ensure the immediate safety of the child.

525 (ii) A child placed in detention under Subsection (1)(c)(i) may not be held in detention
526 longer than is necessary for the division to identify a less restrictive, available, and appropriate
527 placement for the child.

528 (2) (a) After admission of a child to a detention facility pursuant to Section 78A-6-112
529 and immediate investigation by an authorized officer of the court, the judge or the officer shall
530 order the release of the child to the child's parents, guardian, or custodian if ~~[it is found]~~ the
531 judge or officer finds that the child can be safely returned to their care, either upon written
532 promise to bring the child to the court at a time set or without restriction.

533 ~~[(a)]~~ (b) If a child's parent, guardian, or custodian fails to retrieve the child from a
534 facility within 24 hours after notification of release, the parent, guardian, or custodian is
535 responsible for the cost of care for the time the child remains in the facility.

536 ~~[(b)]~~ (c) The facility shall determine the cost of care.

537 ~~[(c)]~~ (d) Any money collected under this Subsection (2) shall be retained by the
538 Division of Juvenile Justice Services to recover the cost of care for the time the child remains
539 in the facility.

540 (3) (a) When a child is detained in a detention or shelter facility, the parents or
541 guardian shall be informed by the person in charge of the facility that the parent's or guardian's
542 child has the right to a prompt hearing in court to determine whether the child is to be further
543 detained or released.

544 (b) When a minor is detained in a detention facility, the minor shall be informed by the
545 person in charge of the facility that the minor has the right to a prompt hearing in court to
546 determine whether the minor is to be further detained or released.

547 (c) Detention hearings shall be held by the judge or by a commissioner.

548 (d) The court may, at any time, order the release of the minor, whether a detention
549 hearing is held or not.

550 (e) If a child is released, and the child remains in the facility, because the parents,
551 guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be
552 responsible for the cost of care as provided in Subsections ~~[(2)(a), (b), and (c)]~~ (2)(b), (c), and
553 (d).

554 (4) (a) A minor may not be held in a detention facility longer than 48 hours before a

555 detention hearing, excluding weekends and holidays, unless the court has entered an order for
556 continued detention.

557 (b) A child may not be held in a shelter facility longer than 48 hours before a shelter
558 hearing, excluding weekends and holidays, unless a court order for extended shelter has been
559 entered by the court after notice to all parties described in Section 78A-6-306.

560 (c) (i) A hearing for detention or shelter may not be waived.

561 (ii) Detention staff shall provide the court with all information received from the
562 ~~[person]~~ individual who brought the minor to the detention facility.

563 (d) The judge or commissioner may only order a minor to be held in the facility or be
564 placed in another appropriate facility, subject to further order of the court, if the court finds at a
565 detention hearing that:

566 (i) releasing the minor to the minor's parent, guardian, or custodian presents an
567 unreasonable risk to public safety;

568 (ii) less restrictive nonresidential alternatives to detention have been considered and,
569 where appropriate, attempted; and

570 (iii) the minor is eligible for detention under the division guidelines for detention
571 admissions established by the Division of Juvenile Justice Services, under Section 62A-7-202
572 and under Section 78A-6-112.

573 (e) (i) After a detention hearing has been held, only the court may release a minor from
574 detention. If a minor remains in a detention facility, periodic reviews shall be held ~~[pursuant to~~
575 ~~the Utah State Juvenile Court Rules of Practice and Procedure]~~ in accordance with the Utah
576 Rules of Juvenile Procedure to ensure that continued detention is necessary.

577 (ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or
578 an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that
579 notice of ~~[its]~~ the court's decision, including any disposition, order, or no contact orders, be
580 provided to designated persons in the appropriate local law enforcement agency and the district
581 superintendent or the school or transferee school, if applicable, that the minor attends. The
582 designated persons may receive the information for purposes of the minor's supervision and
583 student safety.

584 (iii) Any employee of the local law enforcement agency, the school district, and the
585 school that the minor attends who discloses the court's order of probation is not:

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

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

590 (5) A minor may not be held in a detention facility, following a dispositional order of
591 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for
592 community-based placement under Section 62A-7-101.

593 (6) (a) Except as otherwise provided in this section, a minor may not be held in a
594 detention facility following a disposition order of the court for longer than 72 hours, excluding
595 weekends and holidays.

596 (b) The period of detention may be extended by the court for a cumulative total of
597 seven calendar days if:

598 (i) the Division of Juvenile Justice Services or another agency responsible for
599 placement files a written petition with the court requesting the extension and setting forth good
600 cause; and

601 (ii) the court enters a written finding that it is in the best interests of both the minor and
602 the community to extend the period of detention.

603 (c) The court may extend the period of detention beyond the seven calendar days if the
604 court finds by clear and convincing evidence that:

605 (i) the Division of Juvenile Justice Services or another agency responsible for
606 placement does not have space for the minor; and

607 (ii) the safety of the minor and community requires an extension of the period of
608 detention.

609 (d) The Division of Juvenile Justice Services shall report to the court every 48 hours,
610 excluding weekends and holidays, regarding [~~the status of~~] whether the Division of Juvenile
611 Justice Services or another agency responsible for placement has space for the minor.

612 (7) The agency requesting an extension shall promptly notify the detention facility that
613 a written petition has been filed.

614 (8) The court shall promptly notify the detention facility regarding [its] the court's
615 initial disposition and any ruling on a petition for an extension, whether granted or denied.

616 (9) (a) A child under 16 years of age may not be held in a jail, lockup, or other place

617 for adult detention except as provided by Section 62A-7-201 or unless certified as an adult
618 pursuant to Section 78A-6-703. Section 62A-7-201 regarding confinement facilities applies to
619 this Subsection (9).

