

JUVENILE JUSTICE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill addresses provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- ▶ adds and modifies definitions;
- ▶ amends provisions regarding offenses committed by minors on school property, including requiring a referral to the Division of Juvenile Justice Services if a minor refuses to participate in an evidence-based intervention;
- ▶ amends a sunset date related to offenses committed by minors on school property;
- ▶ clarifies a reporting requirement for the Division of Juvenile Justice Services;
- ▶ defines the term "defendant" in Title 77, Chapter 38a, Crime Victims Restitution Act, to exclude a minor who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter 6, Juvenile Court Act;
- ▶ amends and clarifies the jurisdiction of the juvenile court, district court, and justice court regarding offenses committed by minors;
- ▶ requires a peace officer to have probable cause in order to take a minor into custody;
- ▶ requires a probable cause determination and detention hearing within 24 hours of a minor being held for detention;
- ▶ allows a court to order secure confinement for a minor if a minor's conduct resulted in death;



- 28 ▶ requires a prosecutor to notify a victim of the restitution process;
- 29 ▶ requires a victim to provide the prosecutor with certain information for restitution;
- 30 ▶ amends the amount of time that restitution may be requested;
- 31 ▶ exempts certain offenses committed by a minor from the presumptive timeframes
- 32 for custody and supervision;
- 33 ▶ modifies the continuing jurisdiction of the juvenile court;
- 34 ▶ repeals the exclusive jurisdiction of the district court over minors who committed
- 35 certain offenses;
- 36 ▶ repeals the certification and transfer of minors who committed certain offenses to
- 37 the district court;
- 38 ▶ allows that a criminal information may be filed for minors who are 14 years old or
- 39 older and are alleged to have committed certain offenses;
- 40 ▶ requires a preliminary hearing before a juvenile court to determine whether a minor,
- 41 for which a criminal information or indictment has been filed, will be bound over to
- 42 the district court to be held for trial;
- 43 ▶ provides the requirements for binding a minor over to the district court;
- 44 ▶ provides the detention requirements for a minor who has been bound over to the
- 45 district court;
- 46 ▶ allows a juvenile court to extend continuing jurisdiction over a minor to the age of
- 47 25 years old if a minor is not bound over to the district court; and
- 48 ▶ makes technical and conforming changes.

49 **Money Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 This bill provides a special effective date.

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **17-18a-404**, as last amended by Laws of Utah 2017, Chapter 330

56 **53-10-403**, as last amended by Laws of Utah 2017, Chapter 289

57 **53G-8-211**, as last amended by Laws of Utah 2019, Chapter 293

58 **62A-4a-201**, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388

59 **62A-7-101**, as last amended by Laws of Utah 2019, Chapters 162 and 246
60 **62A-7-104**, as last amended by Laws of Utah 2019, Chapter 246
61 **62A-7-105.5**, as renumbered and amended by Laws of Utah 2005, Chapter 13
62 **62A-7-107.5**, as last amended by Laws of Utah 2017, Chapter 330
63 **62A-7-108.5**, as renumbered and amended by Laws of Utah 2005, Chapter 13
64 **62A-7-109.5**, as last amended by Laws of Utah 2017, Chapter 330
65 **62A-7-111.5**, as last amended by Laws of Utah 2007, Chapter 308
66 **62A-7-113**, as enacted by Laws of Utah 2019, Chapter 162
67 **62A-7-201**, as last amended by Laws of Utah 2019, Chapter 246
68 **62A-7-401.5**, as last amended by Laws of Utah 2019, Chapter 246
69 **62A-7-402**, as renumbered and amended by Laws of Utah 2005, Chapter 13
70 **62A-7-403**, as renumbered and amended by Laws of Utah 2005, Chapter 13
71 **62A-7-501**, as last amended by Laws of Utah 2019, Chapter 246
72 **62A-7-502**, as last amended by Laws of Utah 2019, Chapter 246
73 **62A-7-504**, as last amended by Laws of Utah 2017, Chapter 330
74 **62A-7-505**, as renumbered and amended by Laws of Utah 2005, Chapter 13
75 **62A-7-506**, as last amended by Laws of Utah 2019, Chapter 246
76 **62A-7-507**, as renumbered and amended by Laws of Utah 2005, Chapter 13
77 **62A-7-701**, as last amended by Laws of Utah 2019, Chapter 246
78 **62A-7-702**, as renumbered and amended by Laws of Utah 2005, Chapter 13
79 **63I-1-253**, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246,
80 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter
81 246
82 **76-3-406**, as last amended by Laws of Utah 2019, Chapter 189
83 **76-5-401.3**, as enacted by Laws of Utah 2017, Chapter 397
84 **76-10-105 (Superseded 07/01/20)**, as last amended by Laws of Utah 2018, Chapter 415
85 **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232
86 **76-10-1302**, as last amended by Laws of Utah 2019, Chapters 26, 189, and 200
87 **77-2-9**, as last amended by Laws of Utah 2017, Chapter 397
88 **77-38a-102**, as last amended by Laws of Utah 2017, Chapter 304
89 **77-38a-302**, as last amended by Laws of Utah 2019, Chapter 171

- 90 **77-38a-404**, as last amended by Laws of Utah 2017, Chapter 304
- 91 **78A-5-102**, as last amended by Laws of Utah 2010, Chapter 34
- 92 **78A-6-103**, as last amended by Laws of Utah 2019, Chapter 300
- 93 **78A-6-104**, as last amended by Laws of Utah 2019, Chapter 188
- 94 **78A-6-105**, as last amended by Laws of Utah 2019, Chapters 335 and 388
- 95 **78A-6-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 96 **78A-6-112**, as last amended by Laws of Utah 2018, Chapter 415
- 97 **78A-6-113**, as last amended by Laws of Utah 2018, Chapter 285
- 98 **78A-6-116**, as last amended by Laws of Utah 2010, Chapter 38
- 99 **78A-6-117**, as last amended by Laws of Utah 2019, Chapters 162 and 335
- 100 **78A-6-118**, as last amended by Laws of Utah 2017, Chapter 330
- 101 **78A-6-120**, as last amended by Laws of Utah 2017, Chapter 330
- 102 **78A-6-306**, as last amended by Laws of Utah 2019, Chapters 136, 326, and 335
- 103 **78A-6-312**, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388
- 104 **78A-6-601**, as last amended by Laws of Utah 2010, Chapter 38
- 105 **78A-6-602**, as last amended by Laws of Utah 2018, Chapters 117 and 415
- 106 **78A-6-603**, as last amended by Laws of Utah 2018, Chapters 117 and 415
- 107 **78A-6-704**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 108 **78A-6-705**, as enacted by Laws of Utah 2015, Chapter 338
- 109 **78A-6-1107**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 110 **78A-6-1108**, as last amended by Laws of Utah 2011, Chapter 208
- 111 **78A-7-106**, as last amended by Laws of Utah 2019, Chapter 136
- 112 **78B-6-105**, as last amended by Laws of Utah 2013, Chapter 458

113 ENACTS:

- 114 **62A-7-404.5**, Utah Code Annotated 1953
- 115 **78A-6-703.1**, Utah Code Annotated 1953
- 116 **78A-6-703.3**, Utah Code Annotated 1953
- 117 **78A-6-703.5**, Utah Code Annotated 1953
- 118 **78A-6-703.7**, Utah Code Annotated 1953
- 119 **78A-6-703.9**, Utah Code Annotated 1953

120 REPEALS AND REENACTS:

121 [62A-7-404](#), as last amended by Laws of Utah 2017, Chapter 330

122 REPEALS:

123 [78A-6-701](#), as last amended by Laws of Utah 2017, Chapter 330

124 [78A-6-702](#), as last amended by Laws of Utah 2015, Chapter 338

125 [78A-6-703](#), as last amended by Laws of Utah 2019, Chapter 326



126
127 *Be it enacted by the Legislature of the state of Utah:*

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

129 **17-18a-404. Juvenile proceedings.**

130 For a proceeding involving [~~a charge of juvenile delinquency, infraction, or a status~~
131 ~~offense~~] an offense committed by a minor as defined in Section [78A-6-105](#), a prosecutor shall:

- 132 (1) review cases pursuant to Section [78A-6-602](#); and
- 133 (2) appear and prosecute for the state in the juvenile court of the county.

134 Section 2. Section **53-10-403** is amended to read:

135 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

136 (1) Sections [53-10-404](#), [53-10-404.5](#), [53-10-405](#), and [53-10-406](#) apply to any person
137 who:

- 138 (a) has pled guilty to or has been convicted of any of the offenses under Subsection
- 139 (2)(a) or (b) on or after July 1, 2002;
- 140 (b) has pled guilty to or has been convicted by any other state or by the United States
- 141 government of an offense which if committed in this state would be punishable as one or more
- 142 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

143 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any
144 offense under Subsection (2)(c);

145 (d) has been booked:
146 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
147 2014, through December 31, 2014, under Subsection [53-10-404](#)(4)(b) for any felony offense; or

148 (ii) on or after January 1, 2015, for any felony offense; or

149 (e) is a minor under Subsection (3).

150 (2) Offenses referred to in Subsection (1) are:

151 (a) any felony or class A misdemeanor under the Utah Code;

- 152 (b) any offense under Subsection (2)(a):
- 153 (i) for which the court enters a judgment for conviction to a lower degree of offense
- 154 under Section 76-3-402; or
- 155 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
- 156 defined in Section 77-2a-1; or
- 157 (c) (i) any violent felony as defined in Section 53-10-403.5;
- 158 (ii) sale or use of body parts, Section 26-28-116;
- 159 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 160 (iv) driving with any amount of a controlled substance in a person's body and causing
- 161 serious bodily injury or death, Subsection 58-37-8(2)(g);
- 162 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;
- 163 (vi) a felony violation of propelling a substance or object at a correctional officer, a
- 164 peace officer, or an employee or a volunteer, including health care providers, Section
- 165 76-5-102.6;
- 166 (vii) aggravated human trafficking and aggravated human smuggling, Section
- 167 76-5-310;
- 168 (viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 169 (ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 170 (x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 171 (xi) sale of a child, Section 76-7-203;
- 172 (xii) aggravated escape, Subsection 76-8-309(2);
- 173 (xiii) a felony violation of assault on an elected official, Section 76-8-315;
- 174 (xiv) influencing, impeding, or retaliating against a judge or member of the Board of
- 175 Pardons and Parole, Section 76-8-316;
- 176 (xv) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 177 (xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 178 (xvii) a felony violation of sexual battery, Section 76-9-702.1;
- 179 (xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 180 (xix) a felony violation of abuse or desecration of a dead human body, Section
- 181 76-9-704;
- 182 (xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section

183 76-10-402;

184 (xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,

185 Section 76-10-403;

186 (xxii) possession of a concealed firearm in the commission of a violent felony,

187 Subsection 76-10-504(4);

188 (xxiii) assault with the intent to commit bus hijacking with a dangerous weapon,

189 Subsection 76-10-1504(3);

190 (xxiv) commercial obstruction, Subsection 76-10-2402(2);

191 (xxv) a felony violation of failure to register as a sex or kidnap offender, Section

192 77-41-107;

193 (xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or

194 (xxvii) violation of condition for release after arrest under Section 77-20-3.5.

195 (3) A minor under Subsection (1) is a minor 14 years ~~[of age]~~ old or older ~~[whom a~~

196 ~~Utah court has]~~ who is adjudicated ~~[to be within the jurisdiction of]~~ by the juvenile court due to

197 the commission of any offense described in Subsection (2), and who ~~[is]~~:

198 (a) ~~committed an offense under Subsection (2)~~ within the jurisdiction of the juvenile

199 court on or after July 1, 2002 ~~[for an offense under Subsection (2)]~~; or

200 (b) is in the legal custody of the Division of Juvenile Justice Services on or after July 1,

201 2002, for an offense under Subsection (2).

202 Section 3. Section **53G-8-211** is amended to read:

203 **53G-8-211. Responses to school-based behavior.**

204 (1) As used in this section:

205 (a) "Evidence-based" means a program or practice that has:

206 (i) had multiple randomized control studies or a meta-analysis demonstrating that the

207 program or practice is effective for a specific population;

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

209 (iii) been approved by the state board.

210 (b) "Minor" means the same as that term is defined in Section 78A-6-105.

211 ~~(b)~~ (c) "Mobile crisis outreach team" means the same as that term is defined in

212 Section 78A-6-105.

213 (d) "Prosecuting attorney" means the same as that term is defined in Subsections

214 [78A-6-105](#)(b) and (c).

215 ~~[(e)]~~ (e) "Restorative justice program" means a school-based program or a program
216 used or adopted by a local education agency that is designed;

217 (i) to enhance school safety, reduce school suspensions, and limit referrals ~~[to court,~~
218 ~~and is designed]~~ to law enforcement agencies and courts; and

219 (ii) to help minors take responsibility for and repair ~~[the harm of]~~ harmful behavior that
220 occurs in school.

221 ~~[(f)]~~ (f) "School administrator" means a principal of a school.

222 ~~[(g)]~~ (g) "School is in session" means a day during which the school conducts
223 instruction for which student attendance is counted toward calculating average daily
224 membership.

225 ~~[(h)]~~ (h) "School resource officer" means a law enforcement officer, as defined in
226 Section [53-13-103](#), who contracts with, is employed by, or whose law enforcement agency
227 contracts with a local education agency to provide law enforcement services for the local
228 education agency.

229 ~~[(i)]~~ (i) "School-sponsored activity" means an activity, fundraising event, club,
230 camp, clinic, or other event or activity that is authorized by a specific local education agency or
231 public school, according to LEA governing board policy, and satisfies at least one of the
232 following conditions:

233 (A) the activity is managed or supervised by a local education agency or public school,
234 or local education agency or public school employee;

235 (B) the activity uses the local education ~~[agency]~~ agency's or public school's facilities,
236 equipment, or other school resources; or

237 (C) the activity is supported or subsidized, more than inconsequentially, by public
238 funds, including the public school's activity funds or Minimum School Program dollars.

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

241 ~~[(j)]~~ (j) (i) "Status offense" means ~~[a violation of the law]~~ an offense that would not be
242 ~~[a violation]~~ an offense but for the age of the offender.

243 (ii) ~~[Notwithstanding Subsection (1)(h)(i), a status offense does not include a violation]~~
244 "Status offense" does not mean an offense that by statute is ~~[made]~~ a misdemeanor or felony.

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

247 (a) on school property where the student is enrolled:

248 (i) when school is in session; or

249 (ii) during a school-sponsored activity; or

250 (b) that is truancy.

251 (3) (a) ~~[If the]~~ Except as provided in Subsections (3)(e) and (5), if a minor is alleged to
252 have committed an offense that is a class C misdemeanor, an infraction, a status offense on
253 school property, or an offense that is truancy~~[- the minor may not be referred to law~~
254 ~~enforcement or court but may be referred]:~~

255 (i) a school district or school may not refer the minor to a law enforcement officer or
256 agency or a court; and

257 (ii) a law enforcement officer or agency may not refer the minor to a prosecuting
258 attorney or a court.

259 (b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an
260 offense that is a class C misdemeanor, an infraction, a status offense on school property, or an
261 offense that is truancy, a school district, school, or law enforcement officer or agency may refer
262 the minor to evidence-based alternative interventions, including:

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

264 (ii) a ~~[receiving]~~ youth services center operated by the Division of Juvenile Justice
265 Services in accordance with Section [62A-7-104](#);

266 (iii) a youth court or comparable restorative justice program;

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

269 (v) other evidence-based interventions that may be jointly created and developed by a
270 local education agency, the state board, the juvenile court, local counties and municipalities,
271 the Department of Health, or the Department of Human Services.

272 ~~[(b)]~~ (c) Notwithstanding Subsection (3)(a), a school resource officer may:

273 (i) investigate possible criminal offenses and conduct, including conducting probable
274 cause searches;

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

276 school;

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

279 (iv) take temporary custody of a minor [~~pursuant to~~] in accordance with Subsection
280 78A-6-112(1); or

281 (v) protect the safety of students and the school community, including the use of
282 reasonable and necessary physical force when appropriate based on the totality of the
283 circumstances.

284 [~~(c)~~] (d) Notwithstanding other provisions of this section, if a law enforcement officer
285 [~~who~~] has cause to believe a minor has committed an offense on school property when school
286 is not in session [~~nor~~] and not during a school-sponsored activity, the law enforcement officer
287 may refer the minor to:

288 (i) a prosecuting attorney or a court; or [~~may refer the minor to~~]

289 (ii) evidence-based alternative interventions at the discretion of the law enforcement
290 officer.

291 (e) If a minor is alleged to have committed a traffic offense that is an infraction, a
292 school district, a school, or a law enforcement officer or agency may refer the minor to a
293 prosecuting attorney or a court for the traffic offense.

294 [~~(4)(a) Notwithstanding Subsection (3)(a) and subject to the requirements of this~~
295 ~~Subsection (4), a]~~

296 (4) A school district or school [may] shall refer a minor [to court] for prevention and
297 early intervention youth services, as described in Section 62A-7-104, by the Division of
298 Juvenile Justice Services for a class C misdemeanor committed on school property or for being
299 a habitual truant, as defined in Section 53G-6-201, if the minor refuses to participate in an
300 evidence-based alternative intervention described in Subsection (3)[~~(a)~~](b).

301 (5) A school district or school may refer a minor to a court or a law enforcement officer
302 or agency for an alleged class C misdemeanor committed on school property or for allegedly
303 being a habitual truant, as defined in Section 53G-6-201, if the minor:

304 (a) refuses to participate in an evidence-based alternative intervention under Subsection
305 (3)(b); and

306 (b) fails to participate in prevention and early intervention youth services provided by

307 the Division of Juvenile Justice Services under Subsection (4).

308 ~~[(b)(i) When]~~ (6) (a) If a minor is referred to a court or a law enforcement officer or
 309 agency under Subsection ~~[(4)(a)]~~ (5), the school shall appoint a school representative to
 310 continue to engage with the minor and the minor's family through the court process.

311 ~~[(it)]~~ (b) A school representative appointed under ~~[this]~~ Subsection ~~[(4)(b)]~~ (6)(a) may
 312 not be a school resource officer.

313 (c) A school district or school shall include the following in ~~[its]~~ the school district's or
 314 school's referral to the court or the law enforcement officer or agency:

315 (i) attendance records for the minor;

316 (ii) a report of evidence-based alternative interventions used by the school before the
 317 referral, including outcomes;

318 (iii) the name and contact information of the school representative assigned to actively
 319 participate in the court process with the minor and the minor's family; ~~[and]~~

320 (iv) a report from the Division of Juvenile Justice Services that demonstrates the
 321 minor's failure to complete or participate in prevention and early intervention youth services
 322 under Subsection (4); and

323 ~~[(iv)]~~ (v) any other information that the school district or school considers relevant.

324 (d) A minor referred to a court under ~~[this Subsection (4),]~~ Subsection (5) may not be
 325 ordered to or placed in secure detention, including for a contempt charge or violation of a valid
 326 court order under Section 78A-6-1101, when the underlying offense is a class C misdemeanor
 327 occurring on school property or habitual truancy.

328 (e) If a minor is referred to a court under ~~[this Subsection (4)]~~ Subsection (5), the court
 329 may use, when available, the resources of the Division of Juvenile Justice Services or the
 330 Division of Substance Abuse and Mental Health to address the minor.

331 ~~[(5)]~~ (7) If the alleged offense is a class B misdemeanor or a class A misdemeanor, ~~[the~~
 332 ~~minor may be referred directly to the juvenile court by]~~ the school administrator, the school
 333 administrator's designee, or a school resource officer~~[- or the minor may be referred]~~ may refer
 334 the minor directly to a juvenile court or to the evidence-based alternative interventions in
 335 Subsection (3)[(a)](b).

336 Section 4. Section 62A-4a-201 is amended to read:

337 **62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of**

338 **state.**

339 (1) (a) Under both the United States Constitution and the constitution of this state, a
340 parent possesses a fundamental liberty interest in the care, custody, and management of the
341 parent's children. A fundamentally fair process must be provided to parents if the state moves
342 to challenge or interfere with parental rights. A governmental entity must support any actions
343 or allegations made in opposition to the rights and desires of a parent regarding the parent's
344 children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened
345 protection against government interference with the parent's fundamental rights and liberty
346 interests and, concomitantly, the right of the child to be reared by the child's natural parent.

347 (b) The fundamental liberty interest of a parent concerning the care, custody, and
348 management of the parent's children is recognized, protected, and does not cease to exist
349 simply because a parent may fail to be a model parent or because the parent's child is placed in
350 the temporary custody of the state. At all times, a parent retains a vital interest in preventing
351 the irretrievable destruction of family life. Prior to an adjudication of unfitness, government
352 action in relation to parents and their children may not exceed the least restrictive means or
353 alternatives available to accomplish a compelling state interest. Until the state proves parental
354 unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result,
355 the child and the child's parents share a vital interest in preventing erroneous termination of
356 their natural relationship and the state cannot presume that a child and the child's parents are
357 adversaries.

358 (c) It is in the best interest and welfare of a child to be raised under the care and
359 supervision of the child's natural parents. A child's need for a normal family life in a
360 permanent home, and for positive, nurturing family relationships is usually best met by the
361 child's natural parents. Additionally, the integrity of the family unit and the right of parents to
362 conceive and raise their children are constitutionally protected. The right of a fit, competent
363 parent to raise the parent's child without undue government interference is a fundamental
364 liberty interest that has long been protected by the laws and Constitution and is a fundamental
365 public policy of this state.

366 (d) The state recognizes that:

367 (i) a parent has the right, obligation, responsibility, and authority to raise, manage,
368 train, educate, provide and care for, and reasonably discipline the parent's children; and

369 (ii) the state's role is secondary and supportive to the primary role of a parent.

370 (e) It is the public policy of this state that parents retain the fundamental right and duty
371 to exercise primary control over the care, supervision, upbringing, and education of their
372 children.

373 (f) Subsections (2) through (7) shall be interpreted and applied consistent with this
374 Subsection (1).

375 (2) It is also the public policy of this state that children have the right to protection
376 from abuse and neglect, and that the state retains a compelling interest in investigating,
377 prosecuting, and punishing abuse and neglect, as defined in this chapter, and in Title 78A,
378 Chapter 6, Juvenile Court Act. Therefore, the state, as *parens patriae*, has an interest in and
379 responsibility to protect children whose parents abuse them or do not adequately provide for
380 their welfare. There may be circumstances where a parent's conduct or condition is a
381 substantial departure from the norm and the parent is unable or unwilling to render safe and
382 proper parental care and protection. Under those circumstances, the state may take action for
383 the welfare and protection of the parent's children.

384 (3) When the division intervenes on behalf of an abused, neglected, or dependent child,
385 it shall take into account the child's need for protection from immediate harm and the extent to
386 which the child's extended family may provide needed protection. Throughout its involvement,
387 the division shall utilize the least intrusive and least restrictive means available to protect a
388 child, in an effort to ensure that children are brought up in stable, permanent families, rather
389 than in temporary foster placements under the supervision of the state.

390 (4) When circumstances within the family pose a threat to the child's immediate safety
391 or welfare, the division may seek custody of the child for a planned, temporary period and
392 place the child in a safe environment, subject to the requirements of this section and in
393 accordance with the requirements of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
394 Dependency Proceedings, and:

395 (a) when safe and appropriate, return the child to the child's parent; or

396 (b) as a last resort, pursue another permanency plan.

397 (5) In determining and making "reasonable efforts" with regard to a child, pursuant to
398 the provisions of Section [62A-4a-203](#), both the division's and the court's paramount concern
399 shall be the child's health, safety, and welfare. The desires of a parent for the parent's child,

400 and the constitutionally protected rights of a parent, as described in this section, shall be given
401 full and serious consideration by the division and the court.

402 (6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe
403 abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or
404 to, in any other way, attempt to maintain a child in the child's home, provide reunification
405 services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does
406 not exempt the division from providing court-ordered services.

407 (7) (a) In accordance with Subsection (1), the division shall strive to achieve
408 appropriate permanency for children who are abused, neglected, or dependent. The division
409 shall provide in-home services, where appropriate and safe, in an effort to help a parent to
410 correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The
411 division may pursue a foster placement only if in-home services fail or are otherwise
412 insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services
413 and kinship placement fail and cannot be corrected. The division shall also seek qualified
414 extended family support or a kinship placement to maintain a sense of security and stability for
415 the child.

416 (b) If the use or continuation of "reasonable efforts," as described in Subsections (5)
417 and (6), is determined to be inconsistent with the permanency plan for a child, then measures
418 shall be taken, in a timely manner, to place the child in accordance with the permanency plan,
419 and to complete whatever steps are necessary to finalize the permanent placement of the child.

420 (c) Subject to the parental rights recognized and protected under this section, if,
421 because of a parent's conduct or condition, the parent is determined to be unfit or incompetent
422 based on the grounds for termination of parental rights described in Title 78A, Chapter 6, Part
423 5, Termination of Parental Rights Act, the continuing welfare and best interest of the child is of
424 paramount importance, and shall be protected in determining whether that parent's rights
425 should be terminated.

426 (8) The state's right to direct or intervene in the provision of medical or mental health
427 care for a child is subject to Subsections [78A-6-105](#)~~[(39)]~~[\(40\)](#)(b)(i) through (iii) and
428 [78A-6-117](#)(2) and Section [78A-6-301.5](#).

429 Section 5. Section **62A-7-101** is amended to read:

430 **62A-7-101. Definitions.**

431 As used in this chapter:

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

434 (2) (a) "Adult" means an individual who is 18 years or older.

435 (b) "Adult" does not include a juvenile offender.

436 ~~(2)~~ (3) "Authority" means the Youth Parole Authority, established in accordance with
437 Section [62A-7-501](#).

438 (4) "Child" means an individual who is under 18 years old.

439 (5) "Commission" means the State Commission on Criminal and Juvenile Justice
440 created in Section [63M-7-201](#).

441 ~~(3)~~ (6) "Community-based program" means a nonsecure residential or nonresidential
442 program designated to supervise and rehabilitate youth offenders in accordance with
443 Subsection [78A-6-117\(2\)](#) that prioritizes the least restrictive nonresidential setting, consistent
444 with public safety, and designated or operated by or under contract with the division.

445 ~~(4)~~ (7) "Control" means the authority to detain, restrict, and supervise a youth in a
446 manner consistent with public safety and the well being of the youth and division employees.

447 (8) "Correctional facility" means:

448 (a) a county jail; or

449 (b) a secure correctional facility as defined in Section [64-13-1](#).

450 ~~(5)~~ (9) "Court" means the juvenile court.

451 ~~(6)~~ (10) "Delinquent act" is an act ~~[which]~~ that would constitute a felony or a
452 misdemeanor if committed by an adult.

453 ~~(7)~~ (11) "Detention" means secure detention or home detention.

454 ~~(8)~~ (12) "Detention center" means a facility established in accordance with Title 62A,
455 Chapter 7, Part 2, Detention Facilities.

456 ~~(9)~~ (13) "Director" means the director of the Division of Juvenile Justice Services.

457 ~~(10)~~ (14) "Discharge" means a written order of the Youth Parole Authority that
458 removes a ~~[youth]~~ juvenile offender from ~~[its]~~ the Youth Parole Authority's jurisdiction.

459 ~~(11)~~ (15) "Division" means the Division of Juvenile Justice Services.

460 ~~(12)~~ (16) "Home detention" means predispositional placement of a child in the child's
461 home or a surrogate home with the consent of the child's parent, guardian, or custodian for

462 conduct by a child who is alleged to have committed a delinquent act or postdispositional
463 placement ~~[pursuant to]~~ in accordance with Subsection 78A-6-117(2)(f) or 78A-6-1101(3).

464 ~~[(13)]~~ (17) "Observation and assessment program" means a nonresidential service
465 program operated or purchased by the division that is responsible only for diagnostic
466 assessment of minors, including for substance use disorder, mental health, psychological, and
467 sexual behavior risk assessments.

468 (18) "Juvenile offender" means:

469 (a) a serious youth offender; or

470 (b) a youth offender.

471 ~~[(14)]~~ (19) "Parole" means a conditional release of a ~~[youth]~~ juvenile offender from
472 residency in a secure facility to live outside that facility under the supervision of the Division
473 of Juvenile Justice Services or other person designated by the division.

474 ~~[(15)]~~ (20) "Performance-based contracting" means a system of contracting with
475 service providers for the provision of residential or nonresidential services that:

476 (a) provides incentives for the implementation of evidence-based juvenile justice
477 programs or programs rated as effective for reducing recidivism by a standardized tool pursuant
478 to Section 63M-7-208; and

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

481 ~~[(16)]~~ (21) "Receiving center" means a nonsecure, nonresidential program established
482 by the division, or under contract with the division, that is responsible for juveniles taken into
483 custody by a law enforcement officer for status offenses, infractions, or delinquent acts.

484 ~~[(17)]~~ (22) "Rescission" means a written order of the Youth Parole Authority that
485 rescinds a parole date.

486 ~~[(18)]~~ (23) "Revocation of parole" means a written order of the Youth Parole Authority
487 that terminates parole supervision of a ~~[youth]~~ juvenile offender and directs return of the youth
488 offender to the custody of a secure facility after a hearing and a determination that there has
489 been a violation of law or of a condition of parole that warrants a return to a secure facility in
490 accordance with Section 62A-7-504.

491 ~~[(19)]~~ (24) "Runaway" means a youth who willfully leaves the residence of a parent or
492 guardian without the permission of the parent or guardian.

493 ~~[(20)]~~ (25) "Secure detention" means predisposition placement in a facility operated by
494 or under contract with the division, for conduct by a child who is alleged to have committed a
495 delinquent act.

496 ~~[(21)]~~ (26) "Secure facility" means any facility operated by or under contract with the
497 division, that provides 24-hour supervision and confinement for ~~[youth]~~ juvenile offenders
498 committed to the division for custody and rehabilitation.

499 (27) "Serious youth offender" means an individual who:

500 (a) is at least 14 years old, but under 25 years old;

501 (b) committed a felony listed in Subsection [78A-6-703.5](#)(1) and the continuing
502 jurisdiction of the court was extended over the individual's case until the individual was 25
503 years old in accordance with Section [78A-6-703.5](#); and

504 (c) is committed or admitted by the court to the custody, care, and jurisdiction of the
505 division for confinement in a secure facility or supervision in the community, following an
506 adjudication for a delinquent act in accordance with Section [78A-6-117](#).

507 ~~[(22)]~~ (28) "Shelter" means the temporary care of ~~[children]~~ a child in a physically
508 unrestricted ~~[facilities]~~ facility pending court disposition or transfer to another jurisdiction.

509 ~~[(23)]~~ (29) (a) "Temporary custody" means control and responsibility of
510 nonadjudicated youth until the youth can be released to the parent, guardian, a responsible
511 adult, or to an appropriate agency.

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

515 ~~[(24)]~~ (30) "Termination" means a written order of the Youth Parole Authority that
516 terminates a ~~[youth]~~ juvenile offender from parole.

517 ~~[(25)]~~ (31) "Ungovernable" means a youth in conflict with a parent or guardian, and the
518 conflict:

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

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

522 (c) results in the situations described in ~~[both]~~ Subsections ~~[(25)]~~ (31)(a) and (b).

523 ~~[(26)]~~ (32) "Work program" means a nonresidential public or private service work

524 project established and administered by the division for [~~youth~~] juvenile offenders for the
525 purpose of rehabilitation, education, and restitution to victims.

526 [~~(27)~~] (33) "Youth offender" means [~~a person 12 years of age or older, and who has not~~
527 ~~reached 21 years of age;~~] an individual who is:

528 (a) at least 12 years old, but under 21 years old; and

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

533 [~~(28)~~] (34) (a) "Youth services" means services provided in an effort to resolve family
534 conflict:

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

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

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

538 (i) resolve family conflict;

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

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

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

542 (i) crisis intervention;

543 (ii) short-term shelter;

544 (iii) time out placement; and

545 (iv) family counseling.

546 Section 6. Section **62A-7-104** is amended to read:

547 **62A-7-104. Division responsibilities.**

548 (1) The division is responsible for all [~~youth~~] juvenile offenders committed to the
549 division by juvenile courts for secure confinement or supervision and treatment in the
550 community in accordance with Section 78A-6-117.

551 (2) The division shall:

552 (a) establish and administer a continuum of community, secure, and nonsecure
553 programs for all [~~youth~~] juvenile offenders committed to the division;

554 (b) establish and maintain all detention and secure facilities and set minimum standards

555 for those facilities;

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

558 (d) establish observation and assessment programs necessary to serve [~~youth~~] juvenile
559 offenders in a nonresidential setting under Subsection 78A-6-117(2)(e).

560 (3) The division shall place [~~youth~~] juvenile offenders committed to it in the most
561 appropriate program for supervision and treatment.

562 (4) (a) In [~~any~~] an order committing a [~~youth~~] juvenile offender to the division, the
563 [~~juvenile~~] court shall find whether the [~~youth~~] juvenile offender is being committed for secure
564 confinement under Subsection 78A-6-117(2)(c), or placement in a community-based program
565 under Subsection 78A-6-117(2)(c), and specify the criteria under Subsection 78A-6-117(2)(c)
566 or (d) underlying the commitment.

567 (b) The division shall place [~~the youth~~] a juvenile offender in the most appropriate
568 program within the category specified by the court.

569 (5) The division shall employ staff necessary to:

570 (a) supervise and control [~~youth~~] juvenile offenders in secure facilities or in the
571 community;

572 (b) supervise and coordinate treatment of [~~youth~~] juvenile offenders committed to the
573 division for placement in community-based programs; and

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

577 (6) (a) Youth in the custody or temporary custody of the division are controlled or
578 detained in a manner consistent with public safety and rules made by the division. In the event
579 of an unauthorized leave from a secure facility, detention center, community-based program,
580 receiving center, home, or any other designated placement, division employees have the
581 authority and duty to locate and apprehend the youth, or to initiate action with local law
582 enforcement agencies for assistance.

583 (b) A rule made by the division under this Subsection (6) may not permit secure
584 detention based solely on the existence of multiple status offenses, misdemeanors, or
585 infractions alleged in the same criminal episode.

586 (7) The division shall establish and operate compensatory-service work programs for
587 [~~youth~~] juvenile offenders committed to the division by the [~~juvenile~~] court. The
588 compensatory-service work program may not be residential and shall:

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

591 (b) provide educational and prevocational programs in cooperation with the State
592 Board of Education for [~~youth~~] juvenile offenders placed in the program; and

593 (c) provide counseling to [~~youth~~] juvenile offenders.

594 (8) The division shall establish minimum standards for the operation of all private
595 residential and nonresidential rehabilitation facilities that provide services to juveniles who
596 have committed a delinquent act or infraction in this state or in any other state.

597 (9) The division shall provide regular training for staff of secure facilities, detention
598 staff, case management staff, and staff of the community-based programs.

599 (10) (a) The division is authorized to employ special function officers, as defined in
600 Section 53-13-105, to locate and apprehend minors who have absconded from division
601 custody, transport minors taken into custody pursuant to division policy, investigate cases, and
602 carry out other duties as assigned by the division.

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

605 (11) The division shall designate employees to obtain the saliva DNA specimens
606 required under Section 53-10-403. The division shall ensure that the designated employees
607 receive appropriate training and that the specimens are obtained in accordance with accepted
608 protocol.

609 (12) The division shall register an individual with the Department of Corrections [~~any~~
610 ~~person~~] who:

611 (a) [~~has been~~] is adjudicated delinquent [~~based on~~] for an offense listed in Subsection
612 77-41-102(17)(a) or 77-43-102(2);

613 (b) [~~has been~~] is committed to the division for secure confinement; and

614 (c) (i) if the individual is a youth offender, remains in the division's custody 30 days
615 before the [~~person's~~] individual's 21st birthday[-]; or

616 (ii) if the individual is a serious youth offender, remains in the division's custody 30

617 days before the individual's 25th birthday.

618 (13) The division shall ensure that a program delivered to a [youth] juvenile offender
619 under this section is evidence based in accordance with Section 63M-7-208.

620 Section 7. Section 62A-7-105.5 is amended to read:

621 **62A-7-105.5. Information supplied to division.**

622 (1) Juvenile court probation sections shall render full and complete cooperation to the
623 division in supplying the division with all pertinent information relating to [youth] juvenile
624 offenders who have been committed to the division.

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

628 Section 8. Section 62A-7-107.5 is amended to read:

629 **62A-7-107.5. Contracts with private providers.**

630 (1) This chapter does not prohibit the division from contracting with private providers
631 or other agencies for the construction, operation, and maintenance of juvenile facilities or the
632 provision of care, treatment, and supervision of [youth] juvenile offenders who have been
633 committed to the care of the division.

634 (2) All programs for the care, treatment, and supervision of [youth] juvenile offenders
635 committed to the division shall be licensed in compliance with division standards within six
636 months after commencing operation.

637 (3) A contract for the care, treatment, and supervision of a [youth] juvenile offender
638 committed to the division shall be executed in accordance with the performance-based
639 contracting system developed under Section 63M-7-208.

640 Section 9. Section 62A-7-108.5 is amended to read:

641 **62A-7-108.5. Records -- Property of division.**

642 (1) All records maintained by programs that are under contract with the division to
643 provide services to [youth] juvenile offenders, are the property of the division and shall be
644 returned to [it] the division when the [youth] juvenile offender is terminated from the program.

645 (2) The division shall maintain an accurate audit trail of information provided to other
646 programs or agencies regarding [youth] juvenile offenders under [its] the division's jurisdiction.

647 Section 10. Section 62A-7-109.5 is amended to read:

648 **62A-7-109.5. Restitution by a juvenile offender.**

649 (1) The division shall make reasonable efforts to ensure that restitution is made to the
650 victim of a [youth] juvenile offender. Restitution shall be made through the employment of
651 [youth] juvenile offenders in work programs. However, reimbursement to the victim of a
652 [youth] juvenile offender is conditional upon [~~that youth~~] the juvenile offender's involvement
653 in the work program.

654 (2) Restitution ordered by the court may be made a condition of release, placement, or
655 parole by the division.

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

658 Section 11. Section **62A-7-111.5** is amended to read:

659 **62A-7-111.5. Cost of support and maintenance of a juvenile offender --**
660 **Responsibility.**

661 On commitment of a [youth] juvenile offender to the division, and on recommendation
662 of the division to the [juvenile] court, the [juvenile] court may order the [youth] juvenile
663 offender or [his] the juvenile offender's parent, guardian, or custodian, to share in the costs of
664 support and maintenance for the [youth] offender during [his] the juvenile offender's term of
665 commitment.

666 Section 12. Section **62A-7-113** is amended to read:

667 **62A-7-113. Rulemaking authority and division responsibilities.**

668 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
669 division shall make rules that establish a formula, in consultation with the Office of the
670 Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017
671 Laws of Utah, Chapter 330 resulting from the reduction in out-of-home placements for [youth]
672 juvenile offenders with the division.

673 (2) No later than December 31 of each year, the division shall provide to the Executive
674 Offices and Criminal Justice Appropriations Subcommittee a written report of the division's
675 activities under this section and Section **62A-7-112**, including:

676 (a) for the report submitted in 2019, the formula used to calculate the savings from
677 General Fund appropriations under Subsection (1);

678 (b) the amount of savings from General Fund appropriations calculated by the division

679 for the previous fiscal year;

680 (c) an accounting of the money expended or committed to be expended under

681 Subsection [62A-7-112\(4\)](#); and

682 (d) the balance of the account.

683 Section 13. Section **62A-7-201** is amended to read:

684 **62A-7-201. Confinement -- Facilities -- Restrictions.**

685 ~~[(1) Children under 18 years of age, who are apprehended by any officer or brought~~
 686 ~~before any court for examination under any provision of state law, may not be confined in jails,~~
 687 ~~lockups, or cells used for persons 18 years of age or older who are charged with crime, or in~~
 688 ~~secure postadjudication correctional facilities operated by the division, except as provided in~~
 689 ~~Subsection (2) or other specific statute.]~~

690 ~~[(2) (a) Children charged with crimes under Section [78A-6-701](#), as a serious youth~~
 691 ~~offender under Section [78A-6-702](#) and bound over to the jurisdiction of the district court, or~~
 692 ~~certified to stand trial as an adult pursuant to Section [78A-6-703](#), if detained, shall be detained~~
 693 ~~as provided in these sections:]~~

694 ~~[(b) Children detained in adult facilities under Section [78A-6-702](#) or [78A-6-703](#) before~~
 695 ~~a hearing before a magistrate, or under Subsection [78A-6-113\(3\)](#);~~

696 (1) Except as provided in Subsection (2) or by another statute, if a child is apprehended
 697 by an officer, or brought before a court for examination under state law, the child may not be
 698 confined:

699 (a) in a jail, lockup, or cell used for an adult who is charged with a crime; or

700 (b) in a secure facility operated by the division.

701 (2) (a) The division shall detain a child in accordance with Sections [78A-6-703.7](#) and
 702 [78A-6-703.9](#) if:

703 (i) the child is charged with an offense under Section [78A-6-703.3](#);

704 (ii) the district court has obtained jurisdiction over the offense and the child is bound
 705 over to the district court under Section [78A-6-703.7](#); and

706 (iii) the court orders the detention of the child.

707 (b) (i) If a child is detained before a hearing under Subsection [78A-6-113\(3\)](#) or Section
 708 [78A-6-703.7](#), the child may only be held in certified juvenile detention accommodations in
 709 accordance with rules made by the [Commission on Criminal and Juvenile Justice. Those

710 ~~rules]~~ commission.

711 (ii) The commission's rules shall include [standards] rules for acceptable sight and
712 sound separation from adult inmates.

713 (iii) ~~The [Commission on Criminal and Juvenile Justice certifies facilities that are]~~
714 commission shall certify that a correctional facility is in compliance with the [Commission on
715 Criminal and Juvenile Justice's standards] commission's rules.

716 (iv) This Subsection (2)(b) does not apply to [juveniles] a child held in an adult
717 detention facility in accordance with Subsection (2)(a).

718 (3) (a) ~~In [areas] an area of low density population, the [Commission on Criminal and~~
719 ~~Juvenile Justice] commission may, by rule, approve [juvenile holding accommodations within~~
720 ~~adult facilities that have] a juvenile detention accommodation within a correctional facility that~~
721 has acceptable sight and sound separation. [Those facilities]

722 (b) An accommodation described in Subsection (3)(a) shall be used only:

723 (i) ~~for short-term holding [purposes, with a maximum confinement of six hours, for~~
724 ~~children] of a child who is alleged to have committed an act [which] that would be a criminal~~
725 ~~offense if committed by an adult[- Acceptable short-term holding purposes are:]; and~~

726 (ii) for a maximum confinement period of six hours.

727 (c) A child may only be held in an accommodation described in Subsection (3)(a) for:

728 (i) identification[-];

729 (ii) notification of a juvenile court [officials,] official;

730 (iii) processing[-]; and

731 (iv) allowance of adequate time for evaluation of needs and circumstances regarding
732 the release or transfer of the child to a shelter or detention facility.

733 (d) This Subsection (3) does not apply to [juveniles] a child held in [an adult detention
734 facility] a correctional facility in accordance with Subsection (2)(a).

735 (4) (a) ~~[Children who are] If a child is alleged to have committed an act that would be a~~
736 ~~criminal offense if committed by an adult, the child may be detained in [holding rooms in local~~
737 ~~law enforcement agency facilities] a holding room in a local law enforcement agency facility~~
738 for a maximum of two hours, for identification or interrogation, or while awaiting release to a
739 parent or other responsible adult. [Those rooms]

740 (b) A holding room described in Subsection (4)(a) shall be certified by [the

741 ~~Commission on Criminal and Juvenile Justice, according to the Commission on Criminal and~~
 742 ~~Juvenile Justice's]~~ the commission in accordance with the commission's rules. [~~Those rules]~~

743 (c) The commission's rules shall include provisions for constant supervision and for
 744 sight and sound separation from adult inmates.

745 (5) Willful failure to comply with this section is a class B misdemeanor.

746 (6) (a) The division is responsible for the custody and detention of [~~children under 18~~
 747 ~~years of age who require]~~;

748 (i) a child who requires detention care before trial or examination, or [~~white]~~ is
 749 awaiting assignment to a home or facility, as a dispositional placement under Subsection
 750 78A-6-117(2)(f)(i)[;]; and [~~of youth offenders]~~

751 (ii) a juvenile offender under Subsection 62A-7-504(9). [~~This]~~

752 (b) Subsection (6)(a) does not apply to [~~juveniles]~~ a child held in [~~an adult detention~~
 753 ~~facility]~~ a correctional facility in accordance with Subsection (2)(a).

754 [~~(b)~~] (c) (i) The [~~Commission on Criminal and Juvenile Justice]~~ commission shall
 755 provide standards for custody or detention under Subsections (2)(b), (3), and (4).

756 (ii) The division shall determine and set standards for conditions of care and
 757 confinement of children in detention facilities.

758 [~~(c) All other custody or detention shall be provided by the]~~

759 (d) (i) The division, or [~~by contract with]~~ a public or private agency willing to
 760 undertake temporary custody or detention upon agreed terms[~~, or]~~ in a contract with the
 761 division, shall provide all other custody or detention in suitable premises distinct and separate
 762 from the general jails, lockups, or cells used in law enforcement and corrections systems.

763 (ii) This Subsection [~~(6)(c)] (6)(d)~~ does not apply to [~~juveniles]~~ a child held in [~~an~~
 764 ~~adult detention facility]~~ a correctional facility in accordance with Subsection (2)(a).

765 Section 14. Section **62A-7-401.5** is amended to read:

766 **62A-7-401.5. Secure facilities.**

767 (1) The division shall maintain and operate secure facilities for the custody and
 768 rehabilitation of [~~youth]~~ juvenile offenders who pose a danger of serious bodily harm to others,
 769 who cannot be controlled in a less secure setting, or who have engaged in a pattern of conduct
 770 characterized by persistent and serious criminal offenses which, as demonstrated through the
 771 use of other alternatives, cannot be controlled in a less secure setting.

772 (2) The director shall appoint an administrator for each secure facility. An
773 administrator of a secure facility shall have experience in social work, law, criminology,
774 corrections, or a related field, and also in administration.

775 (3) (a) The division, in cooperation with the State Board of Education, shall provide
776 instruction, or make instruction available, to [youth] juvenile offenders in secure facilities. The
777 instruction shall be appropriate to the age, needs, and range of abilities of the [youth] juvenile
778 offender.

779 (b) An assessment shall be made of each [youth] juvenile offender by the appropriate
780 secure facility to determine the offender's abilities, possible learning disabilities, interests,
781 attitudes, and other attributes related to appropriate educational programs.

782 (c) Prevocational education shall be provided to acquaint [youth] juvenile offenders
783 with vocations, and vocational requirements and opportunities.

784 (4) The division shall place [youth] juvenile offenders who have been committed to the
785 division for secure confinement and rehabilitation in a secure facility, operated by the division
786 or by a private entity, that is appropriate to ensure that humane care and rehabilitation
787 opportunities are afforded to the [youth] juvenile offender.

788 (5) The division shall adopt standards, policies, and procedures for the regulation and
789 operation of secure facilities, consistent with state and federal law.

790 Section 15. Section **62A-7-402** is amended to read:

791 **62A-7-402. Aiding or concealing offender -- Trespass -- Criminal penalties.**

792 (1) [~~A person~~] An individual who commits any of the following offenses is guilty of a
793 class A misdemeanor:

794 (a) entering, or attempting to enter, a building or enclosure appropriated to the use of
795 [youth] juvenile offenders, without permission;

796 (b) entering any premises belonging to a secure facility and committing or attempting
797 to commit a trespass or damage on those premises; or

798 (c) willfully annoying or disturbing the peace and quiet of a secure facility or of a
799 [youth] juvenile offender in a secure facility.

800 (2) [~~A person~~] An individual is guilty of a third degree felony who:

801 (a) knowingly harbors or conceals a [youth] juvenile offender who has:

802 (i) escaped from a secure facility; or

803 (ii) absconded from:

804 (A) a facility or supervision; or

805 (B) supervision of the [~~Division of Juvenile Justice Services~~] division; or

806 (b) willfully aided or assisted a [youth] juvenile offender who has been lawfully

807 committed to a secure facility in escaping or attempting to escape from that facility.

808 (3) As used in this section:

809 (a) a [youth] juvenile offender absconds from a facility when [~~he~~] the juvenile
810 offender:

811 (i) leaves the facility without permission; or

812 (ii) fails to return at a prescribed time.

813 (b) A [youth] juvenile offender absconds from supervision when [~~he~~] the juvenile
814 offender:

815 (i) changes [~~his~~] the juvenile offender's residence from the residence that [~~he~~] the
816 juvenile offender reported to the division as [~~his~~] the juvenile offender's correct address to
817 another residence, without notifying the [~~Division of Juvenile Justice Services~~] division or
818 obtaining permission; or

819 (ii) for the purpose of avoiding supervision:

820 (A) hides at a different location from [~~his~~] the juvenile offender's reported residence; or

821 (B) leaves [~~his~~] the juvenile offender's reported residence.

822 Section 16. Section **62A-7-403** is amended to read:

823 **62A-7-403. Care of pregnant juvenile offender.**

824 (1) When a [youth] juvenile offender in a secure facility is pregnant, the division shall
825 ensure that adequate prenatal and postnatal care is provided, and shall place [~~her~~] the juvenile
826 offender in an accredited hospital before delivery. As soon as [~~her~~] the juvenile offender's
827 condition after delivery will permit, the [youth] juvenile offender may be returned to the secure
828 facility.

829 (2) If the division has concern regarding the [youth] juvenile offender's fitness to raise
830 [~~her~~] the juvenile offender's child, the division shall petition the juvenile court to hold a
831 custody hearing.

832 Section 17. Section **62A-7-404** is repealed and reenacted to read:

833 **62A-7-404. Commitment.**

834 (1) If a youth offender has been committed to a secure facility under Section
835 78A-6-117, the youth offender shall remain at the secure facility until the youth offender is:

836 (a) 21 years old;

837 (b) paroled; or

838 (c) discharged.

839 (2) If a serious youth offender has been committed to a secure facility under Section
840 78A-6-117, the serious youth offender shall remain at the secure facility until the serious youth
841 offender is:

842 (a) 25 years old;

843 (b) paroled; or

844 (c) discharged.

845 Section 18. Section **62A-7-404.5** is enacted to read:

846 **62A-7-404.5. Review and termination of commitment.**

847 (1) If a juvenile offender has been committed to a secure facility, the juvenile offender
848 shall appear before the authority within 45 days after the day on which the juvenile offender is
849 committed to a secure facility for review of a treatment plan and to establish parole release
850 guidelines.

851 (2) (a) If a juvenile offender is committed to a secure facility, the authority shall set a
852 presumptive term of commitment for the juvenile offender that does not exceed three to six
853 months.

854 (b) The authority shall release the juvenile offender on parole at the end of the
855 presumptive term of commitment unless at least one the following circumstances exists:

856 (i) termination would interrupt the completion of a necessary treatment program; or

857 (ii) the juvenile offender commits a new misdemeanor or felony offense.

858 (c) The authority shall determine whether a juvenile offender has completed a program
859 under Subsection (2)(b)(i) by considering the recommendations of the licensed service
860 provider, the juvenile offender's consistent attendance record, and the juvenile offender's
861 completion of the goals of the necessary treatment program.

862 (d) The authority may extend the length of commitment and delay parole release for the
863 time needed to address the specific circumstance only if one of the circumstances under
864 Subsection (2)(b) exists.

865 (e) The authority shall:

866 (i) record the length of the extension and the grounds for the extension; and

867 (ii) report annually the length and grounds of extension to the commission.

868 (3) (a) If a juvenile offender is committed to a secure facility, the authority shall set a
869 presumptive term of parole supervision that does not exceed three to four months.

870 (b) If the authority determines that a juvenile offender is unable to return home
871 immediately upon release, the juvenile offender may serve the term of parole in the home of a
872 qualifying relative or guardian or at an independent living program contracted or operated by
873 the division.

874 (c) The authority shall release a juvenile offender from parole and terminate
875 jurisdiction at the end of the presumptive term of parole, unless at least one the following
876 circumstances exists:

877 (i) termination would interrupt the completion of a necessary treatment program;

878 (ii) the juvenile offender commits a new misdemeanor or felony offense; or

879 (iii) restitution has not been completed.

880 (d) The authority shall determine whether a juvenile offender has completed a program
881 under Subsection (2)(c) by considering the recommendations of the licensed services provider,
882 the juvenile offender's consistent attendance record, and the juvenile offender's completion of
883 the goals of the necessary treatment program.

884 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
885 parole release only for the time needed to address the specific circumstance.

886 (f) The authority shall:

887 (i) record the grounds for extension of the presumptive length of parole and the length
888 of the extension; and

889 (ii) report annually the extension and the length of the extension to the commission.

890 (g) In the event of an unauthorized leave lasting more than 24 hours, the term of parole
891 shall toll until the juvenile offender returns.

892 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to a secure
893 facility for a felony violation of:

894 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

895 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;

- 896 (c) Section 76-5-203, murder or attempted murder;
897 (d) Section 76-5-302, aggravated kidnapping;
898 (e) Section 76-5-405, aggravated sexual assault;
899 (f) Section 76-6-103, aggravated arson;
900 (g) Section 76-6-203, aggravated burglary;
901 (h) Section 76-6-302, aggravated robbery;
902 (i) Section 76-10-508.1, felony discharge of a firearm; or
903 (j) an offense other than those listed in Subsections (4)(a) through (i) involving the use
904 of a dangerous weapon:
905 (i) if the offense would be a felony had an adult committed the offense; and
906 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
907 involving the use of a dangerous weapon that would have been a felony if committed by an
908 adult.
909 (5) (a) The division may continue to have responsibility over a juvenile offender, who
910 is discharged under this section from parole, to participate in a specific educational or
911 rehabilitative program:
912 (i) until the juvenile offender is:
913 (A) if the juvenile offender is a youth offender, 21 years old; or
914 (B) if the juvenile offender is a serious youth offender, 25 years old; and
915 (ii) under an agreement by the division and the juvenile offender that the program has
916 certain conditions.
917 (b) The division and the juvenile offender may terminate participation in a program
918 under Subsection (5)(a) at any time.
919 (c) The division shall offer an educational or rehabilitative program before a juvenile
920 offender's discharge date in accordance with this section.
921 (d) A juvenile offender may request the services described in this Subsection (5), even
922 if the offender has been previously declined services or services were terminated for
923 noncompliance.
924 (e) Notwithstanding Subsection (5)(c), the division:
925 (i) shall consider a request by a juvenile offender under Subsection (5)(d) for the
926 services described in this section for up to 365 days after the juvenile offender's effective date

927 of discharge, even if the juvenile offender has previously declined services or services were
 928 terminated for noncompliance; and

929 (ii) may reach an agreement with the juvenile offender to provide the services
 930 described in this Subsection (5) until the juvenile offender is:

931 (A) if the juvenile offender is a youth offender, 21 years old; or

932 (B) if the juvenile offender is a serious youth offender, 25 years old.