620 (b) A child 16 years of age or older whose conduct or condition endangers the safety or
621 welfare of others in the detention facility for children may, by court order that specifies the
622 reasons, be detained in another place of confinement considered appropriate by the court,
623 including a jail or other place of confinement for adults. However, a secure facility is not an
624 appropriate place of confinement for detention purposes under this section.

625 (10) A sheriff, warden, or other official in charge of a jail or other facility for the
626 detention of adult offenders or ~~[persons]~~ individuals charged with ~~[crime]~~ an offense shall
627 immediately notify the juvenile court when ~~[a person]~~ an individual who is or appears to be
628 under 18 years ~~[of age]~~ old is received at the facility and shall make arrangements for the
629 transfer of the ~~[person]~~ individual to a detention facility, unless otherwise ordered by the
630 juvenile court.

631 (11) This section does not apply to a minor who is brought to the adult facility under
632 charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal
633 proceedings in the district court under Section 78A-6-702 or 78A-6-703.

634 (12) A minor held for criminal proceedings under Section 78A-6-701, 78A-6-702, or
635 78A-6-703 may be detained in a jail or other place of detention used for adults charged with
636 crime.

637 (13) Provisions of law regarding bail are not applicable to minors detained or taken
638 into custody under this chapter, except that bail may be allowed:

639 (a) if a minor who need not be detained lives outside this state; or

640 (b) when a minor who need not be detained comes within one of the classes in
641 ~~[Subsection 78A-6-603(11)]~~ Section 78A-6-1101.

642 (14) Section 76-8-418 is applicable to a child who willfully and intentionally commits
643 an act against a jail or other place of confinement, including a Division of Juvenile Justice
644 Services detention, shelter, or secure confinement facility ~~[which]~~ that would be a third degree
645 felony if committed by an adult.

646 Section 7. Section 78A-6-116 is amended to read:

647 **78A-6-116. Minor's cases considered civil proceedings -- Adjudication of**

648 **jurisdiction by juvenile court not conviction of crime -- Exceptions -- Minor not to be**
649 **charged with crime -- Exception -- Traffic violation cases -- Abstracts to Department of**
650 **Public Safety.**

651 (1) Except as provided in Sections [78A-6-701](#), [78A-6-702](#), and [78A-6-703](#),
652 [~~proceedings~~] a proceeding in a minor's case [~~shall be regarded as civil proceedings~~] is a civil
653 proceeding with the court exercising equitable powers.

654 (2) (a) An adjudication by a juvenile court that a minor is within [~~its~~] the court's
655 jurisdiction under Section [78A-6-103](#) is not considered a conviction of a crime, except in cases
656 involving traffic violations.

657 (b) An adjudication may not:

658 (i) operate to impose any civil disabilities upon the minor [~~nor to~~]; or

659 (ii) disqualify the minor for any civil service or military service or appointment.

660 (3) [~~A~~] (a) Except for cases involving traffic violations, and as provided in Sections
661 [78A-6-701](#), [78A-6-702](#), and [78A-6-703](#), a minor may not be charged with a crime or convicted
662 in any court [~~except as provided in Sections [78A-6-701](#), [78A-6-702](#), and [78A-6-703](#), and in~~
663 cases involving traffic violations. ~~When~~].

664 (b) Except as provided in Sections [78A-6-702](#) and [78A-6-703](#), if a petition [~~has been~~]
665 is filed in the juvenile court, [~~the~~] a minor may not later be [~~subjected~~] subject
666 prosecution based on the same facts [~~except as provided in Section [78A-6-702](#) or [78A-6-703](#)].~~

667 (c) Except as provided in Section [78A-6-602](#), an individual may not be subject to a
668 delinquency proceeding for an offense that the individual is alleged to have committed before
669 the individual was 13 years old.

670 (4) (a) An adjudication by a juvenile court that a minor is within [~~its~~] the court's
671 jurisdiction under Section [78A-6-103](#) is considered a conviction for the purposes of
672 determining the level of offense for which a minor may be charged and enhancing the level of
673 an offense in the juvenile court.

674 (b) A prior adjudication may be used to enhance the level or degree of an offense
675 committed by an adult only as otherwise specifically provided.

676 (5) Abstracts of court records for all adjudications of traffic violations shall be
677 submitted to the Department of Public Safety as provided in Section [53-3-218](#).

678 (6) Information necessary to collect unpaid fines, fees, assessments, bail, or restitution

679 may be forwarded to employers, financial institutions, law enforcement, constables, the Office
680 of Recovery Services, or other agencies for purposes of enforcing the order as provided in
681 Section 78A-6-117.

682 Section 8. Section 78A-6-210 is amended to read:

683 **78A-6-210. Fines -- Fees -- Deposit with state treasurer -- Restricted account.**

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

686 (2) (a) The account shall be funded from the financial penalty established under
687 Subsection 78A-6-602~~(2)(c)(i)~~(8)(a).

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

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

692 (3) (a) Except under ~~Subsections~~ Subsection (3)(b)~~[-]~~ or (4)~~[-]~~ and as otherwise
693 provided by law, all fines, fees, penalties, and forfeitures imposed and collected by the juvenile
694 court shall be paid to the state treasurer for deposit ~~in~~ into the General Fund.

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

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

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

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

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

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

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

710 (4) For fines and forfeitures collected by the court for a violation of Section
711 [41-6a-1302](#) in instances where evidence of the violation was obtained by an automated traffic
712 enforcement safety device as described in Section [41-6a-1310](#), the court shall allocate 20% to
713 the school district or private school that owns or contracts for the use of the bus, and the state
714 treasurer shall allocate 80% to the General Fund.

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

717 Section 9. Section **78A-6-601** is amended to read:

718 **78A-6-601. Criminal proceedings involving minors -- Transfer to juvenile court --**
719 **Exceptions.**

720 (1) [~~If, during the pendency of a criminal or quasi-criminal proceeding in another court,~~
721 ~~including a preliminary hearing, it is determined that the person charged]~~ Except as provided in
722 Subsection (3) and Sections [78A-6-701](#), [78A-6-702](#), and [78A-6-703](#), if while a criminal or
723 quasi-criminal proceeding is pending, a district court or justice court determines that an
724 individual being charged is under 21 years [of age] old and was [less] younger than 18 years [of
725 age] old at the time of committing the alleged offense, [that] the district court or justice court
726 shall transfer the case to the juvenile court[~~, together~~] with all the papers, documents, and
727 transcripts of any testimony [~~except as provided in Sections [78A-6-701](#), [78A-6-702](#), and~~
728 [78A-6-703](#)].

729 (2) (a) [~~The~~] Except as provided in Subsection (2)(b), the district or justice court
730 making the transfer shall:

731 (i) order the [~~person~~] individual to be taken immediately to the juvenile court or to a
732 place of detention designated by the juvenile court[~~, or shall~~]; or

733 (ii) release [~~him~~] the individual to the custody of [~~his~~] the individual's parent or
734 guardian, or other person legally responsible for [~~him~~] the individual, to be brought before the
735 juvenile court at a time designated by [~~it~~] the juvenile court.

736 (b) If the alleged offense under Subsection (1) occurred before the individual was 13
737 years old:

738 (i) the district court or justice court making the transfer shall release the individual to
739 the custody of the individual's parent or guardian, or other person legally responsible for the
740 individual;

741 (ii) the juvenile court shall treat the transfer as a referral under Subsection
742 78A-6-602(3); and

743 (iii) the juvenile court's probation department shall make a preliminary inquiry to
744 determine whether the individual is eligible for a nonjudicial adjustment in accordance with
745 Section 78A-6-602.

746 ~~[The]~~ (c) If a case is transferred to the juvenile court under this section, the juvenile
747 court shall ~~[then proceed as provided in]~~ proceed in accordance with this chapter.

748 (3) A district court or justice court does not have to transfer a case under Subsection
749 (1) if the district court or justice court would have had jurisdiction over the case at the time the
750 individual committed the offense in accordance with Subsections 78A-5-102(9) and
751 78A-7-106(2).

752 Section 10. Section **78A-6-602** is amended to read:

753 **78A-6-602. Referrals -- Nonjudicial adjustments.**

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

756 (1) As used in this section, "referral" means a formal referral, a referral to the court
757 under Section 53G-8-211 or Subsection 78A-6-601(2)(b), or a citation issued to a minor for
758 which the court receives notice under Section 78A-6-603.

759 (2) (a) A peace officer, or a public official of the state, a county, city, or town charged
760 with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral
761 with the ~~[juvenile]~~ court within 10 days of a minor's arrest.

762 (b) If the arrested minor is taken to a detention facility, ~~[the formal referral shall be~~
763 ~~filed]~~ the peace officer, or public official, shall file the formal referral with the ~~[juvenile]~~ court
764 within 72 hours, excluding weekends and holidays. ~~[A formal referral under Section~~
765 ~~53G-8-211 may not be filed with the juvenile court on an offense unless the offense is subject~~
766 ~~to referral under Section 53G-8-211.]~~

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

772 (c) A peace officer, public official, school district, or school may only make a referral
773 to the court under Section 53G-8-211 for an offense that is subject to referral under Section
774 53G-8-211.

775 (3) If the court receives a referral for a minor who is, or appears to be, within the
776 court's jurisdiction, the court's probation department shall make a preliminary inquiry in
777 accordance with Subsections (5), (6), and (7) to determine whether the minor is eligible to enter
778 into a nonjudicial adjustment.

779 (4) If a minor is referred to the court for multiple offenses arising from a single
780 criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the
781 court's probation department shall offer the minor one nonjudicial adjustment for all offenses
782 arising from the single criminal episode.

783 (5) (a) The court's probation department may:

784 (i) conduct a validated risk and needs assessment; and

785 (ii) request that a prosecuting attorney review a referral in accordance with Subsection
786 (11) if:

787 (A) the results of the validated risk and needs assessment indicate the minor is high
788 risk; or

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

792 (b) If a minor violates Section 41-6a-502, the minor shall:

793 (i) undergo a drug and alcohol screening;

794 (ii) if found appropriate by the screening, participate in an assessment; and

795 (iii) if warranted by the screening and assessment, follow the recommendations of the
796 assessment.

797 (6) Except as provided in Subsection (7)(b), the probation department shall request that
798 a prosecuting attorney review a referral in accordance with Subsection (11) if:

799 (a) the referral involves:

800 (i) a felony offense; or

801 (ii) a violation of:

802 (A) Section 41-6a-502, driving under the influence;

803 (B) Section 76-5-112, reckless endangerment creating a substantial risk of death or
804 serious bodily injury;

805 (C) Section 76-5-206, negligent homicide;

806 (D) Section 76-9-702.1, sexual battery;

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

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

811 (b) the minor has a current suspended order for custody under Subsection
812 78A-6-117(5)(a); or

813 (c) the referral involves an offense alleged to have occurred before an individual was
814 13 years old and the offense is a felony violation of:

815 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
816 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
817 (iii) Section 76-5-203, murder or attempted murder;
818 (iv) Section 76-5-302, aggravated kidnapping;
819 (v) Section 76-5-405, aggravated sexual assault;
820 (vi) Section 76-6-103, aggravated arson;
821 (vii) Section 76-6-203, aggravated burglary;
822 (viii) Section 76-6-302, aggravated robbery; or
823 (ix) Section 76-10-508.1, felony discharge of a firearm.