933 (f) The division and the juvenile offender may terminate an agreement for services
 934 under this Subsection (5) at any time.

935 Section 19. Section **62A-7-501** is amended to read:

936 **62A-7-501. Youth Parole Authority -- Expenses -- Responsibilities -- Procedures.**

937 (1) There is created the Youth Parole Authority within the division [~~a Youth Parole~~
 938 ~~Authority~~].

939 (2) (a) The authority is composed of 10 part-time members and five pro tempore
 940 members who are residents of this state. No more than three pro tempore members may serve
 941 on the authority at any one time.

942 (b) Throughout this section, the term "member" refers to both part-time and pro
 943 tempore members of the Youth Parole Authority.

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

946 (b) The governor shall, at the time of appointment or reappointment, adjust the length
 947 of terms to ensure that the terms of authority members are staggered so that approximately half
 948 of the authority is appointed every two years.

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

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

953 (6) During the tenure of the member's appointment, a member may not:

954 (a) be an employee of the department, other than in the member's capacity as a member
 955 of the authority;

956 (b) hold any public office;

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

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

960 (7) In extraordinary circumstances or when a regular member is absent or otherwise
961 unavailable, the chair may assign a pro tempore member to act in the absent member's place.

962 (8) A member may not receive compensation or benefits for the member's service[;]
963 but may receive per diem and travel expenses in accordance with:

964 (a) Section [63A-3-106](#);

965 (b) Section [63A-3-107](#); and

966 (c) rules made by the Division of Finance [~~pursuant to~~] in accordance with Sections
967 [63A-3-106](#) and [63A-3-107](#).

968 (9) The authority shall determine appropriate parole dates for [~~youth~~] juvenile
969 offenders in accordance with Section [~~62A-7-404~~] [62A-7-404.5](#).

970 (10) [~~Youth offenders~~] A juvenile offender may be paroled to [~~their own homes~~] the
971 juvenile offender's home, to an independent living program contracted or operated by the
972 division, to an approved independent living setting, or to other appropriate residences of
973 qualifying relatives or guardians, but shall remain on parole until parole is terminated by the
974 authority in accordance with Section [~~62A-7-404~~] [62A-7-404.5](#).

975 (11) The division's case management staff shall implement parole release plans and
976 shall supervise [~~youth~~] juvenile offenders while on parole.

977 (12) The division shall permit the authority to have reasonable access to [~~youth~~]
978 juvenile offenders in secure facilities and shall furnish all pertinent data requested by the
979 authority in matters of parole, revocation, and termination.

980 Section 20. Section [62A-7-502](#) is amended to read:

981 **[62A-7-502. Youth Parole Authority -- Parole procedures.](#)**

982 (1) The authority has responsibility for parole release, rescission, revocation, and
983 termination for [~~youth~~] juvenile offenders who have been committed to the division for secure
984 confinement. The authority shall determine when and under what conditions [~~youth~~] juvenile
985 offenders who have been committed to a secure facility are eligible for parole.

986 (2) [~~Each youth~~] A juvenile offender shall be served with notice of parole hearings[;]
987 and has the right to personally appear before the authority for parole consideration.

988 (3) Orders and decisions of the authority shall be in writing, and [~~each youth~~] a

989 juvenile offender shall be provided written notice of the authority's reasoning and decision in
990 the [youth] juvenile offender's case.

991 (4) The authority shall establish policies and procedures for the authority's governance,
992 meetings, hearings, the conduct of proceedings before [it] the authority, the parole of [youth]
993 juvenile offenders, and the general conditions under which parole may be granted, rescinded,
994 revoked, modified, and terminated.

995 Section 21. Section **62A-7-504** is amended to read:

996 **62A-7-504. Parole revocation -- Hearing -- Procedures.**

997 (1) The authority may revoke the parole of a [youth] juvenile offender only after a
998 hearing and upon determination that there has been a violation of law or of a condition of
999 parole by the [youth] juvenile offender that warrants the [youth] juvenile offender's return to a
1000 secure facility. The parole revocation hearing shall be held at a secure facility.

1001 (2) (a) Before returning a [youth] juvenile offender to a secure facility for a parole
1002 revocation or rescission hearing, the division shall provide a prerevocation or prerescission
1003 hearing within the vicinity of the alleged violation, to determine whether there is probable
1004 cause to believe that the [youth] juvenile offender violated the conditions of the [youth]
1005 juvenile offender's parole.

1006 (b) Upon a finding of probable cause, the [youth] juvenile offender may be remanded
1007 to a secure facility, pending a revocation hearing.

1008 (3) The authority shall only proceed with the parole revocation or rescission process in
1009 accordance with the system of appropriate responses developed [~~pursuant to~~] in accordance
1010 with Section **78A-6-123** on [~~and~~] or after July 1, 2018.

1011 (4) A paroled [youth] juvenile offender is entitled to legal representation at the parole
1012 revocation hearing, and if the [youth] juvenile offender or the [youth] juvenile offender's family
1013 has requested but cannot afford legal representation, the authority shall appoint legal counsel.

1014 (5) The authority and the administrative officer have power to issue subpoenas, compel
1015 attendance of witnesses, compel production of books, papers and other documents, administer
1016 oaths, and take testimony under oath for the purposes of conducting the hearings.

1017 (6) (a) A [youth] juvenile offender shall receive timely advance notice of the date,
1018 time, place, and reason for the hearing, and has the right to appear at the hearing.

1019 (b) The authority shall provide the [youth] juvenile offender an opportunity to be

1020 heard, to present witnesses and evidence, and to confront and cross-examine adverse witnesses,
1021 unless there is good cause for disallowing that confrontation.

1022 (7) Decisions in parole revocation or rescission hearings shall be reached by a majority
1023 vote of the present members of the authority.

1024 (8) The administrative officer shall maintain summary records of all hearings and
1025 provide written notice to the [youth] juvenile offender of the decision and reason for the
1026 decision.

1027 (9) (a) The authority may issue a warrant to order any peace officer or division
1028 employee to take into custody a [youth] juvenile offender alleged to be in violation of parole
1029 conditions in accordance with Section [78A-6-123](#) on [~~and~~] or after July 1, 2018.

1030 (b) The division may issue a warrant to any peace officer or division employee to
1031 retake a [youth] juvenile offender who has escaped from a secure facility.

1032 (c) Based upon the warrant issued under this Subsection (9), a [youth] juvenile
1033 offender may be held in a local detention facility for no longer than 48 hours, excluding
1034 weekends and legal holidays, to allow time for a prerevocation or prerecission hearing of the
1035 alleged parole violation, or in the case of an escapee, arrangement for transportation to the
1036 secure facility.

1037 Section 22. Section [62A-7-505](#) is amended to read:

1038 **[62A-7-505. Conditions of parole.](#)**

1039 Conditions of parole shall be specified in writing and agreed to by the [youth] juvenile
1040 offender. That agreement shall be evidenced by the signature of the [youth] juvenile offender,
1041 which shall be affixed to the parole document.

1042 Section 23. Section [62A-7-506](#) is amended to read:

1043 **[62A-7-506. Discharge of juvenile offender.](#)**

1044 (1) A [youth] juvenile offender may be discharged from the jurisdiction of the division
1045 at any time, by written order of the [~~Youth Parole Authority~~] authority, upon a finding that no
1046 further purpose would be served by secure confinement or supervision in a community setting.

1047 (2) A [youth] juvenile offender shall be discharged in accordance with Section
1048 [~~62A-7-404~~] [62A-7-404.5](#).

1049 (3) Discharge of a [youth] juvenile offender is a complete release of all penalties
1050 incurred by adjudication of the offense for which the [youth] juvenile offender was committed.

1051 Section 24. Section **62A-7-507** is amended to read:

1052 **62A-7-507. Appeal regarding parole release or revocation.**

1053 (1) A [youth] juvenile offender, or the parent or legal guardian of a [youth] juvenile
1054 offender, may appeal to the executive director or his designee any decision of the authority
1055 regarding parole release, rescission, or revocation.

1056 (2) The executive director, or ~~[his]~~ the executive director's designee, may set aside or
1057 remand the authority's decision only if ~~[it]~~ the authority's decision is arbitrary, capricious, an
1058 abuse of discretion, or contrary to law.

1059 Section 25. Section **62A-7-701** is amended to read:

1060 **62A-7-701. Community-based programs.**

1061 (1) (a) The division shall operate residential and nonresidential community-based
1062 programs to provide care, treatment, and supervision for [youth] juvenile offenders committed
1063 to the division by juvenile courts.

1064 (b) The division shall operate or contract for nonresidential community-based
1065 programs and independent living programs to provide care, treatment, and supervision of
1066 paroled [youth] juvenile offenders.

1067 (2) The division shall adopt minimum standards for the organization and operation of
1068 community-based corrections programs for [youth] juvenile offenders.

1069 (3) The division shall place [youth] juvenile offenders committed to ~~[it]~~ the division
1070 for community-based programs in the most appropriate program based upon the division's
1071 evaluation of the [youth] juvenile offender's needs and the division's available resources in
1072 accordance with Sections ~~[62A-7-404]~~ 62A-7-404.5 and 78A-6-117.

1073 Section 26. Section **62A-7-702** is amended to read:

1074 **62A-7-702. Case management staff.**

1075 (1) The division shall provide a sufficient number of case management staff members
1076 to provide care, treatment, and supervision for [youth] juvenile offenders on parole and for
1077 [youth] juvenile offenders committed to the division by the juvenile courts for
1078 community-based programs.

1079 (2) (a) Case management staff shall develop treatment programs for each [youth]
1080 juvenile offender in the community, provide appropriate services, and monitor individual
1081 progress.

1082 (b) Progress reports shall be filed every three months with the [juvenile] court for each
1083 [youth] juvenile offender committed to the division for community-based programs and with
1084 the authority for each parolee.

1085 (c) The authority, in the case of parolees, or the [juvenile] court, in the case of youth
1086 committed to the division for placement in community programs, shall be immediately
1087 notified, in writing, of any violation of law or of conditions of parole or placement.

1088 (3) Case management staff shall:

1089 (a) conduct investigations and make reports requested by the courts to aid them in
1090 determining appropriate case dispositions; and

1091 (b) conduct investigations and make reports requested by the authority to aid it in
1092 making appropriate dispositions in cases of parole, revocation, and termination.

1093 Section 27. Section **63I-1-253** is amended to read:

1094 **63I-1-253. Repeal dates, Titles 53 through 53G.**

1095 The following provisions are repealed on the following dates:

1096 (1) Subsection **53-6-203(1)(b)(ii)**, regarding being 19 years old at certification, is
1097 repealed July 1, 2022.

1098 (2) Subsection **53-13-104(6)**, regarding being 19 years old at certification, is repealed
1099 July 1, 2022.

1100 (3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

1101 (4) Section **53B-18-1501** is repealed July 1, 2021.

1102 (5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

1103 (6) Section **53B-24-402**, Rural residency training program, is repealed July 1, 2020.

1104 (7) Subsection **53C-3-203(4)(b)(vii)**, which provides for the distribution of money
1105 from the Land Exchange Distribution Account to the Geological Survey for test wells, other
1106 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

1107 (8) Section **53E-3-515** is repealed January 1, 2023.

1108 (9) In relation to a standards review committee, on January 1, 2023:

1109 (a) in Subsection **53E-4-202(8)**, the language that states "by a standards review
1110 committee and the recommendations of a standards review committee established under
1111 Section **53E-4-203**" is repealed; and

1112 (b) Section **53E-4-203** is repealed.

- 1113 (10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:
- 1114 (a) Subsection 53B-17-1201(1) is repealed;
- 1115 (b) Section 53B-17-1203 is repealed;
- 1116 (c) Subsection 53B-17-1204(2) is repealed;
- 1117 (d) Subsection 53B-17-1204(4)(a), the language that states "in accordance with the
- 1118 method described in Subsection (4)(c)" is repealed; and
- 1119 (e) Subsection 53B-17-1204(4)(c) is repealed.
- 1120 (11) Section 53F-2-514 is repealed July 1, 2020.
- 1121 (12) Section 53F-5-203 is repealed July 1, 2024.
- 1122 (13) Section 53F-5-212 is repealed July 1, 2024.
- 1123 (14) Section 53F-5-213 is repealed July 1, 2023.
- 1124 (15) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State
- 1125 Plan Pilot Program, is repealed July 1, 2022.
- 1126 [~~(16) Section 53F-6-201 is repealed July 1, 2019.~~]
- 1127 [~~(17)~~] (16) Section 53F-9-501 is repealed January 1, 2023.
- 1128 [~~(18)~~] (17) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety
- 1129 Commission, are repealed January 1, 2025.
- 1130 [~~(19)~~] (18) Subsection 53G-8-211~~[(4)]~~(5), regarding referrals of a minor to court for a
- 1131 class C misdemeanor, is repealed July 1, ~~[2020]~~ 2022.
- 1132 Section 28. Section 76-3-406 is amended to read:
- 1133 **76-3-406. Crimes for which probation, suspension of sentence, lower category of**
- 1134 **offense, or hospitalization may not be granted.**
- 1135 (1) Notwithstanding Sections 76-3-201 and 77-18-1 and Title 77, Chapter 16a,
- 1136 Commitment and Treatment of Persons with a Mental Illness, except as provided in Section
- 1137 76-5-406.5, probation may not be granted, the execution or imposition of sentence may not be
- 1138 suspended, the court may not enter a judgment for a lower category of offense, and
- 1139 hospitalization may not be ordered, the effect of which would in any way shorten the prison
- 1140 sentence for an individual who commits a capital felony or a first degree felony involving:
- 1141 (a) Section 76-5-202, aggravated murder;
- 1142 (b) Section 76-5-203, murder;
- 1143 (c) Section 76-5-301.1, child kidnaping;

- 1144 (d) Section 76-5-302, aggravated kidnaping;
- 1145 (e) Section 76-5-402, rape, if the individual is sentenced under Subsection
- 1146 76-5-402(3)(b), (3)(c), or (4);
- 1147 (f) Section 76-5-402.1, rape of a child;
- 1148 (g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection
- 1149 76-5-402.2(1)(b), (1)(c), or (2);
- 1150 (h) Section 76-5-402.3, object rape of a child;
- 1151 (i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection
- 1152 76-5-403(3)(b), (3)(c), or (4);
- 1153 (j) Section 76-5-403.1, sodomy on a child;
- 1154 (k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under
- 1155 Subsection 76-5-404(2)(b) or (3);
- 1156 (l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;
- 1157 (m) Section 76-5-405, aggravated sexual assault; or
- 1158 (n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).
- 1159 (2) ~~[The]~~ Except for an offense transferred to the district court by the juvenile court in
- 1160 accordance with Section 78A-6-703.7, the provisions of this section do not apply if the
- 1161 sentencing court finds that the defendant:
- 1162 (a) was under ~~[the age of]~~ 18 years old at the time of the offense; and
- 1163 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
- 1164 delayed filing of the ~~[Information, unless the offenses are before the court pursuant to Section~~
- 1165 ~~78A-6-701, 78A-6-702, or 78A-6-703]~~ information.
- 1166 Section 29. Section 76-5-401.3 is amended to read:
- 1167 **76-5-401.3. Unlawful adolescent sexual activity.**
- 1168 (1) As used in this section:
- 1169 (a) "Adolescent" means ~~[a person]~~ an individual in the transitional phase of human
- 1170 physical and psychological growth and development between childhood and adulthood who is
- 1171 12 years ~~[of age]~~ old or older, but under 18 years ~~[of age]~~ old.
- 1172 (b) "Unlawful adolescent sexual activity" means sexual activity between adolescents
- 1173 under circumstances not amounting to:
- 1174 (i) rape, in violation of Section 76-5-402;

- 1175 (ii) rape of a child, in violation of Section [76-5-402.1](#);
- 1176 (iii) object rape, in violation of Section [76-5-402.2](#);
- 1177 (iv) object rape of a child, in violation of Section [76-5-402.3](#);
- 1178 (v) forcible sodomy, in violation of Section [76-5-403](#);
- 1179 (vi) sodomy on a child, in violation of Section [76-5-403.1](#);
- 1180 [~~(vii) aggravated sexual assault, in violation of Section [76-5-405](#);~~]
- 1181 [~~(viii)~~] (vii) sexual abuse of a child, in violation of Section [76-5-404](#); ~~[or]~~
- 1182 (viii) aggravated sexual assault, in violation of Section [76-5-405](#); or
- 1183 (ix) incest, in violation of Section [76-7-102](#).
- 1184 (2) Unlawful adolescent sexual activity is punishable as a:
- 1185 (a) third degree felony if an adolescent who is 17 years ~~[of age]~~ old engages in
- 1186 unlawful adolescent sexual activity with an adolescent who is 12 or 13 years ~~[of age]~~ old;
- 1187 (b) third degree felony if an adolescent who is 16 years ~~[of age]~~ old engages in
- 1188 unlawful adolescent sexual activity with an adolescent who is 12 years ~~[of age]~~ old;
- 1189 (c) class A misdemeanor if an adolescent who is 16 years ~~[of age]~~ old engages in
- 1190 unlawful adolescent sexual activity with an adolescent who is 13 years ~~[of age]~~ old;
- 1191 (d) class A misdemeanor if an adolescent who is 14 or 15 years ~~[of age]~~ old engages in
- 1192 unlawful adolescent sexual activity with an adolescent who is 12 years ~~[of age]~~ old;
- 1193 (e) class B misdemeanor if an adolescent who is 17 years ~~[of age]~~ old engages in
- 1194 unlawful adolescent sexual activity with an adolescent who is 14 years ~~[of age]~~ old;
- 1195 (f) class B misdemeanor if an adolescent who is 15 years ~~[of age]~~ old engages in
- 1196 unlawful adolescent sexual activity with an adolescent who is 13 years ~~[of age]~~ old;
- 1197 (g) class C misdemeanor if an adolescent who is 12 or 13 years ~~[of age]~~ old engages in
- 1198 unlawful adolescent sexual activity with an adolescent who is 12 or 13 years ~~[of age]~~ old; and
- 1199 (h) class C misdemeanor if an adolescent who is 14 years ~~[of age]~~ old engages in
- 1200 unlawful adolescent sexual activity with an adolescent who is 13 years ~~[of age]~~ old.
- 1201 (3) ~~[Offenses]~~ An offense under this section ~~[are]~~ is not eligible for a nonjudicial
- 1202 adjustment under Section [78A-6-602](#) or a referral to youth court under Section [78A-6-1203](#).
- 1203 (4) ~~[Unless the offenses are before the court pursuant to Section [78A-6-701](#),~~
- 1204 ~~[78A-6-702](#), or [78A-6-703](#)]~~ Except for an offense that is transferred to a district court by the
- 1205 juvenile court in accordance with Section [78A-6-703.7](#), the district court may enter any

1206 sentence or combination of sentences [~~which~~] that would have been available in juvenile court
1207 but for the delayed reporting or delayed filing of the information in the district court.

1208 (5) An offense under this section is not subject to registration under Subsection
1209 [77-41-102](#)(17).

1210 Section 30. Section **76-10-105 (Superseded 07/01/20)** is amended to read:

1211 **76-10-105 (Superseded 07/01/20). Buying or possessing a cigar, cigarette,**
1212 **electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

1213 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's
1214 possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C
1215 misdemeanor and subject to:

1216 (a) a minimum fine or penalty of \$60; and

1217 (b) participation in a court-approved tobacco education program, which may include a
1218 participation fee.

1219 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
1220 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is [~~subject~~
1221 ~~to the jurisdiction of the juvenile court and~~] subject to Section [78A-6-602](#), unless the violation
1222 is committed on school property under Section [53G-8-211](#). If a violation under this section is
1223 adjudicated under Section [78A-6-117](#), the minor may be subject to the following:

1224 (a) a fine or penalty, in accordance with Section [78A-6-117](#); and

1225 (b) participation in a court-approved tobacco education program, which may include a
1226 participation fee.

1227 (3) A compliance officer appointed by a board of education under Section [53G-4-402](#)
1228 may not issue a citation for a violation of this section committed on school property. A cited
1229 violation committed on school property shall be addressed in accordance with Section
1230 [53G-8-211](#).

1231 Section 31. Section **76-10-105 (Effective 07/01/20)** is amended to read:

1232 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, electronic**
1233 **cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

1234 (1) (a) An individual who is 18 years old or older, but younger than the age specified in
1235 Subsection (1)(b), and buys or attempts to buy, accepts, or has in the individual's possession
1236 any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of an infraction and

1237 subject to:

1238 (i) a minimum fine or penalty of \$60; and

1239 (ii) participation in a court-approved tobacco education or cessation program, which
1240 may include a participation fee.

1241 (b) For purposes of Subsection (1)(a), the individual is younger than:

1242 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

1243 (ii) beginning July 1, 2021, 21 years old.

1244 (2) (a) An individual under ~~[the age of]~~ 18 years old who buys or attempts to buy,
1245 accepts, or has in the individual's possession any cigar, cigarette, electronic cigarette, or
1246 tobacco in any form is ~~[subject to the jurisdiction of the juvenile court and]~~ subject to Section
1247 [78A-6-602](#), unless the violation is committed on school property under Section [53G-8-211](#).

1248 (b) If a violation under this section is adjudicated under Section [78A-6-117](#), the minor
1249 may be subject to the following:

1250 ~~[(a)]~~ (i) a fine or penalty, in accordance with Section [78A-6-117](#); and

1251 ~~[(b)]~~ (ii) participation in a court-approved tobacco education program, which may
1252 include a participation fee.

1253 (3) (a) A compliance officer appointed by a board of education under Section
1254 [53G-4-402](#) may not issue a citation for a violation of this section committed on school
1255 property.

1256 (b) A cited violation committed on school property shall be addressed in accordance
1257 with Section [53G-8-211](#).

1258 (4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,
1259 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years old or
1260 older and is:

1261 (i) on active duty in the United States Armed Forces; or

1262 (ii) a spouse or dependent of an individual who is on active duty in the United States
1263 Armed Forces.

1264 (b) A valid, government-issued military identification card is required to verify proof
1265 of age under Subsection (4)(a).

1266 Section 32. Section **76-10-1302** is amended to read:

1267 **76-10-1302. Prostitution.**

- 1268 (1) An individual is guilty of prostitution when the individual:
- 1269 (a) engages, offers, or agrees to engage in any sexual activity with another individual
- 1270 for a fee, or the functional equivalent of a fee;
- 1271 (b) takes steps in arranging a meeting through any form of advertising, agreeing to
- 1272 meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee
- 1273 or the functional equivalent of a fee; or
- 1274 (c) loiters in or within view of any public place for the purpose of being hired to
- 1275 engage in sexual activity.
- 1276 (2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, prostitution is
- 1277 a class B misdemeanor.
- 1278 (b) Except as provided in Section 76-10-1309, an individual who is convicted a second
- 1279 time, and on all subsequent convictions, of a subsequent offense of prostitution under this
- 1280 section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of
- 1281 a class A misdemeanor.
- 1282 (3) (a) As used in this Subsection (3):
- 1283 (i) "Child" means the same as that term is defined in Section 76-10-1301.
- 1284 (ii) "Child engaged in commercial sex" means a child who engages in conduct
- 1285 described in Subsection (1).
- 1286 (iii) "Child engaged in sexual solicitation" means a child who offers or agrees to
- 1287 commit or engage in any sexual activity with another person for a fee or the functional
- 1288 equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).
- 1289 (iv) "Division" means the Division of Child and Family Services created in Section
- 1290 62A-4a-103.
- 1291 (v) "Receiving center" means the same as that term is defined in Section 62A-7-101.
- 1292 (b) Upon encountering a child engaged in commercial sex or sexual solicitation, a law
- 1293 enforcement officer shall:
- 1294 (i) conduct an investigation regarding possible human trafficking of the child pursuant
- 1295 to Sections 76-5-308 and 76-5-308.5;
- 1296 (ii) refer the child to the division;
- 1297 (iii) bring the child to a receiving center, if available; and
- 1298 (iv) contact the child's parent or guardian, if practicable.

1299 (c) When law enforcement refers a child to the division under Subsection (3)(b)(ii) the
1300 division shall provide services to the child under Title 62A, Chapter 4a, Child and Family
1301 Services.

1302 (4) A child may not be subjected to [~~delinquency proceedings under Title 62A, Chapter~~
1303 ~~7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704~~] a delinquency
1304 or criminal proceeding for prostitution under Title 78A, Chapter 6, Juvenile Court Act.

1305 (5) A prosecutor may not prosecute an individual for a violation of Subsection (1) if
1306 the individual engages in a violation of Subsection (1) at or near the time the individual
1307 witnesses or is a victim of any of the following offenses, or an attempt to commit any of the
1308 following offenses, and the individual reports the offense or attempt to law enforcement in
1309 good faith:

1310 (a) assault, Section 76-5-102;

1311 (b) aggravated assault, Section 76-5-103;

1312 (c) mayhem, Section 76-5-105;

1313 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
1314 homicide, or homicide by assault under Title 76, Chapter 5, Part 2, Criminal Homicide;

1315 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
1316 aggravated human trafficking, human smuggling or aggravated human smuggling, or human
1317 trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and
1318 Smuggling;

1319 (f) rape, Section 76-5-402;

1320 (g) rape of a child, Section 76-5-402.1;

1321 (h) object rape, Section 76-5-402.2;

1322 (i) object rape of a child, Section 76-5-402.3;

1323 (j) forcible sodomy, Section 76-5-403;

1324 (k) sodomy on a child, Section 76-5-403.1;

1325 (l) forcible sexual abuse, Section 76-5-404;

1326 (m) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;

1327 (n) aggravated sexual assault, Section 76-5-405;

1328 (o) sexual exploitation of a minor, Section 76-5b-201;

1329 (p) sexual exploitation of a vulnerable adult, Section 76-5b-202;

1330 (q) aggravated burglary or burglary of a dwelling under Title 76, Chapter 6, Part 2,
1331 Burglary and Criminal Trespass;

1332 (r) aggravated robbery or robbery under Title 76, Chapter 6, Part 3, Robbery; or

1333 (s) theft by extortion under Subsection 76-6-406(2)(a) or (b).

1334 Section 33. Section 77-2-9 is amended to read:

1335 **77-2-9. Offenses ineligible for diversion.**

1336 ~~[(1) Except as provided in Subsection (2), diversion may not be granted by a magistrate~~
1337 ~~for:]~~

1338 (1) A magistrate may not grant a diversion for:

1339 (a) a capital felony;

1340 (b) a felony in the first degree;

1341 (c) any case involving a sexual offense against a victim who is under ~~[the age of]~~ 14
1342 years old;

1343 (d) any motor vehicle related offense involving alcohol or drugs;

1344 (e) any case involving using a motor vehicle in the commission of a felony;

1345 (f) driving a motor vehicle or commercial motor vehicle on a revoked or suspended
1346 license;

1347 (g) any case involving operating a commercial motor vehicle in a negligent manner
1348 causing the death of another including the offenses of:

1349 (i) manslaughter under Section 76-5-205; or

1350 (ii) negligent homicide under Section 76-5-206; or

1351 (h) a crime of domestic violence as defined in Section 77-36-1.

1352 (2) When ~~[a person]~~ an individual is alleged to have committed any violation of Title
1353 76, Chapter 5, Part 4, Sexual Offenses, while under ~~[the age of]~~ 16 years old, the court may
1354 enter a diversion in the matter if the court enters on the record ~~[its]~~ the court's findings that:

1355 (a) the offenses could have been adjudicated in juvenile court but for the delayed
1356 reporting or delayed filing of the information in the district court, unless the offenses are before
1357 the court ~~[pursuant to Section 78A-6-701, 78A-6-702, or 78A-6-703]~~ in accordance with
1358 Section 78A-6-703.7;

1359 (b) the person did not use coercion or force;

1360 (c) there is no more than three years' difference between the ages of the participants;

1361 and

1362 (d) it would be in the best interest of the person to grant diversion.

1363 Section 34. Section **77-38a-102** is amended to read:

1364 **77-38a-102. Definitions.**

1365 As used in this chapter:

1366 (1) "Conviction" includes a:

1367 (a) judgment of guilt;

1368 (b) a plea of guilty; or

1369 (c) a plea of no contest.

1370 (2) "Criminal activities" means:

1371 (a) any misdemeanor or felony offense of which the defendant is convicted; or

1372 (b) any other criminal conduct for which the defendant admits responsibility to the

1373 sentencing court with or without an admission of committing the criminal conduct.

1374 (3) (a) "Defendant" means an individual who has been convicted of, or entered into a
1375 plea disposition for, a criminal activity.

1376 (b) "Defendant" does not include a minor, as defined in Section 78A-6-105, who is
1377 adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter
1378 6, Juvenile Court Act.

1379 [~~3~~] (4) "Department" means the Department of Corrections.

1380 [~~4~~] (5) "Diversion" means suspending criminal proceedings prior to conviction on the
1381 condition that a defendant agree to participate in a rehabilitation program, make restitution to
1382 the victim, or fulfill some other condition.

1383 [~~5~~] (6) "Party" means the prosecutor, defendant, or department involved in a
1384 prosecution.

1385 [~~6~~] (7) "Pecuniary damages" means all demonstrable economic injury, whether or not
1386 yet incurred, including those which a person could recover in a civil action arising out of the
1387 facts or events constituting the defendant's criminal activities and includes the fair market value
1388 of property taken, destroyed, broken, or otherwise harmed, and losses, including lost earnings,
1389 including those and other travel expenses reasonably incurred as a result of participation in
1390 criminal proceedings, and medical and other expenses, but excludes punitive or exemplary
1391 damages and pain and suffering.

1392 [~~(7)~~] (8) "Plea agreement" means an agreement entered between the prosecution and
1393 defendant setting forth the special terms and conditions and criminal charges upon which the
1394 defendant will enter a plea of guilty or no contest.

1395 [~~(8)~~] (9) "Plea disposition" means an agreement entered into between the prosecution
1396 and defendant including diversion, plea agreement, plea in abeyance agreement, or any
1397 agreement by which the defendant may enter a plea in any other jurisdiction or where charges
1398 are dismissed without a plea.

1399 [~~(9)~~] (10) "Plea in abeyance" means an order by a court, upon motion of the
1400 prosecution and the defendant, accepting a plea of guilty or of no contest from the defendant
1401 but not, at that time, entering judgment of conviction against him nor imposing sentence upon
1402 him on condition that he comply with specific conditions as set forth in a plea in abeyance
1403 agreement.

1404 [~~(10)~~] (11) "Plea in abeyance agreement" means an agreement entered into between the
1405 prosecution and the defendant setting forth the specific terms and conditions upon which,
1406 following acceptance of the agreement by the court, a plea may be held in abeyance.

1407 [~~(11)~~] (12) "Restitution" means full, partial, or nominal payment for pecuniary
1408 damages to a victim, including prejudgment interest, the accrual of interest from the time of
1409 sentencing, insured damages, reimbursement for payment of a reward, and payment for
1410 expenses to a governmental entity for extradition or transportation and as may be further
1411 defined by law.

1412 [~~(12)~~] (13) (a) "Reward" means a sum of money:

1413 (i) offered to the public for information leading to the arrest and conviction of an
1414 offender; and

1415 (ii) that has been paid to a person or persons who provide this information, except that
1416 the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.

1417 (b) "Reward" does not include any amount paid in excess of the sum offered to the
1418 public.

1419 [~~(13)~~] (14) "Screening" means the process used by a prosecuting attorney to terminate
1420 investigative action, proceed with prosecution, move to dismiss a prosecution that has been
1421 commenced, or cause a prosecution to be diverted.

1422 [~~(14)~~] (15) (a) "Victim" means ~~[any person]~~ an individual or entity, including the Utah

1423 Office for Victims of Crime, ~~[who]~~ that the court determines has suffered pecuniary damages
1424 as a result of the defendant's criminal activities.

1425 (b) "Victim" may not include a codefendant or accomplice.

1426 Section 35. Section ~~77-38a-302~~ is amended to read:

1427 **77-38a-302. Restitution criteria.**

1428 (1) When a defendant enters into a plea disposition or is convicted of criminal activity
1429 that has resulted in pecuniary damages, in addition to any other sentence or term of a plea in
1430 abeyance ~~[it]~~ the court may impose, the court shall order that the defendant make restitution to
1431 ~~[victims]~~ any victim of crime as provided in this chapter, or for conduct for which the
1432 defendant has agreed to make restitution as part of a plea disposition. ~~[For purposes of~~
1433 ~~restitution, "victim" means the same as that term is defined in Subsection 77-38a-102(14).]~~ In
1434 determining whether restitution is appropriate, the court shall follow the criteria and procedures
1435 as provided in Subsections (2) through (5).

1436 (2) In determining restitution, the court shall determine complete restitution and
1437 court-ordered restitution.

1438 (a) "Complete restitution" means restitution necessary to compensate a victim for all
1439 losses caused by the defendant.

1440 (b) "Court-ordered restitution" means the restitution the court having criminal
1441 jurisdiction orders the defendant to pay as a part of the criminal sentence.

1442 (c) Complete restitution and court-ordered restitution shall be determined as provided
1443 in Subsection (5).

1444 (3) If the court determines that restitution is appropriate or inappropriate under this
1445 part, the court shall make the reasons for the decision part of the court record.

1446 (4) If the defendant objects to the imposition, amount, or distribution of the restitution,
1447 the court shall allow the defendant a full hearing on the issue.

1448 (5) (a) For the purpose of determining restitution for an offense, the offense shall
1449 include any criminal conduct admitted by the defendant to the sentencing court or for which the
1450 defendant agrees to pay restitution. A victim of an offense that involves as an element a
1451 scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by
1452 the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

1453 (b) In determining the monetary sum and other conditions for complete restitution, the

1454 court shall consider all relevant facts, including:

1455 (i) the cost of the damage or loss if the offense resulted in damage to or loss or
1456 destruction of property of a victim of the offense;

1457 (ii) the cost of necessary medical and related professional services and devices relating
1458 to physical or mental health care, including nonmedical care and treatment rendered in
1459 accordance with a method of healing recognized by the law of the place of treatment;

1460 (iii) the cost of necessary physical and occupational therapy and rehabilitation;

1461 (iv) the income lost by the victim as a result of the offense;

1462 (v) the individual victim's reasonable determinable wages that are lost due to theft of or
1463 damage to tools or equipment items of a trade that were owned by the victim and were essential
1464 to the victim's current employment at the time of the offense;

1465 (vi) the cost of necessary funeral and related services if the offense resulted in the death
1466 of a victim; and

1467 (vii) expenses incurred by a victim in implementing reasonable security measures in
1468 response to the offense.

1469 (c) In determining the monetary sum and other conditions for court-ordered restitution,
1470 the court shall consider:

1471 (i) the factors listed in Subsections (5)(a) and (b);

1472 (ii) the financial resources of the defendant, as disclosed in the financial declaration
1473 described in Section [77-38a-204](#);

1474 (iii) the burden that payment of restitution will impose, with regard to the other
1475 obligations of the defendant;

1476 (iv) the ability of the defendant to pay restitution on an installment basis or on other
1477 conditions to be fixed by the court;

1478 (v) the rehabilitative effect on the defendant of the payment of restitution and the
1479 method of payment; and

1480 (vi) other circumstances that the court determines may make restitution inappropriate.

1481 (d) (i) The prosecuting agency shall submit all requests for complete restitution and
1482 court-ordered restitution to the court at the time of sentencing if feasible, otherwise within one
1483 year after sentencing.

1484 (ii) If a defendant is placed on probation pursuant to Section [77-18-1](#):

1485 (A) the court shall determine complete restitution and court-ordered restitution; and

1486 (B) the time period for determination of complete restitution and court-ordered
1487 restitution may be extended by the court upon a finding of good cause, but may not exceed the
1488 period of the probation term served by the defendant.

1489 (iii) If the defendant is committed to prison:

1490 (A) any pecuniary damages that have not been determined by the court within one year
1491 after sentencing may be determined by the Board of Pardons and Parole; and

1492 (B) the Board of Pardons and Parole may, within one year after sentencing, refer an
1493 order of judgment and commitment back to the court for determination of restitution.

1494 Section 36. Section ~~77-38a-404~~ is amended to read:

1495 **77-38a-404. Priority.**

1496 (1) Restitution payments made pursuant to a court order shall be disbursed to victims
1497 within 60 days of receipt from the defendant by the court or department provided:

1498 (a) the victim has complied with Subsection ~~77-38a-203~~(1)(b);

1499 (b) if the defendant has tendered a negotiable instrument, funds from the financial
1500 institution are actually received; and

1501 (c) the payment to the victim is at least \$5, unless the payment is the final payment.

1502 (2) If restitution to more than one person, agency, or entity is required at the same time,
1503 the department shall establish the following priorities of payment, except as provided in
1504 Subsection (4):

1505 (a) the crime victim;

1506 (b) the Utah Office for Victims of Crime;

1507 (c) any other government agency which has provided reimbursement to the victim as a
1508 result of the offender's criminal conduct;

1509 (d) the person, entity, or governmental agency that has offered and paid a reward under
1510 Section ~~77-32a-101~~ [~~or 78A-6-117~~];

1511 (e) any insurance company which has provided reimbursement to the victim as a result
1512 of the offender's criminal conduct; and

1513 (f) any county correctional facility to which the defendant is required to pay restitution
1514 under Subsection ~~76-3-201~~(6).

1515 (3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and

1516 surcharges are paid.

1517 (4) If the offender is required under Section 53-10-404 to reimburse the department for
1518 the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority after
1519 restitution to the crime victim under Subsection (2)(a).

1520 (5) All money collected for court-ordered obligations from offenders by the department
1521 will be applied:

1522 (a) first, to victim restitution, except the current and past due amount of \$30 per month
1523 required to be collected by the department under Section 64-13-21, if applicable; and

1524 (b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection
1525 (4).

1526 (6) Restitution owed to more than one victim shall be disbursed to each victim
1527 according to the percentage of each victim's share of the total restitution order.

1528 Section 37. Section 78A-5-102 is amended to read:

1529 **78A-5-102. Jurisdiction -- Appeals.**

1530 (1) ~~[The]~~ Except as otherwise provided by the Utah Constitution or by statute, the
1531 district court has original jurisdiction in all matters civil and criminal~~[, not excepted in the Utah~~
1532 ~~Constitution and not prohibited by law].~~

1533 (2) ~~[The district court judges]~~ A district court judge may issue all extraordinary writs
1534 and other writs necessary to carry into effect ~~[their]~~ the district court judge's orders, judgments,
1535 and decrees.

1536 (3) The district court has jurisdiction over matters of lawyer discipline consistent with
1537 the rules of the Supreme Court.

1538 (4) The district court has jurisdiction over all matters properly filed in the circuit court
1539 prior to July 1, 1996.

1540 (5) The district court has appellate jurisdiction over judgments and orders of the justice
1541 court as outlined in Section 78A-7-118 and small claims appeals filed ~~[pursuant to]~~ in
1542 accordance with Section 78A-8-106.

1543 (6) ~~[Appeals]~~ Jurisdiction over appeals from the final orders, judgments, and decrees of
1544 the district court ~~[are under]~~ is described in Sections 78A-3-102 and 78A-4-103.

1545 (7) The district court has jurisdiction to review:

1546 (a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4,

1547 Administrative Procedures Act, and shall comply with the requirements of that chapter in its
 1548 review of agency adjudicative proceedings; and

1549 (b) municipal administrative proceedings in accordance with Section 10-3-703.7.

1550 ~~[(8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in~~
 1551 ~~class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only~~
 1552 ~~if:]~~

1553 (8) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over
 1554 a class B misdemeanor, class C misdemeanor, infraction, and a violation of an ordinance for
 1555 which a justice court has original jurisdiction under Section 78A-6-106 if:

1556 (a) there is no justice court with territorial jurisdiction;

1557 (b) the offense occurred within the boundaries of the municipality in which the district
 1558 courthouse is located and that municipality has not formed, or has not formed and then
 1559 dissolved, a justice court; or

1560 (c) ~~[they are]~~ the offense is included in an indictment or information covering a single
 1561 criminal episode alleging the commission of a felony or a class A misdemeanor by an
 1562 individual who is 18 years old or older.

1563 ~~[(9) If the district court has subject matter jurisdiction pursuant to Subsection (5) or (8),~~
 1564 ~~it also has jurisdiction over offenses listed in Section 78A-7-106 even if those offenses are~~
 1565 ~~committed by a person 16 years of age or older.]~~

1566 (9) If a district court has jurisdiction in accordance with Subsection (5), (8)(a), or
 1567 (8)(b), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even
 1568 if the offense is committed by an individual who is 16 or 17 years old.

1569 (10) The district court has subject matter jurisdiction over an offense for which the
 1570 juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the
 1571 offense to the district court in accordance with Section 78A-6-703.7.

1572 ~~[(10)]~~ (11) The district court has subject matter jurisdiction ~~[of actions]~~ over an action
 1573 under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the
 1574 [case] action to the district court.

1575 Section 38. Section 78A-6-103 is amended to read:

1576 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

1577 ~~[(1) Except as otherwise provided by law, the juvenile court has exclusive original~~

1578 jurisdiction in proceedings concerning:]

1579 ~~[(a) a child who has violated any federal, state, or local law or municipal ordinance or a~~
1580 ~~person younger than 21 years of age who has violated any law or ordinance before becoming~~
1581 ~~18 years of age, regardless of where the violation occurred, excluding offenses:]~~

1582 ~~[(i) in Section 53G-8-211 until such time that the child is referred to the courts under~~
1583 ~~Section 53G-8-211; and]~~

1584 ~~[(ii) in Subsection 78A-7-106(2);]~~

1585 (1) Except as otherwise provided by Subsection 78A-7-106(2), the juvenile court has
1586 original jurisdiction over:

1587 (a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
1588 state, or federal law, that was committed by a child; and

1589 (b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
1590 state, or federal law, that was committed by an individual:

1591 (i) who is under 21 years old at the time of all court proceedings; and

1592 (ii) who was under 18 years old at the time the offense was committed.

1593 (2) The juvenile court has original jurisdiction over any proceeding concerning:

1594 ~~[(b)]~~ (a) a child who is an abused child, neglected child, or dependent child, as those
1595 terms are defined in Section 78A-6-105;

1596 ~~[(c)]~~ (b) a protective order for a child [pursuant to] in accordance with Title 78B,
1597 Chapter 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district
1598 court if the juvenile court has entered an ex parte protective order and finds that:

1599 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
1600 parent of the child who is the object of the petition;

1601 (ii) the district court has a petition pending or an order related to custody or parent-time
1602 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,
1603 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
1604 respondent are parties; and

1605 (iii) the best interests of the child will be better served in the district court;

1606 ~~[(d)]~~ (c) the appointment of a guardian of the [person] individual or other guardian of a
1607 minor who comes within the court's jurisdiction under other provisions of this section;

1608 ~~[(e)]~~ (d) the emancipation of a minor in accordance with Part 8, Emancipation;

1609 ~~[(f)]~~ (e) the termination of the legal parent-child relationship in accordance with Part 5,
 1610 Termination of Parental Rights Act, including termination of residual parental rights and
 1611 duties;

1612 ~~[(g)]~~ (f) the treatment or commitment of a minor who has an intellectual disability;

1613 ~~[(h)]~~ (g) the judicial consent to the marriage of a minor 16 or 17 years old upon a
 1614 determination of voluntariness or where otherwise required by law;

1615 ~~[(i)]~~ (h) any parent ~~[or parents]~~ of a child committed to a secure youth facility, to order,
 1616 at the discretion of the court and on the recommendation of a secure facility, the parent ~~[or~~
 1617 ~~parents]~~ of a child committed to a secure facility for a custodial term, to undergo group
 1618 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of
 1619 that parent's ~~[or parents']~~ child, or any other therapist the court may direct, for a period directed
 1620 by the court as recommended by a secure facility;

1621 ~~[(j)]~~ (i) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

1622 ~~[(k)]~~ ~~subject to Subsection (8);]~~

1623 (j) the treatment or commitment of a child with a mental illness in accordance with
 1624 Subsection (10);

1625 ~~[(l)]~~ (k) the commitment of a child to a secure drug or alcohol facility in accordance
 1626 with Section 62A-15-301;

1627 ~~[(m)]~~ (l) a minor found not competent to proceed ~~[pursuant to]~~ in accordance with
 1628 Section 78A-6-1301;

1629 ~~[(n)]~~ (m) de novo review of final agency actions resulting from an informal
 1630 adjudicative proceeding as provided in Section 63G-4-402; and

1631 ~~[(o)]~~ (n) adoptions conducted in accordance with the procedures described in Title
 1632 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an
 1633 order terminating the rights of a parent and finds that adoption is in the best interest of the
 1634 child.

1635 ~~[(2) (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile~~
 1636 ~~court has exclusive jurisdiction over the following offenses committed by a child:]~~

1637 ~~[(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;]~~

1638 ~~[(ii) Section 73-18-12, reckless operation; and]~~

1639 ~~[(iii) class B and C misdemeanors, infractions, or violations of ordinances that are part~~

1640 of a single criminal episode filed in a petition that contains an offense over which the court has
1641 jurisdiction.]

1642 ~~[(b) A juvenile court may only order substance use disorder treatment or an educational~~
1643 ~~series if the minor has an assessed need for the intervention on the basis of the results of a~~
1644 ~~validated assessment.]~~

1645 (3) (a) Except as provided in Subsection (3)(c), the juvenile court has exclusive
1646 jurisdiction over a felony, misdemeanor, infraction, or violation of an ordinance:

1647 (i) committed by a child and that arises from a single criminal episode containing an
1648 offense for which:

1649 (A) a citation, petition, indictment, or criminal information is filed; and

1650 (B) the court has original jurisdiction; and

1651 (ii) committed by an individual who is under 21 years old at the time of all court
1652 proceedings, but committed before the individual was 18 years old, and that arises from a
1653 single criminal episode containing an offense for which:

1654 (A) a citation, petition, indictment, or criminal information is filed; and

1655 (B) the court has original jurisdiction.

1656 (b) For purposes of this Subsection (3), the juvenile court has jurisdiction over the
1657 following offenses committed by an individual who is under 21 years old at the time of all
1658 court proceedings, but was under 18 years old at the time the offense was committed:

1659 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

1660 (ii) Section [73-18-12](#).

1661 (c) If a juvenile court transfers jurisdiction of an offense to the district court under
1662 Section [78A-6-703.7](#), the exclusive jurisdiction of the juvenile court over that offense is
1663 terminated.

1664 (d) If an individual described in Subsection (3)(a) is bound over to the district court for
1665 an offense under Section [78A-6-703.3](#) by the juvenile court and the offense results in an
1666 acquittal, a finding of not guilty, or a dismissal, the juvenile court regains exclusive jurisdiction
1667 over any offense committed by the individual.

1668 ~~[(3)]~~ (4) The juvenile court has jurisdiction over an ungovernable or runaway child
1669 who is referred to ~~[it]~~ the juvenile court by the ~~[Division of Child and Family Services]~~
1670 division or by public or private agencies that contract with the division to provide services to

1671 that child when, despite earnest and persistent efforts by the division or agency, the child has
1672 demonstrated that the child:

1673 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the
1674 extent that the child's behavior or condition endangers the child's own welfare or the welfare of
1675 others; or

1676 (b) has run away from home.

1677 (5) The juvenile court has continuing jurisdiction over a minor's case for an offense
1678 that is adjudicated under Section 78A-6-117 until jurisdiction is terminated in accordance with
1679 Section 78A-6-120.

1680 [~~(4)~~] (6) This section does not restrict the right of access to the juvenile court by private
1681 agencies or other persons.

1682 [~~(5)~~] (7) The juvenile court has jurisdiction of all magistrate functions relative to cases
1683 arising under [~~Section 78A-6-702~~] Part 7, Transfer of Jurisdiction.

1684 [~~(6)~~] (8) The juvenile court has jurisdiction to make a finding of substantiated,
1685 unsubstantiated, or without merit, in accordance with Section 78A-6-323.

1686 [~~(7)~~] (9) The juvenile court has subject matter jurisdiction [~~of~~] over matters transferred
1687 to [~~it~~] the juvenile court by another trial court [~~pursuant to~~] in accordance with Subsection
1688 78A-7-106(5) [and subject to Section 53G-8-211] and Section 78A-6-601.

1689 [~~(8)~~] (10) The juvenile court may commit a child to the physical custody of a local
1690 mental health authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of
1691 Persons Under Age 18 to Division of Substance Abuse and Mental Health, but not directly to
1692 the Utah State Hospital.

1693 Section 39. Section 78A-6-104 is amended to read:

1694 **78A-6-104. Concurrent jurisdiction.**

1695 (1) The district court, or any other court, has concurrent jurisdiction with the juvenile
1696 court [~~as follows: (a) when a person who is 18 years of age or older and who is under the~~
1697 ~~continuing jurisdiction of the juvenile court under Section 78A-6-117 violates any federal,~~
1698 ~~state, or local law or municipal ordinance; and (b)] in establishing paternity and ordering
1699 testing for the purposes of establishing paternity, in accordance with Title 78B, Chapter 15,
1700 Utah Uniform Parentage Act, with regard to proceedings initiated under Part 3, Abuse, Neglect,
1701 and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.~~

1702 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth
1703 certificate if the court otherwise has jurisdiction over the minor.

1704 (3) This section does not deprive the district court of jurisdiction to appoint a guardian
1705 for a child, or to determine the support, custody, and parent-time of a child upon writ of habeas
1706 corpus or when the question of support, custody, and parent-time is incidental to the
1707 determination of a cause in the district court.

1708 (4) (a) When a support, custody, or parent-time award has been made by a district court
1709 in a divorce action or other proceeding, and the jurisdiction of the district court in the case is
1710 continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the
1711 child is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile
1712 court under Section 78A-6-103.

1713 (b) The juvenile court may, by order, change the custody, subject to Subsection
1714 30-3-10(6), support, parent-time, and visitation rights previously ordered in the district court as
1715 necessary to implement the order of the juvenile court for the safety and welfare of the child.
1716 The juvenile court order remains in effect so long as the jurisdiction of the juvenile court
1717 continues.

1718 (c) If a copy of the findings and order of the juvenile court has been filed with the
1719 district court, the findings and order of the juvenile court are binding on the parties to the
1720 divorce action as though entered in the district court.

1721 (5) The juvenile court has jurisdiction over questions of custody, support, and
1722 parent-time of a minor who comes within the court's jurisdiction under this section or Section
1723 78A-6-103.

1724 Section 40. Section 78A-6-105 is amended to read:

1725 **78A-6-105. Definitions.**

1726 As used in this chapter:

1727 (1) (a) "Abuse" means:

1728 (i) (A) nonaccidental harm of a child;

1729 (B) threatened harm of a child;

1730 (C) sexual exploitation;

1731 (D) sexual abuse; or

1732 (E) human trafficking of a child in violation of Section 76-5-308.5; or

- 1733 (ii) that a child's natural parent:
- 1734 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
- 1735 child;
- 1736 (B) is identified by a law enforcement agency as the primary suspect in an investigation
- 1737 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 1738 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 1739 recklessly causing the death of another parent of the child.
- 1740 (b) "Abuse" does not include:
- 1741 (i) reasonable discipline or management of a child, including withholding privileges;
- 1742 (ii) conduct described in Section 76-2-401; or
- 1743 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 1744 (A) in self-defense;
- 1745 (B) in defense of others;
- 1746 (C) to protect the child; or
- 1747 (D) to remove a weapon in the possession of a child for any of the reasons described in
- 1748 Subsections (1)(b)(iii)(A) through (C).
- 1749 (2) "Abused child" means a child who has been subjected to abuse.
- 1750 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the
- 1751 facts alleged in the petition have been proved. [A]
- 1752 (b) "Adjudication" does not mean a finding of not competent to proceed [~~pursuant to~~]
- 1753 in accordance with Section 78A-6-1302 [~~is not an adjudication~~].
- 1754 (4) (a) "Adult" means an individual [~~18 years of age or over, except that an individual~~
- 1755 ~~18 years or over under~~] who is 18 years old or older.
- 1756 (b) "Adult" does not include an individual:
- 1757 (i) who is 18 years old or older; and
- 1758 (ii) whose case is under the continuing jurisdiction of the juvenile court [~~pursuant to~~] in
- 1759 accordance with Section 78A-6-120 [~~shall be referred to as a minor~~].
- 1760 (5) "Board" means the Board of Juvenile Court Judges.
- 1761 (6) "Child" means an individual who is under 18 years [~~of age~~] old.
- 1762 (7) "Child placement agency" means:
- 1763 (a) a private agency licensed to receive a child for placement or adoption under this

1764 code; or

1765 (b) a private agency that receives a child for placement or adoption in another state,
1766 which agency is licensed or approved where such license or approval is required by law.

1767 (8) "Clandestine laboratory operation" means the same as that term is defined in
1768 Section 58-37d-3.

1769 (9) "Commit" means, unless specified otherwise:

1770 (a) with respect to a child, to transfer legal custody; and

1771 (b) with respect to a minor who is at least 18 years [~~of age~~] old, to transfer custody.

1772 (10) "Court" means the juvenile court.

1773 (11) "Criminogenic risk factors" means evidence-based factors that are associated with
1774 a minor's likelihood of reoffending.

1775 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if
1776 committed by an adult.

1777 (13) "Department" means the Department of Human Services created in Section
1778 62A-1-102.

1779 (14) "Dependent child" includes a child who is homeless or without proper care
1780 through no fault of the child's parent, guardian, or custodian.

1781 (15) "Deprivation of custody" means transfer of legal custody by the court from a
1782 parent or the parents or a previous legal custodian to another person, agency, or institution.

1783 (16) "Detention" means home detention and secure detention as defined in Section
1784 62A-7-101 for the temporary care of a minor who requires secure custody in a physically
1785 restricting facility:

1786 (a) pending court disposition or transfer to another jurisdiction; or

1787 (b) while the minor's case is under the continuing jurisdiction of the court.

1788 (17) "Detention risk assessment tool" means an evidence-based tool established under
1789 Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in
1790 court or reoffending pre-adjudication and designed to assist in making detention
1791 determinations.

1792 (18) "Developmental immaturity" means incomplete development in one or more
1793 domains which manifests as a functional limitation in the minor's present ability to consult with
1794 counsel with a reasonable degree of rational understanding and have a rational as well as

1795 factual understanding of the proceedings.

1796 (19) "Division" means the Division of Child and Family Services.

1797 (20) "Educational neglect" means that, after receiving a notice of compulsory education
1798 violation under Section [53G-6-202](#), the parent or guardian fails to make a good faith effort to
1799 ensure that the child receives an appropriate education.