824 ~~[(ii)]~~ (7) (a) Except as provided in ~~[Subsection (2)(k)]~~ Subsections (5) and (6), the
825 court's probation department shall offer a nonjudicial adjustment to a minor if the minor:

826 ~~[(A)]~~ (i) is referred ~~[with a]~~ for an offense that is a misdemeanor, infraction, or status
827 offense;

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

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

830 (b) If the court receives a referral for an offense that is alleged to have occurred before
831 an individual was 13 years old, the court's probation department shall offer a nonjudicial
832 adjustment to the individual, unless the referral includes an offense described in Subsection
833 (6)(c).

834 (c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment
835 under this Subsection (7), the court's probation department shall treat all offenses arising out of
836 a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial
837 adjustment.

838 (ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under
839 this Subsection (7), the court's probation department shall treat all offenses arising out of a
840 single criminal episode that resulted in one or more prior adjudications as a single adjudication.

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

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

848 ~~[(ii) The victim shall be responsible to provide to the division upon request:]~~

849 ~~[(A) invoices, bills, receipts, and other evidence of injury, loss of earnings, and~~
850 ~~out-of-pocket loss;]~~

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

854 ~~[(C) proof of identification, including home and work address and telephone numbers.]~~

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

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

862 ~~[(A) the results of the assessment indicate the youth is high risk; or]~~

863 ~~[(B) the results of the assessment indicate the youth is moderate risk and the referral is~~
864 ~~for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or~~

865 Title 76, Chapter 9, Part 7, Miscellaneous Provisions:]

866 ~~[(ii)]~~ (d) Except as provided in Subsection ~~[(2)(k)]~~ (6), the court's probation department
867 may offer a nonjudicial adjustment to ~~[any other]~~ a minor who does not meet the criteria
868 provided in Subsection ~~[(2)(b)]~~ (7)(a).

869 ~~[(iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an
870 admission of guilt.]~~

871 (8) For a nonjudicial adjustment, the court's probation department may require a minor
872 to:

873 (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the
874 terms established under Subsection (10)(c);

875 (b) pay restitution to any victim;

876 (c) complete community or compensatory service;

877 (d) attend counseling or treatment with an appropriate provider;

878 (e) attend substantive abuse treatment or counseling;

879 (f) comply with specified restrictions on activities or associations;

880 (g) attend victim-offender mediation if requested by the victim; and

881 (h) comply with any other reasonable action that is in the interest of the minor, the
882 community, or the victim.

883 (9) (a) Within seven days of receiving a referral that appears to be eligible for a
884 nonjudicial adjustment in accordance with Subsection (7), the court's probation department
885 shall provide an initial notice to reasonably identifiable and locatable victims of the offense
886 contained in the referral.

887 (b) The victim shall be responsible to provide to the probation department upon
888 request:

889 (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and
890 out-of-pocket loss;

891 (ii) documentation and evidence of compensation or reimbursement from an insurance
892 company or an agency of the state, any other state, or the federal government received as a
893 direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

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

895 (c) The inability, failure, or refusal of the victim to provide all or part of the requested

896 information shall result in the probation department determining restitution based on the best
897 information available.

898 (10) (a) The court's probation department may not predicate acceptance of an offer of a
899 nonjudicial adjustment on an admission of guilt.

900 ~~[(iv)]~~ (b) ~~[A minor may not be denied]~~ The court's probation department may not deny
901 a minor an offer of nonjudicial adjustment due to [an] a minor's inability to pay a financial
902 penalty under Subsection [(2)(e)] (8).

903 (c) The court's probation department shall base a fee, fine, or the restitution for a
904 nonjudicial adjustment under Subsection (8) upon the ability of the minor's family to pay as
905 determined by a statewide sliding scale developed in accordance with Section [63M-7-208](#) on or
906 after July 1, 2018.

907 ~~[(v) Efforts to effect a]~~ (d) A nonjudicial adjustment may not extend for [a period of]
908 more than 90 days [without leave of a judge of the court, who may extend the period], unless a
909 juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

910 (e) If a minor violates Section [76-10-105](#), the minor may be required to pay a fine or
911 penalty and participate in a court-approved tobacco education program with a participation fee.

912 ~~[(vi) A prosecutor may not file a petition against a minor unless:]~~

913 ~~[(A) the minor does not qualify for nonjudicial adjustment under Subsection (2)(b) or~~
914 ~~(d)(ii);]~~

915 ~~[(B) the minor declines nonjudicial adjustment;]~~

916 ~~[(C) the minor fails to substantially comply with the conditions agreed upon as part of~~
917 ~~the nonjudicial adjustment;]~~

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

921 ~~[(E) the prosecutor is acting under Subsection (2)(k).]~~

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

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

926 ~~[(ii) payment of victim restitution;]~~

927 ~~[(iii) satisfactory completion of community or compensatory service;]~~
 928 ~~[(iv) referral to an appropriate provider for counseling or treatment;]~~
 929 ~~[(v) attendance at substance use disorder programs or counseling programs;]~~
 930 ~~[(vi) compliance with specified restrictions on activities and associations;]~~
 931 ~~[(vii) victim-offender mediation, if requested by the victim; and]~~
 932 ~~[(viii) other reasonable actions that are in the interest of the child or minor, the~~
 933 ~~community, and the victim.]~~

934 ~~[(f) A fee, fine, or restitution included in a nonjudicial closure in accordance with~~
 935 ~~Subsection (2)(e) shall be based upon the ability of the minor's family to pay as determined by~~
 936 ~~a statewide sliding scale developed as provided in Section [63M-7-208](#) on and after July 1,~~
 937 ~~2018.]~~

938 ~~[(g) (11) If a [prosecutor learns of a referral involving an offense identified in~~
 939 ~~Subsection (2)(k), if] prosecuting attorney is requested to review a referral in accordance with~~
 940 ~~Subsection (5) or (6), a minor fails to substantially comply with [the conditions] a condition~~
 941 ~~agreed upon as part of the nonjudicial [closure] adjustment, or [if] a minor is not offered or~~
 942 ~~declines a nonjudicial adjustment [pursuant to Subsection (2)(b), (2)(d)(ii), or (2)(d)(vi), the~~
 943 ~~prosecutor shall review the case and take one of the following actions:] in accordance with~~
 944 ~~Subsection (7), the prosecuting attorney shall:~~

945 ~~(a) review the case; and~~
 946 ~~(b) (i) dismiss the case;~~
 947 ~~(ii) refer the case back to the probation department for a new attempt at nonjudicial~~
 948 ~~adjustment; or~~

949 ~~(iii) [subject to Subsection (2)(i)] except as provided in Subsections (12)(b), (13), and~~
 950 ~~[78A-6-602.5\(2\)](#), file a petition with the court.~~

951 ~~[(h) Notwithstanding Subsection (2)(g), a petition may only be filed]~~

952 ~~(12) (a) A prosecuting attorney may file a petition only upon reasonable belief that:~~
 953 ~~(i) the charges are supported by probable cause;~~
 954 ~~(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable~~
 955 ~~doubt; and~~

956 ~~(iii) the decision to charge is in the interests of justice.~~

957 ~~[(i) (b) Failure to pay a fine or fee may not serve as a basis for filing of a petition~~

958 under Subsection ~~[(2)(g)(iii)]~~ (11)(b)(iii) if the minor has substantially complied with the other
959 conditions agreed upon in accordance with Subsection ~~[(2)(e) or those]~~ (8) or conditions
960 imposed through any other court diversion program.

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

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

966 ~~[(i) the referral involves a violation of:]~~

967 ~~[(A) Section 41-6a-502, driving under the influence;]~~

968 ~~[(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or~~
969 ~~serious bodily injury;]~~

970 ~~[(C) Section 76-5-206, negligent homicide;]~~

971 ~~[(D) Section 76-9-702.1, sexual battery;]~~

972 ~~[(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled~~
973 ~~shotgun on or about school premises; or]~~

974 ~~[(F) Section 76-10-509, possession of dangerous weapon by minor, but only if the~~
975 ~~dangerous weapon is a firearm; or]~~

976 ~~[(ii) the minor has a current suspended order for custody under Subsection~~
977 ~~78A-6-117(5)(a).]~~

978 (13) A prosecuting attorney may not file a petition against a minor unless:

979 (a) the prosecuting attorney has statutory authority to file the petition under Section
980 78A-6-602.5; and

981 (b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (7);

982 (ii) the minor declines nonjudicial adjustment;

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

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

988 (v) the prosecuting attorney is acting under Subsection (11).

989 ~~[(f)] (14) If the [prosecutor] prosecuting attorney files a petition in court or a~~
 990 ~~proceeding is commenced against a minor under Section 78A-6-603, the court may refer the~~
 991 ~~case to the probation department for another offer of nonjudicial adjustment.~~

992 ~~[(m) If a minor violates Section 41-6a-502, regardless of whether a prosecutor reviews~~
 993 ~~a referral under Subsection (2)(k)(i)(A), the minor shall be subject to a drug and alcohol~~
 994 ~~screening and participate in an assessment, if found appropriate by the screening, and if~~
 995 ~~warranted, follow the recommendations of the assessment.]~~

996 ~~[(3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor~~
 997 ~~14 years of age or older, the county attorney, district attorney, or attorney general may~~
 998 ~~commence an action by filing a criminal information and a motion requesting the juvenile court~~
 999 ~~to waive its jurisdiction and certify the minor to the district court.]~~

1000 ~~[(4) (a) In cases of violations of wildlife laws, boating laws, class B and class C~~
 1001 ~~misdemeanors, other infractions or misdemeanors as designated by general order of the Board~~
 1002 ~~of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the~~
 1003 ~~juvenile court, a petition is not required and the issuance of a citation as provided in Section~~
 1004 ~~78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry in~~
 1005 ~~accordance with Subsection (2)(b)(i) is required.]~~

1006 ~~[(b)](15) Any failure to comply with the time deadline on a formal referral may not be~~
 1007 ~~the basis of dismissing the formal referral.~~

1008 Section 11. Section 78A-6-602.5 is enacted to read:

1009 **78A-6-602.5. Petition for a delinquency proceeding -- Criminal information.**

1010 (1) A prosecuting attorney shall file a petition to commence a proceeding against a
 1011 minor for an adjudication of an alleged offense, except as provided in:

1012 (a) Subsection (2);

1013 (b) Subsection (3);

1014 (c) Section 78A-6-603;

1015 (d) Section 78A-6-701; and

1016 (e) Section 78A-6-702.

1017 (2) A prosecuting attorney may not file a petition under Subsection (1) against an
 1018 individual for an offense alleged to have occurred before the individual was 13 years old,
 1019 unless the individual is alleged to have committed a felony violation of:

- 1020 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 1021 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 1022 (c) Section 76-5-203, murder or attempted murder;
- 1023 (d) Section 76-5-302, aggravated kidnapping;
- 1024 (e) Section 76-5-405, aggravated sexual assault;
- 1025 (f) Section 76-6-103, aggravated arson;
- 1026 (g) Section 76-6-203, aggravated burglary;
- 1027 (h) Section 76-6-302, aggravated robbery; or
- 1028 (i) Section 76-10-508.1, felony discharge of a firearm.

1029 (3) Except as provided in Sections 78A-6-701 and 78A-6-702, if a minor was 14 years
 1030 old or older at the time the offense was alleged to have occurred, the prosecuting attorney may
 1031 commence an action by filing:

- 1032 (a) a criminal information in the juvenile court; and
- 1033 (b) a motion requesting the juvenile court waive the court's jurisdiction and certify the
 1034 minor to the district court under Section 78A-6-703.