1800 (21) "Educational series" means an evidence-based instructional series:

1801 (a) obtained at a substance abuse program that is approved by the Division of
1802 Substance Abuse and Mental Health in accordance with Section [62A-15-105](#); and

1803 (b) designed to prevent substance use or the onset of a mental health disorder.

1804 [~~(21)~~] (22) "Evidence-based" means a program or practice that has had multiple
1805 randomized control studies or a meta-analysis demonstrating that the program or practice is
1806 effective for a specific population or has been rated as effective by a standardized program
1807 evaluation tool.

1808 [~~(22)~~] (23) "Forensic evaluator" means the same as that term is defined in Section
1809 [77-15-2](#).

1810 [~~(23)~~] (24) "Formal probation" means a minor is under field supervision by the
1811 probation department or other agency designated by the court and subject to return to the court
1812 in accordance with Section [78A-6-123](#) on and after July 1, 2018.

1813 [~~(24)~~] (25) "Formal referral" means a written report from a peace officer or other
1814 person informing the court that a minor is, or appears to be, within the court's jurisdiction and
1815 that ~~[a case]~~ the minor's case must be reviewed by the court's probation department or a
1816 prosecuting attorney.

1817 [~~(25)~~] (26) "Group rehabilitation therapy" means psychological and social counseling
1818 of one or more individuals in the group, depending upon the recommendation of the therapist.

1819 [~~(26)~~] (27) "Guardianship of the person" includes the authority to consent to:

1820 (a) marriage;

1821 (b) enlistment in the armed forces;

1822 (c) major medical, surgical, or psychiatric treatment; or

1823 (d) legal custody, if legal custody is not vested in another individual, agency, or
1824 institution.

1825 [~~(27)~~] (28) "Habitual truant" means the same as that term is defined in Section

1826 53G-6-201.

1827 [~~(28)~~] (29) "Harm" means:

1828 (a) physical or developmental injury or damage;

1829 (b) emotional damage that results in a serious impairment in the child's growth,

1830 development, behavior, or psychological functioning;

1831 (c) sexual abuse; or

1832 (d) sexual exploitation.

1833 [~~(29)~~] (30) (a) "Incest" means engaging in sexual intercourse with an individual whom

1834 the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,

1835 nephew, niece, or first cousin.

1836 (b) The relationships described in Subsection [~~(29)~~] (30)(a) include:

1837 (i) blood relationships of the whole or half blood, without regard to legitimacy;

1838 (ii) relationships of parent and child by adoption; and

1839 (iii) relationships of stepparent and stepchild while the marriage creating the

1840 relationship of a stepparent and stepchild exists.

1841 [~~(30)~~] (31) "Intake probation" means a period of court monitoring that does not include

1842 field supervision, but is overseen by a juvenile probation officer, during which a minor is

1843 subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

1844 [~~(31)~~] (32) "Intellectual disability" means a significant subaverage general intellectual

1845 functioning existing concurrently with deficits in adaptive behavior that constitutes a

1846 substantial limitation to the individual's ability to function in society.

1847 [~~(32)~~] (33) "Legal custody" means a relationship embodying the following rights and

1848 duties:

1849 (a) the right to physical custody of the minor;

1850 (b) the right and duty to protect, train, and discipline the minor;

1851 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary

1852 medical care;

1853 (d) the right to determine where and with whom the minor shall live; and

1854 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

1855 [~~(33)~~] (34) "Material loss" means an uninsured:

1856 (a) property loss;

- 1857 (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;
 1858 (c) lost wages because of an injury, time spent as a witness, or time spent assisting the
 1859 police or prosecution; or
 1860 (d) medical [~~expenses~~] expense.
- 1861 [~~(34)~~] (35) "Mental illness" means:
 1862 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
 1863 behavioral, or related functioning; or
 1864 (b) the same as that term is defined in:
 1865 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
 1866 published by the American Psychiatric Association; or
 1867 (ii) the current edition of the International Statistical Classification of Diseases and
 1868 Related Health Problems.
- 1869 [~~(35)~~] (36) "Minor" means:
 1870 [~~(a) a child; or~~
 1871 [~~(b) an individual who is:~~
 1872 [~~(i) at least 18 years of age and younger than 21 years of age; and~~
 1873 [~~(ii) under the jurisdiction of the juvenile court.]~~
 1874 (a) for the purpose of juvenile delinquency:
 1875 (i) a child; or
 1876 (ii) an individual:
 1877 (A) who is at least 18 years old and younger than 25 years old; and
 1878 (B) whose case is under the jurisdiction of the juvenile court; and
 1879 (b) for all other purposes in this chapter:
 1880 (i) a child; or
 1881 (ii) an individual:
 1882 (A) who is at least 18 years old and younger than 21 years old; and
 1883 (B) whose case is under the jurisdiction of the juvenile court.
- 1884 [~~(36)~~] (37) "Mobile crisis outreach team" means a crisis intervention service for
 1885 [~~minors or families of minors experiencing~~] a minor or the family of a minor experiencing a
 1886 behavioral health or psychiatric [~~emergencies~~] emergency.
- 1887 [~~(37)~~] (38) "Molestation" means that an individual, with the intent to arouse or gratify

1888 the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any
1889 child, or the breast of a female child, or takes indecent liberties with a child as defined in
1890 Section [76-5-416](#).

1891 ~~[(38)]~~ (39) (a) "Natural parent" means a minor's biological or adoptive parent~~[, and]~~.

1892 (b) "Natural parent" includes the minor's noncustodial parent.

1893 ~~[(39)]~~ (40) (a) "Neglect" means action or inaction causing:

1894 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
1895 Relinquishment of a Newborn Child;

1896 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
1897 guardian, or custodian;

1898 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
1899 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or
1900 well-being;

1901 (iv) a child to be at risk of being neglected or abused because another child in the same
1902 home is neglected or abused;

1903 (v) abandonment of a child through an unregulated custody transfer; or

1904 (vi) educational neglect.

1905 (b) "Neglect" does not include:

1906 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
1907 reason, does not provide specified medical treatment for a child;

1908 (ii) a health care decision made for a child by the child's parent or guardian, unless the
1909 state or other party to a proceeding shows, by clear and convincing evidence, that the health
1910 care decision is not reasonable and informed;

1911 (iii) a parent or guardian exercising the right described in Section [78A-6-301.5](#); or

1912 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
1913 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,
1914 including:

1915 (A) traveling to and from school, including by walking, running, or bicycling;

1916 (B) traveling to and from nearby commercial or recreational facilities;

1917 (C) engaging in outdoor play;

1918 (D) remaining in a vehicle unattended, except under the conditions described in

1919 Subsection [76-10-2202](#)(2);

1920 (E) remaining at home unattended; or

1921 (F) engaging in a similar independent activity.

1922 [~~(40)~~] [\(41\)](#) "Neglected child" means a child who has been subjected to neglect.

1923 [~~(41)~~] [\(42\)](#) "Nonjudicial adjustment" means closure of the case by the assigned

1924 probation officer without judicial determination upon the consent in writing of:

1925 (a) the assigned probation officer; and

1926 (b) (i) the minor; or

1927 (ii) the minor and the minor's parent, legal guardian, or custodian.

1928 [~~(42)~~] [\(43\)](#) "Not competent to proceed" means that a minor, due to a mental illness,

1929 intellectual disability or related condition, or developmental immaturity, lacks the ability to:

1930 (a) understand the nature of the proceedings against [~~them~~] the minor or of the

1931 potential disposition for the offense charged; or

1932 (b) consult with counsel and participate in the proceedings against [~~them~~] the minor

1933 with a reasonable degree of rational understanding.

1934 [~~(43)~~] [\(44\)](#) "Physical abuse" means abuse that results in physical injury or damage to a

1935 child.

1936 [~~(44)~~] [\(45\)](#) "Probation" means a legal status created by court order following an

1937 adjudication on the ground of a violation of law or under Section [78A-6-103](#), whereby the

1938 minor is permitted to remain in the minor's home under prescribed conditions.

1939 (46) "Prosecuting attorney" means:

1940 (a) the attorney general and any assistant attorney general;

1941 (b) any district attorney or deputy district attorney;

1942 (c) any county attorney or assistant county attorney; and

1943 (d) any other attorney authorized to commence an action on behalf of the state.

1944 [~~(45)~~] [\(47\)](#) "Protective supervision" means a legal status created by court order

1945 following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor

1946 is permitted to remain in the minor's home, and supervision and assistance to correct the abuse,

1947 neglect, or dependency is provided by the probation department or other agency designated by

1948 the court.

1949 [~~(46)~~] [\(48\)](#) (a) "Related condition" means a condition that:

- 1950 (i) is found to be closely related to intellectual disability;
- 1951 (ii) results in impairment of general intellectual functioning or adaptive behavior
- 1952 similar to that of an intellectually disabled individual;
- 1953 (iii) is likely to continue indefinitely; and
- 1954 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 1955 (b) "Related condition" does not include mental illness, psychiatric impairment, or
- 1956 serious emotional or behavioral disturbance.
- 1957 ~~[(47)]~~ (49) (a) "Residual parental rights and duties" means those rights and duties
- 1958 remaining with the parent after legal custody or guardianship, or both, have been vested in
- 1959 another person or agency, including:
- 1960 (i) the responsibility for support;
- 1961 (ii) the right to consent to adoption;
- 1962 (iii) the right to determine the child's religious affiliation; and
- 1963 (iv) the right to reasonable parent-time unless restricted by the court.
- 1964 (b) If no guardian has been appointed, "residual parental rights and duties" ~~[also~~
- 1965 ~~include]~~ includes the right to consent to:
- 1966 (i) marriage;
- 1967 (ii) enlistment; and
- 1968 (iii) major medical, surgical, or psychiatric treatment.
- 1969 ~~[(48)]~~ (50) "Secure facility" means any facility operated by or under contract with the
- 1970 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
- 1971 youth offenders committed to the division for custody and rehabilitation ~~[pursuant to]~~ in
- 1972 accordance with Subsection [78A-6-117\(2\)\(d\)](#).
- 1973 ~~[(49)]~~ (51) "Severe abuse" means abuse that causes or threatens to cause serious harm
- 1974 to a child.
- 1975 ~~[(50)]~~ (52) "Severe neglect" means neglect that causes or threatens to cause serious
- 1976 harm to a child.
- 1977 ~~[(51)]~~ (53) "Sexual abuse" means:
- 1978 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
- 1979 adult directed towards a child;
- 1980 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation

- 1981 committed by a child towards another child if:
- 1982 (i) there is an indication of force or coercion;
- 1983 (ii) the children are related, as described in Subsection [~~(29)~~] (30), including siblings
- 1984 by marriage while the marriage exists or by adoption;
- 1985 (iii) there have been repeated incidents of sexual contact between the two children,
- 1986 unless the children are 14 years [~~of age~~] old or older; or
- 1987 (iv) there is a disparity in chronological age of four or more years between the two
- 1988 children;
- 1989 (c) engaging in any conduct with a child that would constitute an offense under any of
- 1990 the following, regardless of whether the individual who engages in the conduct is actually
- 1991 charged with, or convicted of, the offense:
- 1992 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
- 1993 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
- 1994 (ii) child bigamy, Section 76-7-101.5;
- 1995 (iii) incest, Section 76-7-102;
- 1996 (iv) lewdness, Section 76-9-702;
- 1997 (v) sexual battery, Section 76-9-702.1;
- 1998 (vi) lewdness involving a child, Section 76-9-702.5; or
- 1999 (vii) voyeurism, Section 76-9-702.7; or
- 2000 (d) subjecting a child to participate in or threatening to subject a child to participate in
- 2001 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
- 2002 marriage.
- 2003 [~~(52)~~] (54) "Sexual exploitation" means knowingly:
- 2004 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 2005 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 2006 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
- 2007 filming, recording, or displaying in any way the sexual or simulated sexual conduct;
- 2008 (b) displaying, distributing, possessing for the purpose of distribution, or selling
- 2009 material depicting a child:
- 2010 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 2011 (ii) engaging in sexual or simulated sexual conduct; or

2012 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
2013 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct
2014 is actually charged with, or convicted of, the offense.

2015 [~~(53)~~] (55) "Shelter" means the temporary care of a child in a physically unrestricted
2016 facility pending court disposition or transfer to another jurisdiction.

2017 (56) "Single criminal episode" means the same as that term is defined in Section
2018 [76-1-401](#).

2019 [~~(54)~~] (57) "Status offense" means a violation of the law that would not be a violation
2020 but for the age of the offender.

2021 [~~(55)~~] (58) "Substance abuse" means the misuse or excessive use of alcohol or other
2022 drugs or substances.

2023 [~~(56)~~] (59) "Substantiated" means the same as that term is defined in Section
2024 [62A-4a-101](#).

2025 [~~(57)~~] (60) "Supported" means the same as that term is defined in Section [62A-4a-101](#).

2026 [~~(58)~~] (61) "Termination of parental rights" means the permanent elimination of all
2027 parental rights and duties, including residual parental rights and duties, by court order.

2028 [~~(59)~~] (62) "Therapist" means:

2029 (a) an individual employed by a state division or agency for the purpose of conducting
2030 psychological treatment and counseling of a minor in its custody; or

2031 (b) any other individual licensed or approved by the state for the purpose of conducting
2032 psychological treatment and counseling.

2033 [~~(60)~~] (63) "Threatened harm" means actions, inactions, or credible verbal threats,
2034 indicating that the child is at an unreasonable risk of harm or neglect.

2035 [~~(61)~~] (64) "Unregulated custody transfer" means the placement of a child:

2036 (a) with an individual who is not the child's parent, step-parent, grandparent, adult
2037 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with
2038 whom the child is familiar, or a member of the child's federally recognized tribe;

2039 (b) with the intent of severing the child's existing parent-child or guardian-child
2040 relationship; and

2041 (c) without taking:

2042 (i) reasonable steps to ensure the safety of the child and permanency of the placement;

2043 and

2044 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
2045 guardianship to the individual taking custody of the child.

2046 [(62)] (65) "Unsupported" means the same as that term is defined in Section
2047 62A-4a-101.

2048 [(63)] (66) "Unsubstantiated" means the same as that term is defined in Section
2049 62A-4a-101.

2050 [(64)] (67) "Validated risk and needs assessment" means an evidence-based tool that
2051 assesses a minor's risk of reoffending and a minor's criminogenic needs.

2052 (68) (a) "Victim" means a person that the court determines has suffered a material loss
2053 as a result of a minor's wrongful act or conduct.

2054 (b) "Victim" includes the Utah Office for Victims of Crime.

2055 [(65)] (69) "Without merit" means the same as that term is defined in Section
2056 62A-4a-101.

2057 Section 41. Section 78A-6-108 is amended to read:

2058 **78A-6-108. Title of petition and other court documents -- Form and contents of**
2059 **petition -- Order for temporary custody or protective services -- Physical or psychological**
2060 **examination of minor, parent, or guardian -- Dismissal of petition.**

2061 (1) The petition and all subsequent court documents in the proceeding shall be entitled:
2062 "State of Utah, in the interest of....., [~~a person~~] an individual under 18 years
2063 [~~of age~~] old (or [~~a person~~] an individual under 21 years [~~of age~~] old)."

2064 (2) The petition shall be verified and statements in the petition may be made upon
2065 information and belief.

2066 (3) The petition shall be written in simple and brief language and include the facts
2067 which bring the minor within the jurisdiction of the court, as provided in Section 78A-6-103.

2068 (4) The petition shall further state:

2069 (a) the name, age, and residence of the minor;

2070 (b) the names and residences of the minor's parents;

2071 (c) the name and residence of the guardian, if there is one;

2072 (d) the name and address of the nearest known relative, if no parent or guardian of a
2073 minor is known; and

2074 (e) the name and residence of the person having physical custody of the minor. If any
2075 of the facts required are not known by the petitioner, the petition shall so state.

2076 (5) At any time after a petition is filed, the court may make an order:

2077 (a) providing for temporary custody of the minor; or

2078 (b) that the ~~[Division of Child and Family Services]~~ division provide protective
2079 services to the child, if the court determines that:

2080 (i) the child is at risk of being removed from the child's home due to abuse or neglect;
2081 and

2082 (ii) the provision of protective services may make the removal described in Subsection
2083 (5)(b)(i) unnecessary.

2084 (6) (a) The court may order that a minor concerning whom a petition has been filed
2085 shall be examined by a physician, surgeon, psychiatrist, or psychologist and may place the
2086 minor in a hospital or other facility for examination.

2087 (b) After notice and a hearing set for the specific purpose, the court may order a similar
2088 examination of a parent or guardian whose ability to care for a minor is at issue, if the court
2089 finds from the evidence presented at the hearing that the parent's or guardian's physical, mental,
2090 or emotional condition may be a factor in causing the neglect, dependency, or delinquency of
2091 the minor.

2092 [~~(7) Pursuant to Rule 506(d)(3), Utah Rules of Evidence, examinations conducted~~
2093 ~~pursuant to Subsection (6) are not privileged communications, but are exempt from the general~~
2094 ~~rule of privilege.]~~

2095 (7) An examination conducted in accordance with Subsection (6) is not a privileged
2096 communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general
2097 rule of privilege.

2098 (8) The court may dismiss a petition at any stage of the proceedings.

2099 (9) If the petition is filed under Section 78A-6-304 or 78A-6-505, or if the matter is
2100 referred to the court under Subsection 78A-6-104~~[(5)]~~[(6)], the court may require the parties to
2101 participate in mediation in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute
2102 Resolution Act.

2103 Section 42. Section 78A-6-112 is amended to read:

2104 **78A-6-112. Minor taken into custody by peace officer, private citizen, or**

2105 **probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds**
 2106 **for peace officer to take adult into custody.**

2107 (1) A minor may be taken into custody by a peace officer without [~~order of the court~~
 2108 ~~if:] a court order if the officer has probable cause to believe that:~~

2109 (a) [~~in the presence of the officer]~~ the minor has [~~violated a state law, federal law, local~~
 2110 ~~law, or municipal ordinance]~~ committed an offense under municipal, state, or federal law;

2111 (b) [~~there are reasonable grounds to believe]~~ the minor has committed an act which if
 2112 committed by an adult would be a felony;

2113 (c) the minor:

2114 (i) (A) is seriously endangered in the minor's surroundings; or

2115 (B) seriously endangers others; and

2116 (ii) immediate removal appears to be necessary for the minor's protection or the
 2117 protection of others;

2118 (d) [~~there are reasonable grounds to believe]~~ the minor has run away or escaped from
 2119 the minor's parents, guardian, or custodian; or

2120 (e) [~~there is reason to believe]~~ that the minor is:

2121 (i) subject to the state's compulsory education law; and

2122 (ii) absent from school without legitimate or valid excuse, subject to Section

2123 [53G-6-208](#).

2124 (2) (a) A private citizen or a probation officer may take a minor into custody if under
 2125 the circumstances the private citizen or probation officer could make a citizen's arrest if the
 2126 minor was an adult.

2127 (b) A probation officer may [~~also~~] take a minor into custody:

2128 (i) under the same circumstances as a peace officer in Subsection (1); [~~or if]~~

2129 (ii) if the minor has violated the conditions of probation[~~, if~~];

2130 (iii) if the minor is under the continuing jurisdiction of the juvenile court; or

2131 (iv) in emergency situations in which a peace officer is not immediately available.

2132 (3) (a) (i) If an officer or other person takes a minor into temporary custody under
 2133 Subsection (1) or (2), the officer or person shall, without unnecessary delay, notify the parents,
 2134 guardian, or custodian.

2135 (ii) The minor shall then be released to the care of the minor's parent or other

2136 responsible adult, unless the minor's immediate welfare or the protection of the community
2137 requires the minor's detention.

2138 (b) If the minor is taken into custody under Subsection (1) or (2) or placed in detention
2139 under Subsection (4) for a violent felony, as defined in Section 76-3-203.5, or an offense in
2140 violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent
2141 taking the minor into custody shall, as soon as practicable or as established under Subsection
2142 53G-8-402(2), notify the school superintendent of the district in which the minor resides or
2143 attends school for the purposes of the minor's supervision and student safety.

2144 (i) The notice shall disclose only:

2145 (A) the name of the minor;

2146 (B) the offense for which the minor was taken into custody or detention; and

2147 (C) if available, the name of the victim, if the victim:

2148 (I) resides in the same school district as the minor; or

2149 (II) attends the same school as the minor.

2150 (ii) The notice shall be classified as a protected record under Section 63G-2-305.

2151 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government
2152 Records Access and Management Act, and the federal Family Educational Rights and Privacy
2153 Act.

2154 (c) Employees of a governmental agency are immune from any criminal liability for
2155 providing or failing to provide the information required by this section unless the person acts or
2156 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

2157 (d) Before the minor is released, the parent or other person to whom the minor is
2158 released shall be required to sign a written promise on forms supplied by the court to bring the
2159 minor to the court at a time set or to be set by the court.

2160 (4) (a) A child may not be held in temporary custody by law enforcement any longer
2161 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
2162 information and to contact the child's parents, guardian, or custodian.

2163 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place
2164 of detention or shelter without unnecessary delay.

2165 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
2166 file with the detention or shelter facility a written report on a form provided by the division

2167 stating:

2168 (i) the details of the presently alleged offense;
2169 (ii) the facts that bring the minor within the jurisdiction of the juvenile court;
2170 (iii) the reason the minor was not released by law enforcement; and
2171 (iv) the eligibility of the minor under the division guidelines for detention admissions
2172 established by the Division of Juvenile Justice Services under Section 62A-7-202 if the minor
2173 is under consideration for detention.

2174 (b) (i) The designated facility staff person shall immediately review the form and
2175 determine, based on the guidelines for detention admissions established by the Division of
2176 Juvenile Justice Services under Section 62A-7-202, the results of the detention risk assessment,
2177 and the criteria for detention eligibility under Section 78A-6-113, whether to:

2178 (A) admit the minor to secure detention;
2179 (B) admit the minor to home detention;
2180 (C) place the minor in another alternative to detention; or
2181 (D) return the minor home upon written promise to bring the minor to the court at a
2182 time set, or without restriction.

2183 (ii) If the designated facility staff person determines to admit the minor to home
2184 detention, that staff person shall notify the juvenile court of that determination. The court shall
2185 order that notice be provided to the designated persons in the local law enforcement agency and
2186 the school or transferee school, if applicable, which the minor attends of the home detention.
2187 The designated persons may receive the information for purposes of the minor's supervision
2188 and student safety.

2189 (iii) Any employee of the local law enforcement agency and the school [~~which~~] that the
2190 minor attends who discloses the notification of home detention is not:

2191 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as
2192 provided in Section 63G-7-202; and

2193 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
2194 of Section 63G-2-801.

2195 (iv) The person who takes a minor to a detention facility or the designated facility staff
2196 person may release a minor to a less restrictive alternative even if the minor is eligible for
2197 secure detention under this Subsection (5).

- 2198 (c) A minor may not be admitted to detention unless;
- 2199 (i) the minor is detainable based on the guidelines; or
- 2200 (ii) the minor has been brought to detention [~~pursuant to~~] in accordance with:
- 2201 (A) a judicial order; or
- 2202 (B) a division warrant [~~pursuant to~~] in accordance with Section 62A-7-504.
- 2203 (d) If a minor taken to detention does not qualify for admission under the guidelines
- 2204 established by the division under Section 62A-7-104 or the eligibility criteria under Subsection
- 2205 (4) and this Subsection (5), detention staff shall arrange an appropriate alternative.
- 2206 (e) If a minor is taken into custody and admitted to a secure detention or shelter
- 2207 facility, facility staff shall:
- 2208 (i) immediately notify the minor's parents, guardian, or custodian; and
- 2209 (ii) promptly notify the court of the placement.
- 2210 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
- 2211 the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3)
- 2212 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of
- 2213 the minor's residence to transport the minor to a detention or shelter facility as provided in this
- 2214 section.
- 2215 (6) [~~A person~~] An individual may be taken into custody by a peace officer without a
- 2216 court order;
- 2217 (i) if the [~~person~~] individual is in apparent violation of a protective order; or
- 2218 (ii) if there is reason to believe that a child is being abused by the [~~person~~] individual
- 2219 and any of the situations [~~outlined~~] described in Section 77-7-2 exist.
- 2220 Section 43. Section 78A-6-113 is amended to read:
- 2221 **78A-6-113. Placement of minor in detention or shelter facility -- Grounds --**
- 2222 **Detention hearings -- Period of detention -- Notice -- Confinement for criminal**
- 2223 **proceedings -- Bail laws inapplicable -- Exception.**
- 2224 (1) (a) A minor may not be placed or kept in a secure detention facility pending court
- 2225 proceedings, except in accordance with Section 78A-6-112.
- 2226 (b) A child may not be placed or kept in a shelter facility pending court proceedings
- 2227 unless it is unsafe to leave the child with the child's parents, guardian, or custodian.
- 2228 (c) (i) A court may temporarily place in a detention facility, as provided in Subsection

2229 (4), a child who is taken into custody based upon a warrant issued under Subsection
2230 78A-6-106(6), if the court finds that detention is the least restrictive placement available to
2231 ensure the immediate safety of the child.

2232 (ii) A child placed in detention under Subsection (1)(c)(i) may not be held in detention
2233 longer than is necessary for the division to identify a less restrictive, available, and appropriate
2234 placement for the child.

2235 (2) (a) After admission of a child to a detention facility pursuant to Section 78A-6-112
2236 and immediate investigation by an authorized officer of the court, the judge or the officer shall
2237 order the release of the child to the child's ~~[parents]~~ parent, guardian, or custodian if ~~[it is~~
2238 ~~found]~~ the judge or officer finds that the child can be safely returned to ~~[their]~~ the parent's, the
2239 guardian's, or the custodian's care, either upon written promise to bring the child to the court at
2240 a time set or without restriction.

2241 ~~[(a)]~~ (b) If a child's parent, guardian, or custodian fails to retrieve the child from a
2242 facility within 24 hours after notification of release, the parent, guardian, or custodian is
2243 responsible for the cost of care for the time the child remains in the facility.

2244 ~~[(b)]~~ (c) The facility shall determine the cost of care.

2245 ~~[(c)]~~ (d) Any money collected under this Subsection (2) shall be retained by the
2246 Division of Juvenile Justice Services to recover the cost of care for the time the child remains
2247 in the facility.

2248 (3) (a) When a child is detained in a detention or shelter facility, the parents or
2249 guardian shall be informed by the person in charge of the facility that the parent's or guardian's
2250 child has the right to a prompt hearing in court to determine whether the child is to be further
2251 detained or released.

2252 (b) When a minor is detained in a detention facility, the minor shall be informed by the
2253 person in charge of the facility that the minor has the right to a prompt hearing in court to
2254 determine whether the minor is to be further detained or released.

2255 (c) Detention hearings shall be held by the judge or by a commissioner.

2256 (d) The court may, at any time, order the release of the minor, whether a detention
2257 hearing is held or not.

2258 (e) If a child is released, and the child remains in the facility, because the parents,
2259 guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be

2260 responsible for the cost of care as provided in Subsections ~~[(2)(a), (b), and (c)]~~ (2)(b), (c), and
2261 (d).

2262 ~~[(4) (a) A minor may not be held in a detention facility longer than 48 hours before a~~
2263 ~~detention hearing, excluding weekends and holidays, unless the court has entered an order for~~
2264 ~~continued detention.]~~

2265 (4) (a) A minor may not be held in a detention facility longer than 24 hours, unless a
2266 court determines that there is probable cause to detain the minor for longer than 24 hours.

2267 (b) The court shall hold a detention hearing at the time of the probable cause
2268 determination described in Subsection (4)(a).