1035 Section 12. Section **78A-6-603** is amended to read:

1036 **78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to**
 1037 **appear.**

1038 ~~[(1) As used in this section, "citation" means an abbreviated referral and is sufficient to~~
 1039 ~~invoke the jurisdiction of the court in lieu of a petition.]~~

1040 (1) A petition is not required to commence a proceeding against a minor for an
 1041 adjudication of an alleged offense if a citation is issued for an offense for which the court has
 1042 jurisdiction over and the offense listed in the citation is for:

- 1043 (a) a violation of a wildlife law;
- 1044 (b) a violation of a boating law;
- 1045 (c) a class B or C misdemeanor or an infraction other than a misdemeanor or

1046 infraction:

- 1047 (i) for a traffic violation; or
- 1048 (ii) designated as a citable offense by general order of the Board of Juvenile Court

1049 Judges;

- 1050 (d) a class B misdemeanor or infraction for a traffic violation where the individual is

- 1051 15 years old or younger at the time the offense was alleged to have occurred;
1052 (e) an infraction or misdemeanor designated as a citable offense by a general order of
1053 the Board of Juvenile Court Judges; or
1054 (f) a violation of Subsection 76-10-105(2).
1055 (2) ~~[A citation]~~ Except as provided in Subsection (6) and Section 53G-8-211, a
1056 citation for an offense listed in Subsection (1) shall be submitted to the court within five days
1057 of issuance to a minor.
1058 (3) A copy of the citation shall contain:
1059 (a) the name and address of the [juvenile] court before which the minor may be
1060 required to appear;
1061 (b) the name of the minor cited;
1062 (c) the statute or local ordinance that the minor is alleged to have [been] violated;
1063 (d) a brief description of the offense charged;
1064 (e) the date, time, and location at which the offense is alleged to have occurred;
1065 (f) the date the citation was issued;
1066 (g) the name and badge or identification number of the peace officer or public official
1067 who issued the citation;
1068 (h) the name of the arresting person if an arrest was made by a private party and the
1069 citation was issued in lieu of taking the arrested minor into custody as provided in Section
1070 78A-6-112;
1071 (i) ~~[the date and time when the minor is to appear, or]~~ a statement that the minor and
1072 parent or legal guardian are to appear when notified by the [juvenile] court; and
1073 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to
1074 appear at the ~~[juvenile court as designated on the citation]~~ court when notified by the court.
1075 (4) A copy of the citation shall contain space for the following information to be
1076 entered if known:
1077 (a) the minor's address;
1078 (b) the minor's date of birth;
1079 (c) the name and address of the child's custodial parent or legal guardian, if different
1080 from the child; and
1081 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that

1082 this information shall be removed from the documents the minor receives.

1083 (5) A citation received by the court beyond the time designated in Subsection (2) shall
1084 include a written explanation for the delay.

1085 [~~(6) In accordance with Section 53G-8-211, the following offenses may be sent to the~~
1086 ~~juvenile court as a citation:]~~

1087 [~~(a) violations of wildlife laws;~~]

1088 [~~(b) violations of boating laws;~~]

1089 [~~(c) violations of curfew laws;~~]

1090 [~~(d) any class B misdemeanor or less traffic violations where the person is under the~~
1091 ~~age of 16;~~]

1092 [~~(e) any class B or class C misdemeanor or infraction;~~]

1093 [~~(f) any other infraction or misdemeanor as designated by general order of the Board of~~
1094 ~~Juvenile Court Judges, and]~~

1095 [~~(g) violations of Section 76-10-105 subject to the jurisdiction of the juvenile court.]~~

1096 [(7)] (6) A minor offense, as defined [under] in Section 78A-6-1202, alleged to have
1097 been committed by an enrolled child on school property or related to school attendance, may
1098 only be [sent] referred to the [prosecutor] prosecuting attorney or the [juvenile] court in
1099 accordance with Section 53G-8-211.

1100 (7) If a court receives a citation described in Subsection (1), the court's probation
1101 department shall make a preliminary inquiry as to whether the minor is eligible for a
1102 nonjudicial adjustment in accordance with Subsection 78A-6-602(7).

1103 (8) (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a
1104 prosecuting attorney may commence a proceeding against a minor, without filing a petition, for
1105 an adjudication of the offense in the citation only if:

1106 (i) the minor is not eligible for, or does not complete, a nonjudicial adjustment in
1107 accordance with Section 78A-6-602; and

1108 (ii) the prosecuting attorney conducts an inquiry under Subsection (9).

1109 (b) A prosecuting attorney may not commence a proceeding against an individual for
1110 any offense listed in a citation alleged to have occurred before the individual was 13 years old.

1111 [~~(8) An inquiry shall be conducted:]~~

1112 [~~(a) by the prosecutor to determine upon reasonable belief that:]~~

1113 (9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable
 1114 belief, that:

1115 ~~[(i) the charges are]~~ (a) the charge listed in the citation is supported by probable cause;

1116 ~~[(ii)]~~ (b) admissible evidence will be sufficient to support adjudication beyond a
 1117 reasonable doubt; and

1118 ~~[(iii)]~~ (c) the decision to charge is in the interests of justice[; and],

1119 ~~[(b) if appropriate, by the court under Section 78A-6-117;]~~

1120 ~~[(9) Subsection (5) may not apply to a runaway child.]~~

1121 ~~[(10)(a) A minor receiving a citation described in this section shall appear at the~~
 1122 ~~juvenile court designated in the citation on the time and date specified in the citation or when~~
 1123 ~~notified by the juvenile court.]~~

1124 ~~[(b) A citation may not require a minor to appear sooner than five days following its~~
 1125 ~~issuance.]~~

1126 (10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor
 1127 shall appear at the court at a date and time established by the court.