2269 (c) Notwithstanding the requirement in Subsection (4)(b), if the probable cause
2270 determination under Subsection (4)(a) occurs on a weekend or holiday, the court shall hold the
2271 detention hearing under Subsection (4)(b) on the following business day.

2272 ~~[(b)]~~ (d) A child may not be held in a shelter facility longer than 48 hours before a
2273 shelter hearing, excluding weekends and holidays, unless a court order for extended shelter has
2274 been entered by the court after notice to all parties described in Section [78A-6-306](#).

2275 ~~[(c)]~~ (e) A hearing for detention or shelter may not be waived. Detention staff shall
2276 provide the court with all information received from the person who brought the minor to the
2277 detention facility.

2278 ~~[(d)]~~ (f) The judge or commissioner may only order a minor to be held in the facility or
2279 be placed in another appropriate facility, subject to further order of the court, if the court finds
2280 at a detention hearing that:

2281 (i) releasing the minor to the minor's parent, guardian, or custodian presents an
2282 unreasonable risk to public safety;

2283 (ii) less restrictive nonresidential alternatives to detention have been considered and,
2284 where appropriate, attempted; and

2285 (iii) the minor is eligible for detention under the division guidelines for detention
2286 admissions established by the Division of Juvenile Justice Services, under Section [62A-7-202](#)
2287 and under Section [78A-6-112](#).

2288 ~~[(e)]~~ (g) (i) After a detention hearing has been held, only the court may release a minor
2289 from detention. If a minor remains in a detention facility, periodic reviews shall be held
2290 [pursuant to the Utah State Juvenile Court Rules of Practice and Procedure] in accordance with

2291 the Utah Rules of Juvenile Procedure to ensure that continued detention is necessary.

2292 (ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or
2293 an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that
2294 notice of [its] the court's decision, including any disposition, order, or no contact orders, be
2295 provided to designated persons in the appropriate local law enforcement agency and the district
2296 superintendent or the school or transferee school, if applicable, that the minor attends. The
2297 designated persons may receive the information for purposes of the minor's supervision and
2298 student safety.

2299 (iii) Any employee of the local law enforcement agency, the school district, and the
2300 school that the minor attends who discloses the court's order of probation is not:

2301 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
2302 provided in Section 63G-7-202; and

2303 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
2304 of Section 63G-2-801.

2305 (5) A minor may not be held in a detention facility, following a dispositional order of
2306 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for
2307 community-based placement under Section 62A-7-101.

2308 (6) (a) Except as otherwise provided in this section, a minor may not be held in a
2309 detention facility following a disposition order of the court for longer than 72 hours, excluding
2310 weekends and holidays.

2311 (b) The period of detention may be extended by the court for a cumulative total of
2312 seven calendar days if:

2313 (i) the Division of Juvenile Justice Services₂ or another agency responsible for
2314 placement₂ files a written petition with the court requesting the extension and setting forth good
2315 cause; and

2316 (ii) the court enters a written finding that it is in the best interests of both the minor and
2317 the community to extend the period of detention.

2318 (c) The court may extend the period of detention beyond the seven calendar days if the
2319 court finds by clear and convincing evidence that:

2320 (i) the Division of Juvenile Justice Services or another agency responsible for
2321 placement does not have space for the minor; and

2322 (ii) the safety of the minor and community requires an extension of the period of
2323 detention.

2324 (d) The Division of Juvenile Justice Services shall report to the court every 48 hours,
2325 excluding weekends and holidays, regarding ~~[the status of]~~ whether the Division of Juvenile
2326 Justice Services or another agency responsible for placement has space for the minor.

2327 (7) The agency requesting an extension shall promptly notify the detention facility that
2328 a written petition has been filed.

2329 (8) The court shall promptly notify the detention facility regarding ~~[its]~~ the court's
2330 initial disposition and any ruling on a petition for an extension, whether granted or denied.

2331 (9) (a) (i) A child ~~[under 16 years of age]~~ who is younger than 16 years old may not be
2332 held in a jail, lockup, or other place for adult detention, except as provided by ~~[Section~~
2333 ~~62A-7-201 or unless certified as an adult pursuant to Section 78A-6-703]~~ Sections 62A-7-201,
2334 78A-6-703.7, and 78A-6-703.9.

2335 (ii) Section 62A-7-201 regarding confinement facilities applies to this Subsection (9).

2336 (b) (i) A child ~~[16 years of age or older]~~ who is 16 years old or older and whose
2337 conduct or condition endangers the safety or welfare of others in the detention facility for
2338 children may, by court order that specifies the reasons, be detained in another place of
2339 confinement considered appropriate by the court, including a jail or other place of confinement
2340 for adults. ~~[However, a]~~

2341 (ii) A secure facility is not an appropriate place of confinement for detention purposes
2342 under this section.

2343 (10) A sheriff, warden, or other official in charge of a jail or other facility for the
2344 detention of adult offenders or ~~[persons]~~ individuals charged ~~[with crime]~~ with an offense shall
2345 immediately notify the juvenile court when ~~[a person]~~ an individual who is or appears to be
2346 under 18 years ~~[of age]~~ old is received at the facility and shall make arrangements for the
2347 transfer of the ~~[person]~~ individual to a detention facility, unless otherwise ordered by the
2348 juvenile court.

2349 (11) This section does not apply to a minor who is brought to the adult facility ~~[under~~
2350 ~~charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal~~
2351 ~~proceedings in the district court under Section 78A-6-702 or 78A-6-703.]~~ in accordance with
2352 Section 78A-6-703.7 or 78A-6-703.9.

2353 ~~[(12) A minor held for criminal proceedings under Section [78A-6-701](#), [78A-6-702](#), or~~
 2354 ~~[78A-6-703](#) may be detained in a jail or other place of detention used for adults charged with~~
 2355 ~~crime.]~~

2356 ~~[(13) Provisions of law]~~

2357 (12) A provision of law regarding bail [are] is not applicable to minors detained or
 2358 taken into custody under this chapter, except that bail may be allowed:

2359 (a) if a minor who need not be detained lives outside this state; or

2360 (b) when a minor who need not be detained comes within one of the classes in

2361 ~~[Subsection [78A-6-603](#)(11)]~~ Section [78A-6-1101](#).

2362 ~~[(14)]~~ (13) Section [76-8-418](#) is applicable to a child who willfully and intentionally
 2363 commits an act against a jail or other place of confinement, including a Division of Juvenile
 2364 Justice Services detention, shelter, or secure confinement facility [which] that would be a third
 2365 degree felony if committed by an adult.

2366 Section 44. Section [78A-6-116](#) is amended to read:

2367 **[78A-6-116. Minor's cases considered civil proceedings -- Effect of adjudication of](#)**
 2368 **[jurisdiction by juvenile court -- Minor not to be charged with crime -- Exception for a](#)**
 2369 **[prior adjudication -- Traffic violation cases -- Abstracts to Department of Public Safety.](#)**

2370 (1) Except as provided in Sections [~~[78A-6-701](#), [78A-6-702](#), and [78A-6-703](#)]~~
 2371 [78A-6-703.7](#) and [78A-6-703.9](#), [proceedings] a proceeding in a minor's case [shall be regarded
 2372 as civil proceedings] is a civil proceeding with the court exercising equitable powers.

2373 (2) (a) An adjudication by a juvenile court [~~that a minor is within its jurisdiction under~~
 2374 Section ~~[78A-6-103](#)~~] of a minor under Section [78A-6-117](#) is not considered a conviction of a
 2375 crime, except in cases involving traffic violations.

2376 (b) An adjudication may not:

2377 (i) operate to impose any civil disabilities upon the minor [~~nor to~~]; or

2378 (ii) disqualify the minor for any civil service or military service or appointment.

2379 (3) (a) [A] Except in cases involving traffic violations, and as provided in Sections

2380 [78A-6-703.3](#) and [78A-6-703.7](#), a minor may not be charged with a crime [~~or~~] and convicted in
 2381 any court [~~except as provided in Sections [78A-6-701](#), [78A-6-702](#), and [78A-6-703](#), and in cases~~
 2382 involving traffic violations. ~~When~~].

2383 (b) Except as provided in Section [78A-6-703.7](#), if a petition [~~has been~~] is filed in the

2384 juvenile court, the minor may not later be [~~subjected~~] subject to criminal prosecution based on
2385 the same facts [~~except as provided in Section 78A-6-702 or 78A-6-703~~].

2386 (4) (a) An adjudication by a juvenile court [~~that a minor is within its jurisdiction under~~
2387 ~~Section 78A-6-103~~] of a minor under Section 78A-6-117 is considered a conviction for the
2388 purposes of determining the level of offense for which a minor may be charged and enhancing
2389 the level of an offense in the juvenile court.

2390 (b) A prior adjudication may be used to enhance the level or degree of an offense
2391 committed by an adult only as otherwise specifically provided.

2392 (5) Abstracts of court records for all adjudications of traffic violations shall be
2393 submitted to the Department of Public Safety as provided in Section 53-3-218.

2394 (6) Information necessary to collect unpaid fines, fees, assessments, bail, or restitution
2395 may be forwarded to employers, financial institutions, law enforcement, constables, the Office
2396 of Recovery Services, or other agencies for purposes of enforcing the order as provided in
2397 Section 78A-6-117.

2398 Section 45. Section 78A-6-117 is amended to read:

2399 **78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
2400 **Enumeration of possible court orders -- Considerations of court.**

2401 (1) (a) Except as provided in Subsection (1)(b), when a minor is found to come within
2402 Section 78A-6-103, the court shall adjudicate the case and make findings of fact upon which
2403 the court bases the court's jurisdiction over the [~~minor~~] case.

2404 (b) For a case described in Subsection 78A-6-103(1), findings of fact are not necessary.

2405 (c) If the court adjudicates a minor for [~~a crime~~] an offense of violence or an offense in
2406 violation of Title 76, Chapter 10, Part 5, Weapons, the court shall order that notice of the
2407 adjudication be provided to the school superintendent of the district in which the minor resides
2408 or attends school. Notice shall be made to the district superintendent within three days of the
2409 adjudication and shall include:

2410 (i) the specific offenses for which the minor was adjudicated; and

2411 (ii) if available, whether the victim:

2412 (A) resides in the same school district as the minor; or

2413 (B) attends the same school as the minor.

2414 (d) (i) An adjudicated minor shall undergo a risk screening or, if indicated, a validated

2415 risk and needs assessment.

2416 (ii) Results of the screening or assessment shall be used to inform disposition decisions
2417 and case planning. Assessment results, if available, may not be shared with the court before
2418 adjudication.

2419 (2) Upon adjudication the court may make the following dispositions by court order:

2420 (a) (i) the court may place the minor on probation or under protective supervision in
2421 the minor's own home and upon conditions determined by the court, including community or
2422 compensatory service;

2423 (ii) a condition ordered by the court under Subsection (2)(a)(i):

2424 (A) shall be individualized and address a specific risk or need;

2425 (B) shall be based on information provided to the court, including the results of a
2426 validated risk and needs assessment conducted under Subsection (1)(d);

2427 (C) if the court orders substance abuse treatment or an educational series, shall be
2428 based on a validated risk and needs assessment conducted under Subsection (1)(d); and

2429 (D) if the court orders protective supervision, may not designate the division as the
2430 provider of protective supervision unless there is a petition regarding abuse, neglect, or
2431 dependency before the court requesting that the division provide protective supervision;

2432 (iii) a court may not issue a standard order that contains control-oriented conditions;

2433 (iv) prohibitions on weapon possession, where appropriate, shall be specific to the
2434 minor and not the minor's family;

2435 (v) if the court orders probation, the court may direct that notice of the court's order be
2436 provided to designated individuals in the local law enforcement agency and the school or
2437 transferee school, if applicable, that the minor attends. The designated individuals may receive
2438 the information for purposes of the minor's supervision and student safety; and

2439 (vi) an employee of the local law enforcement agency and the school that the minor
2440 attends who discloses the court's order of probation is not:

2441 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
2442 provided in Section 63G-7-202; and

2443 (B) civilly or criminally liable except when the disclosure constitutes a knowing
2444 violation of Section 63G-2-801.

2445 (b) The court may place the minor in the legal custody of a relative or other suitable

2446 individual, with or without probation or other court-specified child welfare services, but the
2447 juvenile court may not assume the function of developing foster home services.

2448 (c) The court shall only vest legal custody of the minor in the Division of Juvenile
2449 Justice Services and order the Division of Juvenile Justice Services to provide dispositional
2450 recommendations and services if:

2451 (i) nonresidential treatment options have been exhausted or nonresidential treatment
2452 options are not appropriate; and

2453 (ii) the minor is adjudicated under this section for a felony offense, a misdemeanor
2454 when the minor has five prior misdemeanors or felony adjudications arising from separate
2455 criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in
2456 Section 76-1-601.

2457 (d) (i) The court may not vest legal custody of a minor in the Division of Juvenile
2458 Justice Services for:

2459 (A) contempt of court except to the extent permitted under Section 78A-6-1101;

2460 (B) a violation of probation;

2461 (C) failure to pay a fine, fee, restitution, or other financial obligation;

2462 (D) unfinished compensatory or community service hours;

2463 (E) an infraction; or

2464 (F) a status offense.

2465 (ii) (A) A minor who is 18 years old or older, but younger than 21 years old, may
2466 petition the court to express the minor's desire to be removed from the jurisdiction of the
2467 juvenile court and from the custody of the [~~Division of Child and Family Services~~] division if
2468 the minor is in the division's custody on grounds of abuse, neglect, or dependency.

2469 (B) If the minor's parent's rights have not been terminated in accordance with Part 5,
2470 Termination of Parental Rights Act, the minor's petition shall contain a statement from the
2471 minor's parent or guardian agreeing that the minor should be removed from the custody of the
2472 [~~Division of Child and Family Services~~] division.

2473 (C) The minor and the minor's parent or guardian shall sign the petition.

2474 (D) The court shall review the petition within 14 days.

2475 (E) The court shall remove the minor from the custody of the [~~Division of Child and~~
2476 ~~Family Services~~] division if the minor and the minor's parent or guardian have met the

2477 requirements described in Subsections (2)(d)(ii)(B) and (C) and if the court finds, based on
2478 input from the [~~Division of Child and Family Services~~] division, the minor's guardian ad litem,
2479 and the Office of the Attorney General, that the minor does not pose an imminent threat to self
2480 or others.

2481 (F) A minor removed from custody under Subsection (2)(d)(ii)(E) may, within 90 days
2482 of the date of removal, petition the court to re-enter custody of the [~~Division of Child and~~
2483 ~~Family Services~~] division.

2484 (G) Upon receiving a petition under Subsection (2)(d)(ii)(F), the court shall order the
2485 [~~Division of Child and Family Services~~] division to take custody of the minor based on the
2486 findings the court entered when the court originally vested custody in the [~~Division of Child~~
2487 ~~and Family Services~~] division.

2488 (e) The court shall only commit a minor to the Division of Juvenile Justice Services for
2489 secure confinement if the court finds that:

2490 (i) the minor poses a risk of harm to others; and

2491 (ii) the minor is adjudicated under this section for:

2492 [(i)] (A) a felony offense;

2493 [(ii)] (B) a misdemeanor if the minor has five prior misdemeanor or felony
2494 adjudications arising from separate criminal episodes; [or]

2495 [(iii)] (C) a misdemeanor involving use of a dangerous weapon as defined in Section
2496 76-1-601[-]; or

2497 (D) an offense that resulted in the death of the victim.

2498 (f) (i) A minor under the jurisdiction of the court solely on the ground of abuse,
2499 neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the
2500 Division of Juvenile Justice Services.

2501 (ii) The court may not commit a minor to the Division of Juvenile Justice Services for
2502 secure confinement for:

2503 (A) contempt of court;

2504 (B) a violation of probation;

2505 (C) failure to pay a fine, fee, restitution, or other financial obligation;

2506 (D) unfinished compensatory or community service hours;

2507 (E) an infraction; or

- 2508 (F) a status offense.
- 2509 (g) The court may order nonresidential, diagnostic assessment, including substance use
- 2510 disorder, mental health, psychological, or sexual behavior risk assessment.
- 2511 (h) (i) The court may commit a minor to a place of detention or an alternative to
- 2512 detention for a period not to exceed 30 cumulative days per adjudication subject to the court
- 2513 retaining continuing jurisdiction over the [~~minor~~] minor's case. This commitment may not be
- 2514 suspended upon conditions ordered by the court.
- 2515 (ii) This Subsection (2)(h) applies only to a minor adjudicated for:
- 2516 (A) an act which if committed by an adult would be a criminal offense; or
- 2517 (B) contempt of court under Section 78A-6-1101.
- 2518 (iii) The court may not commit a minor to a place of detention for:
- 2519 (A) contempt of court except to the extent allowed under Section 78A-6-1101;
- 2520 (B) a violation of probation;
- 2521 (C) failure to pay a fine, fee, restitution, or other financial obligation;
- 2522 (D) unfinished compensatory or community service hours;
- 2523 (E) an infraction; or
- 2524 (F) a status offense.
- 2525 (iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30
- 2526 cumulative days eligible as a disposition under Subsection (2)(h)(i). If the minor spent more
- 2527 than 30 days in a place of detention before disposition, the court may not commit a minor to
- 2528 detention under this section.
- 2529 (B) Notwithstanding Subsection (2)(h)(iv)(A), the court may commit a minor for a
- 2530 maximum of seven days while a minor is awaiting placement under Subsection (2)(c). Only the
- 2531 seven days under this Subsection (2)(h)(iv)(B) may be combined with a nonsecure placement.
- 2532 (v) Notwithstanding Subsection (2)(v), no more than seven days of detention may be
- 2533 ordered in combination with an order under Subsection (2)(c).
- 2534 (i) The court may vest legal custody of an abused, neglected, or dependent minor in the
- 2535 [~~Division of Child and Family Services~~] division or any other appropriate person in accordance
- 2536 with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
- 2537 Dependency Proceedings.
- 2538 (j) (i) The court may order a minor to repair, replace, or otherwise make restitution for

2539 material loss caused by the minor's wrongful act or for conduct for which the minor agrees to
2540 make restitution.

2541 (ii) A victim~~[, as defined in Subsection 77-38a-102(14),]~~ of an offense that involves as
2542 an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person
2543 directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or
2544 pattern.

2545 (iii) If the victim and the minor agree to participate, the court may refer the case to a
2546 restorative justice program such as victim offender mediation to address how loss resulting
2547 from the adjudicated act may be addressed.

2548 (iv) For the purpose of determining whether and how much restitution is appropriate,
2549 the court shall consider the following:

2550 (A) restitution shall only be ordered for the victim's material loss;

2551 (B) restitution may not be ordered if the court finds that the minor is unable to pay or
2552 acquire the means to pay;

2553 (C) any amount paid by the minor to the victim in civil penalty shall be credited against
2554 restitution owed; and

2555 (D) the length of the presumptive term of supervision shall be taken into account in
2556 determining the minor's ability to satisfy the restitution order within the presumptive term.

2557 (v) Any amount paid to the victim in restitution shall be credited against liability in a
2558 civil suit.

2559 (vi) The court may also require a minor to reimburse an individual, entity, or
2560 governmental agency who offered and paid a reward to a person or persons for providing
2561 information resulting in a court adjudication that the minor is within the jurisdiction of the
2562 juvenile court due to the commission of a criminal offense.

2563 (vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the
2564 court may order the minor to make restitution for costs expended by any governmental entity
2565 for the return.

2566 (viii) Within seven days after the day on which a petition is filed under Section
2567 78A-6-602, the prosecuting attorney shall provide notification of the restitution process to all
2568 reasonably identifiable and locatable victims of an offense listed in the petition.

2569 (ix) A victim that receives notice under Subsection (2)(j)(viii) is responsible for

2570 providing the prosecutor with:

2571 (A) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket
2572 loss;

2573 (B) all documentation of any compensation or reimbursement from an insurance
2574 company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

2575 (C) if applicable, the victim's proof of identification, including the victim's date of
2576 birth, social security number, or driver license number; and

2577 (D) the victim's contact information, including the victim's current home and work
2578 address and telephone number.

2579 ~~[(viii) The prosecutor]~~

2580 (x) A prosecutor or victim shall submit a request for restitution to the court at the time
2581 of disposition, if feasible, otherwise within ~~[three months]~~ 90 days after disposition.

2582 ~~[(ix) A financial disposition ordered shall prioritize the payment of restitution.]~~

2583 (xi) The court shall order a financial disposition that prioritizes the payment of
2584 restitution.

2585 (k) The court may issue orders necessary for the collection of restitution and fines
2586 ordered by the court, including garnishments, wage withholdings, and executions, except for an
2587 order that changes the custody of the minor, including detention or other secure or nonsecure
2588 residential placements.

2589 (l) (i) The court may through the court's probation department encourage the
2590 development of nonresidential employment or work programs to enable a minor to fulfill the
2591 minor's obligations under Subsection (2)(j) and for other purposes considered desirable by the
2592 court.

2593 (ii) Consistent with the order of the court, the probation officer may permit a minor
2594 ~~[found to be within the jurisdiction of the court]~~ to participate in a program of work restitution
2595 or compensatory service in lieu of paying part or all of the fine imposed by the court.

2596 (iii) The court may order the minor to:

2597 (A) pay a fine, fee, restitution, or other cost; or

2598 (B) complete service hours.

2599 (iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to
2600 complete service hours, those dispositions shall be considered collectively to ensure that the

2601 order:

2602 (A) is reasonable;

2603 (B) prioritizes restitution; and

2604 (C) takes into account the minor's ability to satisfy the order within the presumptive
2605 term of supervision.

2606 (v) If the court orders a minor to pay a fine, fee, or other cost, or complete service
2607 hours, the cumulative order shall be limited per criminal episode as follows:

2608 (A) for [~~children under age 16~~] a minor younger than 16 years old at adjudication, the
2609 court may impose up to \$180 or up to 24 hours of service; and

2610 (B) for [~~minors 16 and~~] a minor 16 years old or older at adjudication, the court may
2611 impose up to \$270 or up to 36 hours of service.

2612 (vi) The cumulative order under Subsection (2)(l)(v) does not include restitution.

2613 (vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of
2614 conversion shall be no less than the minimum wage.

2615 (m) (i) In violations of traffic laws within the court's jurisdiction, when the court finds
2616 that as part of the commission of the violation the minor was in actual physical control of a
2617 motor vehicle, the court may, in addition to any other disposition authorized by this section:

2618 (A) restrain the minor from driving for periods of time the court considers necessary;
2619 and

2620 (B) take possession of the minor's driver license.

2621 (ii) (A) The court may enter any other eligible disposition under Subsection (2)(m)(i)
2622 except for a disposition under Subsection (2)(c), (d), (e), or (f). [~~However, the~~]

2623 (B) The suspension of driving privileges for an offense under Section [78A-6-606](#) is
2624 governed only by Section [78A-6-606](#).

2625 (n) (i) The court may order a minor to complete community or compensatory service
2626 hours in accordance with Subsections (2)(l)(iv) and (v).

2627 (ii) When community service is ordered, the presumptive service order shall include
2628 between five and 10 hours of service.

2629 (iii) Satisfactory completion of an approved substance use disorder prevention or
2630 treatment program or other court-ordered condition may be credited by the court as
2631 compensatory service hours.

2632 (iv) When a minor [~~is found within the jurisdiction of the juvenile court under Section~~
2633 ~~78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti~~] commits an
2634 offense involving the use of graffiti under Section 76-6-106 or 76-6-206, the court may order
2635 the minor to clean up graffiti created by the minor or any other individual at a time and place
2636 within the jurisdiction of the court. Compensatory service ordered under this section may be
2637 performed in the presence and under the direct supervision of the minor's parent or legal
2638 guardian. The parent or legal guardian shall report completion of the order to the court. The
2639 court may also require the minor to perform other alternative forms of restitution or repair to
2640 the damaged property pursuant to Subsection (2)(j).

2641 (o) (i) Subject to Subsection (2)(o)(iii), the court may order that a minor:

- 2642 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or
2643 (B) receive other special care.

2644 (ii) For purposes of receiving the examination, treatment, or care described in
2645 Subsection (2)(o)(i), the court may place the minor in a hospital or other suitable facility that is
2646 not a secure facility or secure detention.

2647 (iii) In determining whether to order the examination, treatment, or care described in
2648 Subsection (2)(o)(i), the court shall consider:

2649 (A) the desires of the minor;

2650 (B) if the minor is [~~under the age of 18~~] younger than 18 years old, the desires of the
2651 parents or guardian of the minor; and

2652 (C) whether the potential benefits of the examination, treatment, or care outweigh the
2653 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
2654 function impairment, or emotional or physical harm resulting from the compulsory nature of
2655 the examination, treatment, or care.

2656 (iv) The [~~Division of Child and Family Services~~] division shall:

2657 (A) take reasonable measures to notify a parent or guardian of any non-emergency
2658 health treatment or care scheduled for a child[~~;~~];

2659 (B) include the parent or guardian as fully as possible in making health care decisions
2660 for the child[~~;~~]; and

2661 (C) defer to the parent's or guardian's reasonable and informed decisions regarding the
2662 child's health care to the extent that the child's health and well being are not unreasonably

2663 compromised by the parent's or guardian's decision.

2664 (v) The [~~Division of Child and Family Services~~] division shall notify the parent or
2665 guardian of a child within five business days after a child in the custody of the [~~Division of~~
2666 ~~Child and Family Services~~] division receives emergency health care or treatment.

2667 (vi) The [~~Division of Child and Family Services~~] division shall use the least restrictive
2668 means to accomplish a compelling interest in the care and treatment of a child described in this
2669 Subsection (2)(o).

2670 (p) (i) The court may appoint a guardian for the minor if it appears necessary in the
2671 interest of the minor, and may appoint as guardian a public or private institution or agency, but
2672 not a nonsecure residential placement provider, in which legal custody of the minor is vested.

2673 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
2674 private agency or institution, the court shall give primary consideration to the welfare of the
2675 minor. When practicable, the court may take into consideration the religious preferences of the
2676 minor and of a child's parents.

2677 (q) (i) In support of a decree under Section [78A-6-103](#), the court may order reasonable
2678 conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any
2679 other person who has been made a party to the proceedings. Conditions may include:

2680 (A) parent-time by the parents or one parent;

2681 (B) restrictions on the minor's associates;

2682 (C) restrictions on the minor's occupation and other activities; and

2683 (D) requirements to be observed by the parents or custodian.

2684 (ii) A minor whose parents or guardians successfully complete a family or other
2685 counseling program may be credited by the court for detention, confinement, or probation time.

2686 (r) The court may order the child to be committed to the physical custody of a local
2687 mental health authority, in accordance with the procedures and requirements of Title 62A,
2688 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
2689 Mental Health.

2690 (s) (i) The court may make an order committing a minor within the court's jurisdiction
2691 to the Utah State Developmental Center if the minor has an intellectual disability in accordance
2692 with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with
2693 an Intellectual Disability.

2694 (ii) The court shall follow the procedure applicable in the district courts with respect to
2695 judicial commitments to the Utah State Developmental Center when ordering a commitment
2696 under Subsection (2)(s)(i).

2697 (t) The court may terminate all parental rights upon a finding of compliance with Title
2698 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

2699 (u) The court may make other reasonable orders for the best interest of the minor and
2700 as required for the protection of the public, except that a child may not be committed to jail,
2701 prison, secure detention, or the custody of the Division of Juvenile Justice Services under
2702 Subsections (2)(c), (d), (e), and (f).

2703 (v) The court may combine the dispositions listed in this section if it is permissible and
2704 they are compatible.

2705 (w) Before depriving any parent of custody, the court shall give due consideration to
2706 the rights of parents concerning their child. The court may transfer custody of a minor to
2707 another individual, agency, or institution in accordance with the requirements and procedures
2708 of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

2709 (x) Except as provided in Subsection (2)(z)(i), an order under this section for probation
2710 or placement of a minor with an individual or an agency shall include a date certain for a
2711 review and presumptive termination of the case by the court in accordance with Subsection (6)
2712 and Section [~~62A-7-404~~] [62A-7-404.5](#). A new date shall be set upon each review.

2713 (y) In reviewing foster home placements, special attention shall be given to making
2714 adoptable children available for adoption without delay.

2715 (z) (i) The juvenile court may enter an order of permanent custody and guardianship
2716 with an individual or relative of a child where the court has previously acquired jurisdiction as
2717 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
2718 order for child support on behalf of the child against the natural or adoptive parents of the
2719 child.

2720 (ii) Orders under Subsection (2)(z)(i):

2721 (A) shall remain in effect until the child reaches majority;

2722 (B) are not subject to review under Section [78A-6-118](#); and

2723 (C) may be modified by petition or motion as provided in Section [78A-6-1103](#).

2724 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and

2725 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
2726 of the juvenile court.

2727 (3) [~~In addition to the dispositions described in Subsection (2), when a minor comes~~
2728 ~~within the court's jurisdiction,]~~ If a court adjudicates a minor for an offense, the minor may be
2729 given a choice by the court to serve in the National Guard in lieu of other sanctions~~[, provided]~~
2730 described in Subsection (2) if:

2731 (a) the minor meets the current entrance qualifications for service in the National
2732 Guard as determined by a recruiter, whose determination is final;

2733 (b) the [~~minor is not under the jurisdiction of the court for any act that]~~ offense:

2734 (i) would be a felony if committed by an adult;

2735 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

2736 (iii) was committed with a weapon; and

2737 (c) the court retains jurisdiction over the minor under conditions set by the court and
2738 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

2739 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
2740 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
2741 designated employees of the court or, if the minor is in the legal custody of the Division of
2742 Juvenile Justice Services, then by designated employees of the division under Subsection
2743 53-10-404(5)(b).

2744 (b) The responsible agency shall ensure that an employee designated to collect the
2745 saliva DNA specimens receives appropriate training and that the specimens are obtained in
2746 accordance with accepted protocol.

2747 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
2748 Specimen Restricted Account created in Section 53-10-407.

2749 (d) Payment of the reimbursement is second in priority to payments the minor is
2750 ordered to make for restitution under this section and treatment under Section 78A-6-321.

2751 (5) (a) A disposition made by the court [~~pursuant to~~] in accordance with this section
2752 may not be suspended, except for the following:

2753 (i) If a minor qualifies for commitment to the Division of Juvenile Justice Services
2754 under Subsection [~~(2)(c), (d), (e), or (f)] (2)(e)~~, the court may suspend a custody order

2755 [~~pursuant to Subsection (2)(c), (d), (e), or (f)] in accordance with Subsection (2)(c) in lieu of~~

2756 immediate commitment, upon the condition that the minor commit no new misdemeanor or
2757 felony offense during the three months following the day of disposition.

2758 (ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not
2759 exceed three months post-disposition and may not be extended under any circumstance.

2760 (iii) The court may only impose a custody order suspended under Subsection (5)(a)(i):

2761 (A) following adjudication of a new misdemeanor or felony offense committed by the
2762 minor during the period of suspension set out under Subsection (5)(a)(ii);

2763 (B) if a new assessment or evaluation has been completed and recommends that a
2764 higher level of care is needed and nonresidential treatment options have been exhausted or
2765 nonresidential treatment options are not appropriate; or

2766 (C) if, after a notice and a hearing, the court finds a new or previous evaluation
2767 recommends a higher level of treatment, and the minor willfully failed to comply with a lower
2768 level of treatment and has been unsuccessfully discharged from treatment.

2769 (iv) A suspended custody order may not be imposed without notice to the minor, notice
2770 to counsel, and a hearing.

2771 (b) The court [~~pursuant to~~] in accordance with Subsection (5)(a) shall terminate
2772 continuing jurisdiction over [~~the minor~~] a minor's case at the end of the presumptive time frame
2773 unless at least one the following circumstances exists:

2774 (i) termination [~~pursuant to~~] in accordance with Subsection (6)(a)(ii) would interrupt
2775 the completion of a program determined to be necessary by the results of a validated risk and
2776 needs assessment with completion found by the court after considering the recommendation of
2777 a licensed service provider on the basis of the minor completing the goals of the necessary
2778 treatment program;

2779 (ii) the minor commits a new misdemeanor or felony offense;

2780 (iii) service hours have not been completed; or

2781 (iv) there is an outstanding fine.

2782 (6) When the court places a minor on probation under Subsection (2)(a) or vests legal
2783 custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) [~~or~~
2784 (~~d~~)], the court shall do so for a defined period of time [~~pursuant to~~] in accordance with this
2785 section.

2786 (a) [~~For the purposes of~~] In placing a minor on probation under Subsection (2)(a), the

2787 court shall establish a presumptive term of probation as specified in this Subsection (6):

2788 (i) the presumptive [~~maximum~~] length of intake probation may not exceed three
2789 months; and

2790 (ii) the presumptive [~~maximum~~] length of formal probation may not exceed four to six
2791 months.

2792 (b) [~~For the purposes of~~] In vesting legal custody of the minor in the Division of
2793 Juvenile Justice Services under Subsection (2)(c) or (d), the court shall establish a maximum
2794 term of custody and a maximum term of aftercare as specified in this Subsection (6):

2795 (i) the presumptive [~~maximum~~] length of out-of-home placement may not exceed three
2796 to six months; and

2797 (ii) the presumptive [~~maximum~~] length of aftercare supervision, for those previously
2798 placed out-of-home, may not exceed three to four months, and minors may serve the term of
2799 aftercare in the home of a qualifying relative or guardian or at an independent living program
2800 contracted or operated by the Division of Juvenile Justice Services.

2801 (c) The court [~~pursuant to~~] in accordance with Subsections (6)(a) and (b), and the
2802 Youth Parole Authority [~~pursuant to~~] in accordance with Subsection (6)(b), shall terminate
2803 continuing jurisdiction over [~~the minor~~] a minor's case at the end of the presumptive time frame
2804 unless at least one of the following circumstances exists:

2805 (i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a
2806 court ordered program determined to be necessary by the results of a validated assessment, with
2807 completion found by the court after considering the recommendations of a licensed service
2808 provider or facilitator of court ordered treatment or intervention program on the basis of the
2809 minor completing the goals of the necessary treatment program;

2810 (ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the
2811 completion of a program determined to be necessary by the results of a validated assessment,
2812 with completion determined on the basis of whether the minor has regularly and consistently
2813 attended the treatment program and completed the goals of the necessary treatment program as
2814 determined by the court or Youth Parole Authority after considering the recommendation of a
2815 licensed service provider or facilitator of court ordered treatment or intervention program;

2816 (iii) the minor commits a new misdemeanor or felony offense;

2817 (iv) service hours have not been completed;

- 2818 (v) there is an outstanding fine; or
- 2819 (vi) there is a failure to pay restitution in full.
- 2820 (d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)
- 2821 exists, the court may extend jurisdiction for the time needed to address the specific
- 2822 circumstance.
- 2823 (ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)
- 2824 exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend
- 2825 jurisdiction for the time needed to address the specific circumstance.
- 2826 (e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth
- 2827 Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one
- 2828 time for up to three months.
- 2829 (f) Grounds for extension of the presumptive length of supervision or placement and
- 2830 the length of any extension shall be recorded in the court record or records of the Youth Parole
- 2831 Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by
- 2832 the Administrative Office of the Courts and the Division of Juvenile Justice Services.
- 2833 (g) (i) For a minor who is under the supervision of the juvenile court and whose
- 2834 supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be
- 2835 continued under the supervision of intake probation.
- 2836 (ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose
- 2837 supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be
- 2838 continued on parole and not in secure confinement.
- 2839 (h) In the event of an unauthorized leave lasting more than 24 hours, the supervision
- 2840 period shall toll until the minor returns.
- 2841 (7) Subsection (6) does not apply to any minor adjudicated under this section for:
- 2842 (a) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;
- 2843 (b) Section [76-5-202](#), aggravated murder or attempted aggravated murder;
- 2844 (c) Section [76-5-203](#), murder or attempted murder;
- 2845 (d) Section [76-5-205](#), manslaughter;
- 2846 (e) Section [76-5-206](#), negligent homicide;
- 2847 (f) Section [76-5-207](#), automobile homicide;
- 2848 (g) Section [76-5-207.5](#), automobile homicide involving handheld wireless

2849 communication device;

2850 (h) Section [76-5-208](#), child abuse homicide;

2851 (i) Section [76-5-209](#), homicide by assault;

2852 ~~[(d)]~~ (j) Section [76-5-302](#), aggravated kidnapping;

2853 ~~[(e)]~~ (k) Section [76-5-405](#), aggravated sexual assault;

2854 ~~[(f)]~~ (l) a felony violation of Section [76-6-103](#), aggravated arson;

2855 ~~[(g)]~~ (m) Section [76-6-203](#), aggravated burglary;

2856 ~~[(h)]~~ (n) Section [76-6-302](#), aggravated robbery;

2857 ~~[(i)]~~ (o) Section [76-10-508.1](#), felony discharge of a firearm; or

2858 ~~[(j)]~~ (p) (i) an offense other than ~~[those]~~ an offense listed in Subsections (7)(a) through

2859 ~~[(i)]~~ (o) involving the use of a dangerous weapon, as defined in Section [76-1-601](#), that is a

2860 felony[;]; and

2861 (ii) the minor has been previously adjudicated or convicted of an offense involving the
2862 use of a dangerous weapon.

2863 Section 46. Section **78A-6-118** is amended to read:

2864 **78A-6-118. Period of effect for a judgment, decree, or order by a juvenile court.**

2865 (1) A judgment, order, or decree of the juvenile court ~~[does not operate after the minor~~
2866 ~~becomes 21 years of age]~~ is no longer in effect after a minor is 21 years old, except ~~[for]~~:

2867 ~~[(1) orders]~~

2868 (a) for an order of commitment to the Utah State Developmental Center or to the
2869 custody of the Division of Substance Abuse and Mental Health;

2870 ~~[(2) adoption orders]~~

2871 (b) for an adoption under Subsection [78A-6-103\(1\)](#); ~~[and]~~

2872 ~~[(3) orders]~~

2873 (c) for an order permanently terminating the rights of a parent, guardian, or custodian[;
2874 ~~and permanent orders]~~];

2875 (d) for a permanent order of custody and ~~[guardianships.]~~ guardianship; and

2876 (e) as provided in Subsection (2).

2877 (2) If the juvenile court enters a judgment or order for a minor for whom the court has
2878 extended continuing jurisdiction over the minor's case until the minor is 25 years old under

2879 Section [78A-6-703.5](#), the juvenile court's judgment or order is no longer in effect after the

2880 minor is 25 years old.

2881 Section 47. Section **78A-6-120** is amended to read:

2882 **78A-6-120. Continuing jurisdiction of juvenile court -- Period of and termination**
2883 **of jurisdiction -- Notice of discharge from custody of local mental health authority or**
2884 **Utah State Developmental Center -- Transfer of continuing jurisdiction to other district.**

2885 [~~(1) Jurisdiction of a minor obtained by the court through adjudication under Section~~
2886 ~~78A-6-117 continues for purposes of this chapter until the minor becomes 21 years of age,~~
2887 ~~unless terminated earlier in accordance with Sections 62A-7-404 and 78A-6-117.]~~

2888 (1) Except as provided in Subsection (2), if the court retains jurisdiction over a minor's
2889 case under Section 78A-6-117, the court's jurisdiction over the minor's case continues until:

2890 (a) the minor is 21 years old; or

2891 (b) if the court extends jurisdiction over the minor's case until the minor is 25 years old
2892 under Section 78A-6-703.7, the minor is 25 years old.

2893 (2) (a) The [~~continuing jurisdiction of the court~~] court's continuing jurisdiction under
2894 Subsection (1) terminates:

2895 (i) upon order of the court;

2896 (ii) upon commitment to a secure facility;

2897 (iii) upon commencement of proceedings in adult cases under Section 78A-6-1001; or

2898 (iv) in accordance with Sections 62A-7-404 and 78A-6-117.

2899 (b) The continuing jurisdiction of the court over a minor's case is not terminated:

2900 (i) by marriage~~[-];~~ or

2901 (ii) when a minor commits an offense under municipal, state, or federal law under the
2902 jurisdiction of another court, and the minor is at least 18 years old at the time of the offense.

2903 (c) Notwithstanding Subsection (2)(a)(ii), the court retains jurisdiction to make and
2904 enforce orders related to restitution until the Youth Parole Authority discharges the [~~youth~~
2905 offender] minor.

2906 (3) When a minor has been committed by the court to the physical custody of a local
2907 mental health authority or [~~its~~] the local mental health authority's designee or to the Utah State
2908 Developmental Center, the local mental health authority or [~~its~~] the local mental health
2909 authority's designee or the superintendent of the Utah State Developmental Center shall give
2910 the court written notice of [~~its~~] the intention to discharge, release, or parole the minor not fewer

2911 than five days before the discharge, release, or parole.

2912 (4) (a) ~~[Jurisdiction over a minor]~~ The court may transfer a case of a minor who is on
 2913 probation or under protective supervision, or of a minor who is otherwise under the continuing
 2914 jurisdiction of the court, ~~[may be transferred by the court to the]~~ to a court of another district, if
 2915 the receiving court consents, or upon direction of the chair of the Board of Juvenile Court
 2916 Judges.

2917 (b) The receiving court has the same powers with respect to the minor that ~~[it]~~ the court
 2918 would have if the proceedings originated in that court.

2919 ~~[(5) On and after July 1, 2018, a minor adjudicated under Section 78A-6-117 and who~~
 2920 ~~underwent a validated risk and needs assessment under Subsection 78A-6-117(1)(c)]~~

2921 (5) A minor shall undergo a validated risk and needs assessment within seven days of
 2922 the day on which an order terminating jurisdiction is issued[-:] if:

2923 (a) the minor is adjudicated under Section 78A-6-117; and

2924 (b) the minor underwent a validated risk and needs assessment under Subsection
 2925 78A-6-117(1)(d).

2926 Section 48. Section **78A-6-306** is amended to read:

2927 **78A-6-306. Shelter hearing.**

2928 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays
 2929 after any one or all of the following occur:

2930 (a) removal of the child from the child's home by the division;

2931 (b) placement of the child in the protective custody of the division;

2932 (c) emergency placement under Subsection 62A-4a-202.1(4);

2933 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
 2934 at the request of the division; or

2935 (e) a "Motion for Expedited Placement in Temporary Custody" is filed under
 2936 Subsection 78A-6-106(4).

2937 (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the
 2938 division shall issue a notice that contains all of the following:

2939 (a) the name and address of the person to whom the notice is directed;

2940 (b) the date, time, and place of the shelter hearing;

2941 (c) the name of the child on whose behalf a petition is being brought;

- 2942 (d) a concise statement regarding:
- 2943 (i) the reasons for removal or other action of the division under Subsection (1); and
- 2944 (ii) the allegations and code sections under which the proceeding has been instituted;
- 2945 (e) a statement that the parent or guardian to whom notice is given, and the child, are
- 2946 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is
- 2947 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be
- 2948 provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and
- 2949 (f) a statement that the parent or guardian is liable for the cost of support of the child in
- 2950 the protective custody, temporary custody, and custody of the division, and the cost for legal
- 2951 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial
- 2952 ability of the parent or guardian.
- 2953 (3) The notice described in Subsection (2) shall be personally served as soon as
- 2954 possible, but no later than one business day after removal of the child from the child's home, or
- 2955 the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection
- 2956 [78A-6-106](#)(4), on:
- 2957 (a) the appropriate guardian ad litem; and
- 2958 (b) both parents and any guardian of the child, unless the parents or guardians cannot
- 2959 be located.
- 2960 (4) The following persons shall be present at the shelter hearing:
- 2961 (a) the child, unless it would be detrimental for the child;
- 2962 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
- 2963 fail to appear in response to the notice;
- 2964 (c) counsel for the parents, if one is requested;
- 2965 (d) the child's guardian ad litem;
- 2966 (e) the caseworker from the division who is assigned to the case; and
- 2967 (f) the attorney from the attorney general's office who is representing the division.
- 2968 (5) (a) At the shelter hearing, the court shall:
- 2969 (i) provide an opportunity to provide relevant testimony to:
- 2970 (A) the child's parent or guardian, if present; and
- 2971 (B) any other person having relevant knowledge; and
- 2972 (ii) subject to Section [78A-6-305](#), provide an opportunity for the child to testify.

- 2973 (b) The court:
- 2974 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
2975 Procedure;
- 2976 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
2977 the requesting party, or their counsel; and
- 2978 (iii) may in its discretion limit testimony and evidence to only that which goes to the
2979 issues of removal and the child's need for continued protection.
- 2980 (6) If the child is in the protective custody of the division, the division shall report to
2981 the court:
- 2982 (a) the reason why the child was removed from the parent's or guardian's custody;
- 2983 (b) any services provided to the child and the child's family in an effort to prevent
2984 removal;
- 2985 (c) the need, if any, for continued shelter;
- 2986 (d) the available services that could facilitate the return of the child to the custody of
2987 the child's parent or guardian; and
- 2988 (e) subject to Subsections [78A-6-307\(18\)\(c\)](#) through (e), whether any relatives of the
2989 child or friends of the child's parents may be able and willing to accept temporary placement of
2990 the child.
- 2991 (7) The court shall consider all relevant evidence provided by persons or entities
2992 authorized to present relevant evidence pursuant to this section.
- 2993 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good
2994 cause shown, the court may grant no more than one continuance, not to exceed five judicial
2995 days.
- 2996 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for
2997 a continuance under Subsection (8)(a).
- 2998 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice
2999 described in Subsection (2) within the time described in Subsection (3), the court may grant the
3000 request of a parent or guardian for a continuance, not to exceed five judicial days.
- 3001 (9) (a) If the child is in the protective custody of the division, the court shall order that
3002 the child be returned to the custody of the parent or guardian unless it finds, by a
3003 preponderance of the evidence, consistent with the protections and requirements provided in

3004 Subsection 62A-4a-201(1), that any one of the following exists:

3005 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
3006 safety of the child and the child's physical health or safety may not be protected without
3007 removing the child from the custody of the child's parent;

3008 (ii) (A) the child is suffering emotional damage that results in a serious impairment in
3009 the child's growth, development, behavior, or psychological functioning;

3010 (B) the parent or guardian is unwilling or unable to make reasonable changes that
3011 would sufficiently prevent future damage; and

3012 (C) there are no reasonable means available by which the child's emotional health may
3013 be protected without removing the child from the custody of the child's parent or guardian;

3014 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
3015 not removed from the custody of the child's parent or guardian;

3016 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
3017 household has been, or is considered to be at substantial risk of being, physically abused,
3018 sexually abused, or sexually exploited by a:

3019 (A) parent or guardian;

3020 (B) member of the parent's household or the guardian's household; or

3021 (C) person known to the parent or guardian;

3022 (v) the parent or guardian is unwilling to have physical custody of the child;

3023 (vi) the child is without any provision for the child's support;

3024 (vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe
3025 and appropriate care for the child;

3026 (viii) (A) a relative or other adult custodian with whom the child is left by the parent or
3027 guardian is unwilling or unable to provide care or support for the child;

3028 (B) the whereabouts of the parent or guardian are unknown; and

3029 (C) reasonable efforts to locate the parent or guardian are unsuccessful;

3030 (ix) subject to Subsections 78A-6-105[~~(39)~~](40)(b) and 78A-6-117(2) and Section
3031 78A-6-301.5, the child is in immediate need of medical care;

3032 (x) (A) the physical environment or the fact that the child is left unattended beyond a
3033 reasonable period of time poses a threat to the child's health or safety; and

3034 (B) the parent or guardian is unwilling or unable to make reasonable changes that

3035 would remove the threat;

3036 (xi) (A) the child or a minor residing in the same household has been neglected; and

3037 (B) the parent or guardian is unwilling or unable to make reasonable changes that
3038 would prevent the neglect;

3039 (xii) the parent, guardian, or an adult residing in the same household as the parent or
3040 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act,
3041 and any clandestine laboratory operation was located in the residence or on the property where
3042 the child resided;

3043 (xiii) (A) the child's welfare is substantially endangered; and

3044 (B) the parent or guardian is unwilling or unable to make reasonable changes that
3045 would remove the danger; or

3046 (xiv) the child's natural parent:

3047 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
3048 child;

3049 (B) is identified by a law enforcement agency as the primary suspect in an investigation
3050 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

3051 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
3052 recklessly causing the death of another parent of the child.

3053 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
3054 established if:

3055 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
3056 involving the parent; and

3057 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

3058 (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly
3059 allowed the child to be in the physical care of a person after the parent received actual notice
3060 that the person physically abused, sexually abused, or sexually exploited the child, that fact
3061 constitutes prima facie evidence that there is a substantial risk that the child will be physically
3062 abused, sexually abused, or sexually exploited.

3063 (10) (a) (i) The court shall also make a determination on the record as to whether
3064 reasonable efforts were made to prevent or eliminate the need for removal of the child from the
3065 child's home and whether there are available services that would prevent the need for continued

3066 removal.

3067 (ii) If the court finds that the child can be safely returned to the custody of the child's
3068 parent or guardian through the provision of those services, the court shall place the child with
3069 the child's parent or guardian and order that those services be provided by the division.

3070 (b) In making the determination described in Subsection (10)(a), and in ordering and
3071 providing services, the child's health, safety, and welfare shall be the paramount concern, in
3072 accordance with federal law.

3073 (11) Where the division's first contact with the family occurred during an emergency
3074 situation in which the child could not safely remain at home, the court shall make a finding that
3075 any lack of preplacement preventive efforts was appropriate.

3076 (12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe
3077 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
3078 "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home,
3079 return a child to the child's home, provide reunification services, or attempt to rehabilitate the
3080 offending parent or parents.

3081 (13) The court may not order continued removal of a child solely on the basis of
3082 educational neglect as defined in Section 78A-6-105, truancy, or failure to comply with a court
3083 order to attend school.

3084 (14) (a) Whenever a court orders continued removal of a child under this section, the
3085 court shall state the facts on which that decision is based.

3086 (b) If no continued removal is ordered and the child is returned home, the court shall
3087 state the facts on which that decision is based.

3088 (15) If the court finds that continued removal and temporary custody are necessary for
3089 the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal
3090 regardless of:

3091 (a) any error in the initial removal of the child;

3092 (b) the failure of a party to comply with notice provisions; or

3093 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
3094 and Family Services.

3095 Section 49. Section 78A-6-312 is amended to read:

3096 **78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.**

- 3097 (1) The court may:
- 3098 (a) make any of the dispositions described in Section 78A-6-117;
- 3099 (b) place the minor in the custody or guardianship of any:
- 3100 (i) individual; or
- 3101 (ii) public or private entity or agency; or
- 3102 (c) order:
- 3103 (i) protective supervision;
- 3104 (ii) family preservation;
- 3105 (iii) subject to Subsections (12)(b), 78A-6-105~~(39)~~(40), and 78A-6-117(2) and
- 3106 Section 78A-6-301.5, medical or mental health treatment;
- 3107 (iv) sibling visitation; or
- 3108 (v) other services.
- 3109 (2) Whenever the court orders continued removal at the dispositional hearing, and that
- 3110 the minor remain in the custody of the division, the court shall first:
- 3111 (a) establish a primary permanency plan for the minor; and
- 3112 (b) determine whether, in view of the primary permanency plan, reunification services
- 3113 are appropriate for the minor and the minor's family, pursuant to Subsections (21) through (23).
- 3114 (3) Subject to Subsections (6) and (7), if the court determines that reunification
- 3115 services are appropriate for the minor and the minor's family, the court shall provide for
- 3116 reasonable parent-time with the parent or parents from whose custody the minor was removed,
- 3117 unless parent-time is not in the best interest of the minor.
- 3118 (4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe
- 3119 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
- 3120 "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to
- 3121 attempt to rehabilitate the offending parent or parents.
- 3122 (5) In all cases, the minor's health, safety, and welfare shall be the court's paramount
- 3123 concern in determining whether reasonable efforts to reunify should be made.
- 3124 (6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless
- 3125 the court makes a finding that it is necessary to deny parent-time in order to:
- 3126 (a) protect the physical safety of the minor;
- 3127 (b) protect the life of the minor; or

3128 (c) prevent the minor from being traumatized by contact with the parent due to the
3129 minor's fear of the parent in light of the nature of the alleged abuse or neglect.

3130 (7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a
3131 parent's failure to:

3132 (a) prove that the parent has not used legal or illegal substances; or

3133 (b) comply with an aspect of the child and family plan that is ordered by the court.

3134 (8) (a) In addition to the primary permanency plan, the court shall establish a
3135 concurrent permanency plan that shall include:

3136 (i) a representative list of the conditions under which the primary permanency plan will
3137 be abandoned in favor of the concurrent permanency plan; and

3138 (ii) an explanation of the effect of abandoning or modifying the primary permanency
3139 plan.

3140 (b) In determining the primary permanency plan and concurrent permanency plan, the
3141 court shall consider:

3142 (i) the preference for kinship placement over nonkinship placement;

3143 (ii) the potential for a guardianship placement if the parent-child relationship is legally
3144 terminated and no appropriate adoption placement is available; and

3145 (iii) the use of an individualized permanency plan, only as a last resort.

3146 (9) A permanency hearing shall be conducted in accordance with Subsection
3147 [78A-6-314](#)(1)(b) within 30 days after the day on which the dispositional hearing ends if
3148 something other than reunification is initially established as a minor's primary permanency
3149 plan.

3150 (10) (a) The court may amend a minor's primary permanency plan before the
3151 establishment of a final permanency plan under Section [78A-6-314](#).

3152 (b) The court is not limited to the terms of the concurrent permanency plan in the event
3153 that the primary permanency plan is abandoned.

3154 (c) If, at any time, the court determines that reunification is no longer a minor's primary
3155 permanency plan, the court shall conduct a permanency hearing in accordance with Section
3156 [78A-6-314](#) on or before the earlier of:

3157 (i) 30 days after the day on which the court makes the determination described in this
3158 Subsection (10)(c); or

3159 (ii) the day on which the provision of reunification services, described in Section
3160 78A-6-314, ends.

3161 (11) (a) If the court determines that reunification services are appropriate, the court
3162 shall order that the division make reasonable efforts to provide services to the minor and the
3163 minor's parent for the purpose of facilitating reunification of the family, for a specified period
3164 of time.

3165 (b) In providing the services described in Subsection (11)(a), the minor's health, safety,
3166 and welfare shall be the division's paramount concern, and the court shall so order.

3167 (12) (a) The court shall:

3168 (i) determine whether the services offered or provided by the division under the child
3169 and family plan constitute "reasonable efforts" on the part of the division;

3170 (ii) determine and define the responsibilities of the parent under the child and family
3171 plan in accordance with Subsection 62A-4a-205(6)(e); and

3172 (iii) identify verbally on the record, or in a written document provided to the parties,
3173 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future
3174 determination regarding the provision of reasonable efforts, in accordance with state and
3175 federal law.