1128 (11) ~~[A] If a minor [who receives a citation and] willfully fails to appear before the~~
 1129 ~~[juvenile court pursuant to a citation may be found] court for a proceeding under Subsection~~
 1130 (8)(a), the court may:

1131 (a) find the minor in contempt of court[. The court may]; and

1132 (b) proceed against the minor as provided in Section 78A-6-1101.

1133 (12) When a ~~[citation is issued]~~ proceeding is commenced under this section, bail may
 1134 be posted and forfeited under Section 78A-6-113 with the consent of:

1135 (a) the court; and

1136 (b) if the minor is a child, the parent or legal guardian of the child cited.

1137 Section 13. Section 78A-6-703 is amended to read:

1138 **78A-6-703. Certification hearings -- Juvenile court to hold preliminary hearing --**

1139 **Factors considered by juvenile court for waiver of jurisdiction to district court.**

1140 (1) If a criminal information filed in accordance with Subsection ~~[78A-6-602(3)]~~

1141 78A-6-602.5(3) alleges the commission of an act ~~[which]~~ that would constitute a felony if
 1142 committed by an adult, the juvenile court shall conduct a preliminary hearing.

1143 (2) At the preliminary hearing the state shall have the burden of going forward with

1144 [its] the state's case and the burden of establishing:

1145 (a) probable cause to believe that a crime was committed and that the [defendant]

1146 minor committed it; and

1147 (b) by a preponderance of the evidence, that it would be contrary to the best interests of
1148 the minor or of the public for the juvenile court to retain jurisdiction.

1149 (3) In considering whether or not it would be contrary to the best interests of the minor
1150 or of the public for the juvenile court to retain jurisdiction, the juvenile court shall consider,
1151 and may base its decision on, the finding of one or more of the following factors:

1152 (a) the seriousness of the offense and whether the protection of the community requires
1153 isolation of the minor beyond that afforded by juvenile facilities;

1154 (b) whether the alleged offense was committed by the minor under circumstances
1155 [~~which~~] that would subject the minor to enhanced penalties under Section 76-3-203.1 if the
1156 minor were adult and the offense was committed:

1157 (i) in concert with two or more persons;

1158 (ii) for the benefit of, at the direction of, or in association with any criminal street gang
1159 as defined in Section 76-9-802; or

1160 (iii) to gain recognition, acceptance, membership, or increased status with a criminal
1161 street gang as defined in Section 76-9-802;

1162 (c) whether the alleged offense was committed in an aggressive, violent, premeditated,
1163 or willful manner;

1164 (d) whether the alleged offense was against persons or property, greater weight being
1165 given to offenses against persons, except as provided in Section 76-8-418;

1166 (e) the maturity of the minor as determined by considerations of the minor's home,
1167 environment, emotional attitude, and pattern of living;

1168 (f) the record and previous history of the minor;

1169 (g) the likelihood of rehabilitation of the minor by use of facilities available to the
1170 juvenile court;

1171 (h) the desirability of trial and disposition of the entire offense in one court when the
1172 minor's associates in the alleged offense are adults who will be charged with a crime in the
1173 district court;

1174 (i) whether the minor used a firearm in the commission of an offense; and

1175 (j) whether the minor possessed a dangerous weapon on or about school premises as
1176 provided in Section 76-10-505.5.

1177 (4) The amount of weight to be given to each of the factors listed in Subsection (3) is
1178 discretionary with the court.

1179 (5) (a) [~~Written~~] The court may consider written reports and other materials relating to
1180 the minor's mental, physical, educational, and social history [~~may be considered by the court~~].

1181 (b) If requested by the minor, the minor's parent, guardian, or other interested party, the
1182 court shall require the person or agency preparing the report and other material to appear and
1183 be subject to both direct and cross-examination.

1184 (6) At the conclusion of the state's case, the minor may testify under oath, call
1185 witnesses, cross-examine adverse witnesses, and present evidence on the factors required by
1186 Subsection (3).

1187 (7) At the time the minor is bound over to the district court, the juvenile court shall
1188 make the initial determination on where the minor shall be held.

1189 (8) The juvenile court shall consider the following when determining where the minor
1190 will be held until the time of trial:

1191 (a) the age of the minor;

1192 (b) the nature, seriousness, and circumstances of the alleged offense;

1193 (c) the minor's history of prior criminal acts;

1194 (d) whether detention in a juvenile detention facility will adequately serve the need for
1195 community protection pending the outcome of any criminal proceedings;

1196 (e) whether the minor's placement in a juvenile detention facility will negatively impact
1197 the functioning of the facility by compromising the goals of the facility to maintain a safe,
1198 positive, and secure environment for all minors within the facility;

1199 (f) the relative ability of the facility to meet the needs of the minor and protect the
1200 public;

1201 (g) whether the minor presents an imminent risk of harm to the minor or others within
1202 the facility;

1203 (h) the physical maturity of the minor;

1204 (i) the current mental state of the minor as evidenced by relevant mental health or
1205 psychological assessments or screenings that are made available to the court; and

1206 (j) any other factors the court considers relevant.

1207 (9) If a minor is ordered to a juvenile detention facility under Subsection (8), the minor
1208 shall remain in the facility until released by a district court judge, or if convicted, until
1209 sentencing.

1210 (10) A minor held in a juvenile detention facility under this section shall have the same
1211 right to bail as any other criminal defendant.

1212 (11) If the minor ordered to a juvenile detention facility under Subsection (8) attains
1213 the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released
1214 by the district court judge, or if convicted, until sentencing.

1215 (12) A minor 16 years of age or older whose conduct or condition endangers the safety
1216 or welfare of others in the juvenile detention facility may, by court order that specifies the
1217 reasons, be detained in another place of confinement considered appropriate by the court,
1218 including jail or other place of confinement for adults.

1219 (13) The district court may reconsider the decision on where the minor shall be held
1220 pursuant to Subsection (7).

1221 (14) If the court finds the state has met its burden under Subsection (2), the court may
1222 enter an order:

1223 (a) certifying that finding; and

1224 (b) directing that the minor be held for criminal proceedings in the district court.

1225 (15) If an indictment is returned by a grand jury, the preliminary examination held by
1226 the juvenile court need not include a finding of probable cause, but the juvenile court shall
1227 proceed in accordance with this section regarding the additional consideration referred to in
1228 Subsection (2)(b).

1229 (16) Title 78B, Chapter 22, Indigent Defense Act, Section [78A-6-115](#), and other
1230 provisions relating to proceedings in juvenile cases are applicable to the hearing held under this
1231 section to the extent they are pertinent.

1232 (17) A minor who has been directed to be held for criminal proceedings in the district
1233 court is not entitled to a preliminary examination in the district court.

1234 (18) A minor who has been certified for trial in the district court shall have the same
1235 right to bail as any other criminal defendant and shall be advised of that right by the juvenile
1236 court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20,

1237 Bail.

1238 (19) When a minor has been certified to the district court under this section, the
1239 jurisdiction of the Division of Juvenile Justice Services and the jurisdiction of the juvenile
1240 court over the minor is terminated regarding that offense, any other offenses arising from the
1241 same criminal episode, and any subsequent misdemeanors or felonies charged against the
1242 minor, except as provided in Subsection (21) or Section 78A-6-705.

1243 (20) If a minor enters a plea to, or is found guilty of any of the charges filed or on any
1244 other offense arising out of the same criminal episode, the district court retains jurisdiction
1245 over the minor for all purposes, including sentencing.

1246 (21) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice
1247 Services regain jurisdiction and any authority previously exercised over the minor when there
1248 is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

1249 Section 14. Section 78A-7-106 is amended to read:

1250 **78A-7-106. Jurisdiction.**

1251 (1) [~~Justice courts have~~] A justice court has jurisdiction over class B and C
1252 misdemeanors, violation of ordinances, and infractions committed within [~~their~~] the court's
1253 territorial jurisdiction by [~~a person~~] an individual who is 18 years [~~of age~~] old or older.

1254 (2) Except those offenses over which the juvenile court has exclusive jurisdiction,
1255 [~~justice courts have~~] a justice court has jurisdiction over the following offenses committed
1256 within [~~their~~] the court's territorial jurisdiction by [~~a person~~] an individual who is 16 or 17
1257 years [~~of age~~] old:

1258 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
1259 Licensing Act; and

1260 (b) class B and C misdemeanor and infraction violations of:

1261 (i) Title 23, Wildlife Resources Code of Utah;

1262 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

1263 (iii) Title 41, Chapter 6a, Traffic Code;

1264 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
1265 Operators Act;

1266 (v) Title 41, Chapter 22, Off-Highway Vehicles;

1267 (vi) Title 73, Chapter 18, State Boating Act;

- 1268 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;
- 1269 (viii) Title 73, Chapter 18b, Water Safety; and
- 1270 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
- 1271 Operators Act.
- 1272 (3) As used in this section, "the court's jurisdiction" means the territorial jurisdiction of
- 1273 a justice court.
- 1274 (4) An offense is committed within the territorial jurisdiction of a justice court if:
- 1275 (a) conduct constituting an element of the offense or a result constituting an element of
- 1276 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
- 1277 itself unlawful;
- 1278 (b) either [~~a person~~] an individual committing an offense or a victim of an offense is
- 1279 located within the court's jurisdiction at the time the offense is committed;
- 1280 (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs
- 1281 within the court's jurisdiction;
- 1282 (d) [~~a person~~] an individual commits any act constituting an element of an inchoate
- 1283 offense within the court's jurisdiction, including an agreement in a conspiracy;
- 1284 (e) [~~a person~~] an individual solicits, aids, or abets, or attempts to solicit, aid, or abet
- 1285 another [~~person~~] individual in the planning or commission of an offense within the court's
- 1286 jurisdiction;
- 1287 (f) the investigation of the offense does not readily indicate in which court's
- 1288 jurisdiction the offense occurred, and:
- 1289 (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
- 1290 passing within the court's jurisdiction;
- 1291 (ii) (A) the offense is committed on or in any body of water bordering on or within this
- 1292 state if the territorial limits of the justice court are adjacent to the body of water; and
- 1293 (B) as used in Subsection(4)(f)(ii)(A), "body of water" includes any stream, river, lake,
- 1294 or reservoir, whether natural or man-made;
- 1295 (iii) [~~a person~~] an individual who commits theft exercises control over the affected
- 1296 property within the court's jurisdiction; or
- 1297 (iv) the offense is committed on or near the boundary of the court's jurisdiction;
- 1298 (g) the offense consists of an unlawful communication that was initiated or received

1299 within the court's jurisdiction; or

1300 (h) jurisdiction is otherwise specifically provided by law.

1301 (5) A justice court judge may transfer a criminal matter in which the defendant is a
1302 child to the juvenile court for further proceedings if the justice court judge determines and the
1303 juvenile court concurs that the best interests of the minor would be served by the continuing
1304 jurisdiction of the juvenile court~~[, subject to Section 78A-6-602]~~.

1305 (6) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8,
1306 Small Claims Courts, if a defendant resides in or the debt arose within the territorial
1307 jurisdiction of the justice court.

1308 Section 15. **Effective date.**

1309 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

1310 (2) The actions affecting Section 76-10-105 (Effective 07/01/20) take effect on July 1,
1311 2020.