3176 (b) If the parent is in a substance use disorder treatment program, other than a certified
3177 drug court program:

3178 (i) the court may order the parent to submit to supplementary drug or alcohol testing in
3179 addition to the testing recommended by the parent's substance use disorder program based on a
3180 finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

3181 (ii) the court may order the parent to provide the results of drug or alcohol testing
3182 recommended by the substance use disorder program to the court or division.

3183 (13) (a) The time period for reunification services may not exceed 12 months from the
3184 date that the minor was initially removed from the minor's home, unless the time period is
3185 extended under Subsection 78A-6-314(7).

3186 (b) Nothing in this section may be construed to entitle any parent to an entire 12
3187 months of reunification services.

3188 (14) (a) If reunification services are ordered, the court may terminate those services at
3189 any time.

3190 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined
3191 to be inconsistent with the final permanency plan for the minor established pursuant to Section
3192 [78A-6-314](#), then measures shall be taken, in a timely manner, to:

- 3193 (i) place the minor in accordance with the permanency plan; and
- 3194 (ii) complete whatever steps are necessary to finalize the permanent placement of the
3195 minor.

3196 (15) Any physical custody of the minor by the parent or a relative during the period
3197 described in Subsections (11) through (14) does not interrupt the running of the period.

3198 (16) (a) If reunification services are ordered, a permanency hearing shall be conducted
3199 by the court in accordance with Section [78A-6-314](#) at the expiration of the time period for
3200 reunification services.

3201 (b) The permanency hearing shall be held no later than 12 months after the original
3202 removal of the minor.

3203 (c) If reunification services are not ordered, a permanency hearing shall be conducted
3204 within 30 days, in accordance with Section [78A-6-314](#).

3205 (17) With regard to a minor in the custody of the division whose parent or parents are
3206 ordered to receive reunification services but who have abandoned that minor for a period of six
3207 months from the date that reunification services were ordered:

- 3208 (a) the court shall terminate reunification services; and
- 3209 (b) the division shall petition the court for termination of parental rights.

3210 (18) When a court conducts a permanency hearing for a minor under Section
3211 [78A-6-314](#), the court shall attempt to keep the minor's sibling group together if keeping the
3212 sibling group together is:

- 3213 (a) practicable; and
- 3214 (b) in accordance with the best interest of the minor.

3215 (19) When a child is under the custody of the division and has been separated from a
3216 sibling due to foster care or adoptive placement, a court may order sibling visitation, subject to
3217 the division obtaining consent from the sibling's legal guardian, according to the court's
3218 determination of the best interests of the child for whom the hearing is held.

3219 (20) (a) Because of the state's interest in and responsibility to protect and provide
3220 permanency for minors who are abused, neglected, or dependent, the Legislature finds that a

3221 parent's interest in receiving reunification services is limited.

3222 (b) The court may determine that:

3223 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate,
3224 based on the individual circumstances; and

3225 (ii) reunification services should not be provided.

3226 (c) In determining "reasonable efforts" to be made with respect to a minor, and in
3227 making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount
3228 concern.

3229 (21) There is a presumption that reunification services should not be provided to a
3230 parent if the court finds, by clear and convincing evidence, that any of the following
3231 circumstances exist:

3232 (a) the whereabouts of the parents are unknown, based upon a verified affidavit
3233 indicating that a reasonably diligent search has failed to locate the parent;

3234 (b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such
3235 magnitude that it renders the parent incapable of utilizing reunification services;

3236 (c) the minor was previously adjudicated as an abused child due to physical abuse,
3237 sexual abuse, or sexual exploitation, and following the adjudication the minor:

3238 (i) was removed from the custody of the minor's parent;

3239 (ii) was subsequently returned to the custody of the parent; and

3240 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual
3241 exploitation;

3242 (d) the parent:

3243 (i) caused the death of another minor through abuse or neglect;

3244 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

3245 (A) murder or manslaughter of a child; or

3246 (B) child abuse homicide;

3247 (iii) committed sexual abuse against the child;

3248 (iv) is a registered sex offender or required to register as a sex offender; or

3249 (v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the
3250 child;

3251 (B) is identified by a law enforcement agency as the primary suspect in an investigation

3252 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

3253 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
3254 recklessly causing the death of another parent of the child;

3255 (e) the minor suffered severe abuse by the parent or by any person known by the
3256 parent, if the parent knew or reasonably should have known that the person was abusing the
3257 minor;

3258 (f) the minor is adjudicated an abused child as a result of severe abuse by the parent,
3259 and the court finds that it would not benefit the minor to pursue reunification services with the
3260 offending parent;

3261 (g) the parent's rights are terminated with regard to any other minor;

3262 (h) the minor was removed from the minor's home on at least two previous occasions
3263 and reunification services were offered or provided to the family at those times;

3264 (i) the parent has abandoned the minor for a period of six months or longer;

3265 (j) the parent permitted the child to reside, on a permanent or temporary basis, at a
3266 location where the parent knew or should have known that a clandestine laboratory operation
3267 was located;

3268 (k) except as provided in Subsection (22)(b), with respect to a parent who is the child's
3269 birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was
3270 exposed to an illegal or prescription drug that was abused by the child's mother while the child
3271 was in utero, if the child was taken into division custody for that reason, unless the mother
3272 agrees to enroll in, is currently enrolled in, or has recently and successfully completed a
3273 substance use disorder treatment program approved by the department; or

3274 (l) any other circumstance that the court determines should preclude reunification
3275 efforts or services.

3276 (22) (a) The finding under Subsection (21)(b) shall be based on competent evidence
3277 from at least two medical or mental health professionals, who are not associates, establishing
3278 that, even with the provision of services, the parent is not likely to be capable of adequately
3279 caring for the minor within 12 months after the day on which the court finding is made.

3280 (b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under
3281 the circumstances of the case, that the substance use disorder treatment described in Subsection
3282 (21)(k) is not warranted.

3283 (23) In determining whether reunification services are appropriate, the court shall take
3284 into consideration:

3285 (a) failure of the parent to respond to previous services or comply with a previous child
3286 and family plan;

3287 (b) the fact that the minor was abused while the parent was under the influence of
3288 drugs or alcohol;

3289 (c) any history of violent behavior directed at the child or an immediate family
3290 member;

3291 (d) whether a parent continues to live with an individual who abused the minor;

3292 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

3293 (f) testimony by a competent professional that the parent's behavior is unlikely to be
3294 successful; and

3295 (g) whether the parent has expressed an interest in reunification with the minor.

3296 (24) (a) If reunification services are not ordered pursuant to Subsections (20) through
3297 (22), and the whereabouts of a parent become known within six months after the day on which
3298 the out-of-home placement of the minor is made, the court may order the division to provide
3299 reunification services.

3300 (b) The time limits described in Subsections (2) through (18) are not tolled by the
3301 parent's absence.

3302 (25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable
3303 services unless the court determines that those services would be detrimental to the minor.

3304 (b) In making the determination described in Subsection (25)(a), the court shall
3305 consider:

3306 (i) the age of the minor;

3307 (ii) the degree of parent-child bonding;

3308 (iii) the length of the sentence;

3309 (iv) the nature of the treatment;

3310 (v) the nature of the crime or illness;

3311 (vi) the degree of detriment to the minor if services are not offered;

3312 (vii) for a minor 10 years old or older, the minor's attitude toward the implementation
3313 of family reunification services; and

3314 (viii) any other appropriate factors.

3315 (c) Reunification services for an incarcerated parent are subject to the time limitations
3316 imposed in Subsections (2) through (18).

3317 (d) Reunification services for an institutionalized parent are subject to the time
3318 limitations imposed in Subsections (2) through (18), unless the court determines that continued
3319 reunification services would be in the minor's best interest.

3320 (26) If, pursuant to Subsections (21)(b) through (l), the court does not order
3321 reunification services, a permanency hearing shall be conducted within 30 days, in accordance
3322 with Section [78A-6-314](#).

3323 Section 50. Section **78A-6-601** is amended to read:

3324 **78A-6-601. Criminal proceedings involving minors -- Transfer to juvenile court --**
3325 **Exception.**

3326 [~~(1) If, during the pendency of a criminal or quasi-criminal proceeding in another court,~~
3327 ~~including a preliminary hearing, it is determined that the person charged is under 21 years of~~
3328 ~~age and was less than 18 years of age at the time of committing the alleged offense, that court~~
3329 ~~shall transfer the case to the juvenile court, together with all the papers, documents, and~~
3330 ~~transcripts of any testimony except as provided in Sections [78A-6-701](#), [78A-6-702](#), and~~
3331 ~~[78A-6-703](#).]~~

3332 (1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or
3333 justice court determines that an individual being charged is under 21 years old and was younger
3334 than 18 years old at the time of committing the alleged offense, the district or justice court shall
3335 transfer the case to the juvenile court with all the papers, documents, and transcripts of any
3336 testimony.

3337 (b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense
3338 that is transferred to the district court in accordance with Section [78A-6-703.7](#).

3339 (ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an
3340 offense for which the justice court has original jurisdiction under Subsection [78A-7-106\(2\)](#).

3341 (2) The district court or justice court making the transfer shall:

3342 (a) order the ~~[person]~~ individual to be taken immediately to the juvenile court or to a
3343 place of detention designated by the juvenile court~~;~~ or ~~[shall]~~

3344 (b) release ~~[him]~~ the individual to the custody of ~~[his]~~ the individual's parent or

3345 guardian or other person legally responsible for ~~[him]~~ the individual, to be brought before the
3346 juvenile court at a time designated by ~~[it]~~ the juvenile court.

3347 (3) The juvenile court shall then proceed as provided in this chapter.

3348 Section 51. Section **78A-6-602** is amended to read:

3349 **78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal**
3350 **referral -- Citation -- Failure to appear.**

3351 (1) A proceeding in a minor's case is commenced by petition, except as provided in
3352 ~~[Sections 78A-6-701, 78A-6-702, and 78A-6-703]~~ Section 78A-6-703.3.

3353 (2) (a) A peace officer or a public official of the state, a county, city, or town charged
3354 with the enforcement of the laws of the state or local jurisdiction shall file a formal referral
3355 with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a
3356 detention facility, the formal referral shall be filed with the juvenile court within ~~[72 hours;~~
3357 ~~excluding weekends and holidays]~~ 24 hours. A formal referral under Section **53G-8-211** may
3358 not be filed with the juvenile court on an offense unless the offense is subject to referral under
3359 Section **53G-8-211**.

3360 (b) (i) When the court is informed by a peace officer or other person that a minor is or
3361 appears to be within the court's jurisdiction, the probation department shall make a preliminary
3362 inquiry to determine whether the minor is eligible to enter into a written consent agreement
3363 with the probation department and, if the minor is a child, the minor's parent, guardian, or
3364 custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2).

3365 (ii) Except as provided in Subsection (2)(k), the court's probation department shall
3366 offer a nonjudicial adjustment if the minor:

3367 (A) is referred with a misdemeanor, infraction, or status offense;

3368 (B) has no more than two prior adjudications; and

3369 (C) has no more than three prior unsuccessful nonjudicial adjustment attempts.

3370 (iii) For purposes of this Subsection (2)(b), an adjudication or nonjudicial adjustment
3371 means an action based on a single episode of conduct that is closely related in time and is
3372 incident to an attempt or an accomplishment of a single objective.

3373 (c) (i) Within seven days of receiving a referral that appears to be eligible for a
3374 nonjudicial adjustment pursuant to Subsection (2)(b), the probation department shall provide
3375 an initial notice to reasonably identifiable and locatable victims of the offense contained in the

3376 referral.

3377 (ii) The victim shall be responsible to provide to the division upon request:

3378 (A) invoices, bills, receipts, and other evidence of injury, loss of earnings, and
3379 out-of-pocket loss;

3380 (B) documentation and evidence of compensation or reimbursement from insurance
3381 companies or agencies of Utah, any other state, or federal government received as a direct
3382 result of the crime for injury, loss of earnings, or out-of-pocket loss; and

3383 (C) proof of identification, including home and work address and telephone numbers.

3384 (iii) The inability, failure, or refusal of the victim to provide all or part of the requested
3385 information shall result in the probation department determining restitution based on the best
3386 information available.

3387 (d) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a
3388 validated risk and needs assessment and may request that the prosecutor review the referral
3389 pursuant to Subsection (2)(h) to determine whether to dismiss the referral or file a petition
3390 instead of offering a nonjudicial adjustment if:

3391 (A) the results of the assessment indicate the youth is high risk; or

3392 (B) the results of the assessment indicate the youth is moderate risk and the referral is
3393 for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or
3394 Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

3395 (ii) Except as provided in Subsection (2)(k), the court's probation department may offer
3396 a nonjudicial adjustment to any other minor who does not meet the criteria provided in
3397 Subsection (2)(b).

3398 (iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an
3399 admission of guilt.

3400 (iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to
3401 pay a financial penalty under Subsection (2)(e).

3402 (v) Efforts to effect a nonjudicial adjustment may not extend for a period of more than
3403 90 days without leave of a judge of the court, who may extend the period for an additional 90
3404 days.

3405 (vi) A [~~prosecutor~~] prosecuting attorney may not file a petition against a minor unless:

3406 (A) the minor does not qualify for nonjudicial adjustment under Subsection (2)(b) or

- 3407 (d)(ii);
- 3408 (B) the minor declines nonjudicial adjustment;
- 3409 (C) the minor fails to substantially comply with the conditions agreed upon as part of
- 3410 the nonjudicial adjustment;
- 3411 (D) the minor fails to respond to the probation department's inquiry regarding
- 3412 eligibility for or an offer of a nonjudicial adjustment after being provided with notice for
- 3413 preliminary inquiry; or
- 3414 (E) the ~~[prosecutor]~~ prosecuting attorney is acting under Subsection (2)(k).
- 3415 (e) The nonjudicial adjustment of a case may include the following conditions agreed
- 3416 upon as part of the nonjudicial closure:
- 3417 (i) payment of a financial penalty of not more than \$250 to the juvenile court subject to
- 3418 the terms established under Subsection (2)(f);
- 3419 (ii) payment of victim restitution;
- 3420 (iii) satisfactory completion of community or compensatory service;
- 3421 (iv) referral to an appropriate provider for counseling or treatment;
- 3422 (v) attendance at substance use disorder programs or counseling programs;
- 3423 (vi) compliance with specified restrictions on activities and associations;
- 3424 (vii) victim-offender mediation, if requested by the victim; and
- 3425 (viii) other reasonable actions that are in the interest of the child or minor, the
- 3426 community, and the victim.
- 3427 (f) A fee, fine, or restitution included in a nonjudicial ~~[closure]~~ adjustment in
- 3428 accordance with Subsection (2)(e) shall be based upon the ability of the minor's family to pay
- 3429 as determined by a statewide sliding scale developed as provided in Section [63M-7-208](#) on and
- 3430 after July 1, 2018.
- 3431 (g) If a ~~[prosecutor]~~ prosecuting attorney learns of a referral involving an offense
- 3432 identified in Subsection (2)(k), if a minor fails to substantially comply with the conditions
- 3433 agreed upon as part of the nonjudicial ~~[closure]~~ adjustment, or if a minor is not offered or
- 3434 declines a nonjudicial adjustment pursuant to Subsection (2)(b), (2)(d)(ii), or (2)(d)(vi), the
- 3435 ~~[prosecutor]~~ prosecuting attorney shall review the case and take one of the following actions:
- 3436 (i) dismiss the case;
- 3437 (ii) refer the case back to the probation department for a new attempt at nonjudicial

3438 adjustment; or
3439 (iii) subject to Subsection (2)(i), file a petition with the court.
3440 (h) Notwithstanding Subsection (2)(g), a petition may only be filed upon reasonable
3441 belief that:
3442 (i) the charges are supported by probable cause;
3443 (ii) admissible evidence will be sufficient to support adjudication beyond a reasonable
3444 doubt; and
3445 (iii) the decision to charge is in the interests of justice.
3446 (i) Failure to pay a fine or fee may not serve as a basis for filing of a petition under
3447 Subsection (2)(g)(iii) if the minor has substantially complied with the other conditions agreed
3448 upon in accordance with Subsection (2)(e) or those imposed through any other court diversion
3449 program.
3450 (j) Notwithstanding Subsection (2)(i), a violation of Section 76-10-105 that is subject
3451 to the jurisdiction of the juvenile court may include a fine or penalty and participation in a
3452 court-approved tobacco education program, which may include a participation fee.
3453 (k) Notwithstanding the other provisions of this section, the probation department shall
3454 request that a [prosecutor] prosecuting attorney review a referral in accordance with Subsection
3455 (2)(g) if:
3456 (i) the referral involves a violation of:
3457 (A) Section 41-6a-502, driving under the influence;
3458 (B) Section 76-5-112, reckless endangerment creating a substantial risk of death or
3459 serious bodily injury;
3460 (C) Section 76-5-206, negligent homicide;
3461 (D) Section 76-9-702.1, sexual battery;
3462 (E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled
3463 shotgun on or about school premises; or
3464 (F) Section 76-10-509, possession of dangerous weapon by minor, but only if the
3465 dangerous weapon is a firearm; or
3466 (ii) the minor has a current suspended order for custody under Subsection
3467 78A-6-117(5)(a).
3468 (l) If the [prosecutor] prosecuting attorney files a petition in court, the court may refer

3469 the case to the probation department for another offer of nonjudicial adjustment.

3470 (m) If a minor violates Section [41-6a-502](#), regardless of whether a [prosecutor]
 3471 prosecuting attorney reviews a referral under Subsection (2)(k)(i)(A), the minor shall be subject
 3472 to a drug and alcohol screening and participate in an assessment, if found appropriate by the
 3473 screening, and if warranted, follow the recommendations of the assessment.

3474 [~~(3) Except as provided in Sections [78A-6-701](#) and [78A-6-702](#), in the case of a minor
 3475 14 years of age or older, the county attorney, district attorney, or attorney general may
 3476 commence an action by filing a criminal information and a motion requesting the juvenile court
 3477 to waive its jurisdiction and certify the minor to the district court.]~~

3478 [~~(4) (a) In cases of violations of wildlife laws, boating laws, class B and class C
 3479 misdemeanors, other infractions or misdemeanors as designated by general order of the Board
 3480 of Juvenile Court Judges, and violations of Section [76-10-105](#) subject to the jurisdiction of the
 3481 juvenile court, a petition is not required and the issuance of a citation as provided in Section
 3482 [78A-6-603](#) is sufficient to invoke the jurisdiction of the court. A preliminary inquiry in
 3483 accordance with Subsection (2)(b)(i) is required.]~~

3484 [~~(b) Any failure to comply with the time deadline on a formal referral may not be the
 3485 basis of dismissing the formal referral.]~~

3486 Section 52. Section [78A-6-603](#) is amended to read:

3487 **[78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to](#)**
 3488 **appear.**

3489 (1) As used in this section, "citation" means an abbreviated referral [and is sufficient to
 3490 invoke the jurisdiction of the court in lieu of a petition].

3491 (2) A petition is not required to commence a proceeding against a minor for an
 3492 adjudication of an alleged offense if a citation is issued for an offense for which the court has
 3493 jurisdiction over and the offense listed in the citation is for:

3494 (a) a violation of a wildlife law;

3495 (b) a violation of a boating law;

3496 (c) a class B or C misdemeanor or an infraction other than a misdemeanor or
 3497 infraction:

3498 (i) for a traffic violation; or

3499 (ii) designated as a citable offense by general order of the Board of Juvenile Court

3500 Judges;

3501 (d) a class B misdemeanor or infraction for a traffic violation where the individual is
3502 15 years old or younger at the time the offense was alleged to have occurred;

3503 (e) an infraction or misdemeanor designated as a citable offense by a general order of
3504 the Board of Juvenile Court Judges; or

3505 (f) a violation of Subsection [76-10-105\(2\)](#).

3506 [~~2~~] (3) A citation shall be submitted to the court within five days of issuance.

3507 [~~3~~] (4) A copy of the citation shall contain:

3508 (a) the name and address of the juvenile court before which the minor may be required
3509 to appear;

3510 (b) the name of the minor cited;

3511 (c) the statute or local ordinance that is alleged to have been violated;

3512 (d) a brief description of the offense charged;

3513 (e) the date, time, and location at which the offense is alleged to have occurred;

3514 (f) the date the citation was issued;

3515 (g) the name and badge or identification number of the peace officer or public official
3516 who issued the citation;

3517 (h) the name of the arresting person if an arrest was made by a private party and the
3518 citation was issued in lieu of taking the arrested minor into custody as provided in Section
3519 [78A-6-112](#);

3520 (i) the date and time when the minor is to appear, or a statement that the minor and
3521 parent or legal guardian are to appear when notified by the juvenile court; and

3522 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to
3523 appear at the juvenile court as designated on the citation.

3524 [~~4~~] (5) A copy of the citation shall contain space for the following information to be
3525 entered if known:

3526 (a) the minor's address;

3527 (b) the minor's date of birth;

3528 (c) the name and address of the child's custodial parent or legal guardian, if different
3529 from the child; and

3530 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that

3531 this information shall be removed from the documents the minor receives.

3532 ~~[(5)]~~ (6) A citation received by the court beyond the time designated in Subsection

3533 ~~[(2)]~~(3) shall include a written explanation for the delay.

3534 ~~[(6) In accordance with Section 53G-8-211, the following offenses may be sent to the~~

3535 ~~juvenile court as a citation:]~~

3536 ~~[(a) violations of wildlife laws;]~~

3537 ~~[(b) violations of boating laws;]~~

3538 ~~[(c) violations of curfew laws;]~~

3539 ~~[(d) any class B misdemeanor or less traffic violations where the person is under the~~
3540 ~~age of 16;]~~

3541 ~~[(e) any class B or class C misdemeanor or infraction;]~~

3542 ~~[(f) any other infraction or misdemeanor as designated by general order of the Board of~~

3543 ~~Juvenile Court Judges, and]~~

3544 ~~[(g) violations of Section 76-10-105 subject to the jurisdiction of the juvenile court.]~~

3545 (7) A minor offense, as defined ~~[under]~~ in Section 78A-6-1202, alleged to have been
3546 committed by an enrolled child on school property or related to school attendance, may only be
3547 sent to the ~~[prosecutor]~~ prosecuting attorney or the ~~[juvenile]~~ court in accordance with Section
3548 53G-8-211.

3549 (8) An inquiry shall be conducted:

3550 (a) by the prosecutor to determine upon reasonable belief that:

3551 (i) the charges are supported by probable cause;

3552 (ii) admissible evidence will be sufficient to support adjudication beyond a reasonable
3553 doubt; and

3554 (iii) the decision to charge is in the interests of justice; and

3555 (b) if appropriate, by the court under Section 78A-6-117.

3556 ~~[(9) Subsection (5) may not apply to a runaway child.]~~

3557 ~~[(10)]~~ (9) (a) A minor receiving a citation described in this section shall appear at the
3558 juvenile court designated in the citation on the time and date specified in the citation or when
3559 notified by the juvenile court.

3560 (b) A citation may not require a minor to appear sooner than five days following ~~[its]~~
3561 the citation's issuance.

3562 [~~(H)~~] (10) A minor who receives a citation and willfully fails to appear before the
3563 juvenile court pursuant to a citation may be found in contempt of court. The court may proceed
3564 against the minor as provided in Section 78A-6-1101.

3565 [~~(I2)~~] (11) When a citation is issued under this section, bail may be posted and
3566 forfeited under Section 78A-6-113 with the consent of:

3567 (a) the court; and

3568 (b) if the minor is a child, the parent or legal guardian of the child cited.

3569 Section 53. Section 78A-6-703.1 is enacted to read:

3570 **78A-6-703.1. Definitions.**

3571 As used in this part:

3572 (1) "Lesser offense or offense" means any offense that is not a qualifying offense.

3573 (2) "Qualifying offense" means an offense described in Subsection 78A-6-703.3(1) or

3574 (2)(b).

3575 Section 54. Section 78A-6-703.3 is enacted to read:

3576 **78A-6-703.3. Criminal information for a minor.**

3577 Notwithstanding Section 78A-6-602, if a prosecuting attorney charges a minor with a
3578 felony, the prosecuting attorney may file a criminal information in the court if the minor was a
3579 principal actor in an offense and the information alleges:

3580 (1) (a) the minor was 16 or 17 years old at the time of the offense; and

3581 (b) the offense for which the minor is being charged is a felony violation of:

3582 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

3583 (ii) Section 76-5-302, aggravated kidnapping;

3584 (iii) Section 76-5-405, aggravated sexual assault;

3585 (iv) Section 76-6-103, aggravated arson;

3586 (v) Section 76-6-203, aggravated burglary;

3587 (vi) Section 76-6-302, aggravated robbery;

3588 (vii) Section 76-10-508.1, felony discharge of a firearm; or

3589 (viii) an offense other than those listed in Subsections (1)(b)(i) through (vii) involving
3590 the use of a dangerous weapon:

3591 (A) if the offense would be a felony had an adult committed the offense; and

3592 (B) the minor has been previously adjudicated or convicted of an offense involving the

- 3593 use of a dangerous weapon that would have been a felony if committed by an adult; or
- 3594 (2) (a) the minor was 14 years old or older at the time of the offense; and
- 3595 (b) the offense for which the minor is being charged is a felony violation of:
- 3596 (i) Section 76-5-202, aggravated murder or attempted aggravated murder; or
- 3597 (ii) Section 76-5-203, murder or attempted murder.
- 3598 Section 55. Section 78A-6-703.5 is enacted to read:
- 3599 **78A-6-703.5. Extension of juvenile court jurisdiction -- Procedure.**
- 3600 (1) At the time that a prosecuting attorney charges a minor who is 14 years old or older
- 3601 with a felony, either party may file a motion to extend the court's continuing jurisdiction over
- 3602 the minor's case until the minor is 25 years old if:
- 3603 (a) the minor was the principal actor in the offense; and
- 3604 (b) the petition or criminal information alleges a felony violation of:
- 3605 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 3606 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 3607 (iii) Section 76-5-203, murder or attempted murder;
- 3608 (iv) Section 76-5-302, aggravated kidnapping;
- 3609 (v) Section 76-5-405, aggravated sexual assault;
- 3610 (vi) Section 76-6-103, aggravated arson;
- 3611 (vii) Section 76-6-203, aggravated burglary;
- 3612 (viii) Section 76-6-302, aggravated robbery;
- 3613 (ix) Section 76-10-508.1, felony discharge of a firearm; or
- 3614 (x) (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix)
- 3615 involving the use of a dangerous weapon that would be a felony if committed by an adult; and
- 3616 (B) the minor has been previously adjudicated or convicted of an offense involving the
- 3617 use of a dangerous weapon that would have been a felony if committed by an adult.
- 3618 (2) (a) Notwithstanding Subsection (1), either party may file a motion to extend the
- 3619 court's continuing jurisdiction after a determination by the court that the minor will not be
- 3620 bound over to the district court under Section 78A-6-703.7.
- 3621 (3) The court shall make a determination on a motion under Subsection (1) or (2) at the
- 3622 time of disposition.
- 3623 (4) The court shall extend the continuing jurisdiction over the minor's case until the

3624 minor is 25 years old if the court finds, by a preponderance of the evidence, that extending
3625 continuing jurisdiction is in the best interest of the minor and the public.

3626 (5) In considering whether it is in the best interest of the minor and the public for the
3627 court to extend jurisdiction over the minor's case until the minor is 25 years old, the court shall
3628 consider and base the court's decision on:

3629 (a) whether the protection of the community requires an extension of jurisdiction
3630 beyond the age of 21;

3631 (b) the extent to which the minor's actions in the offense were committed in an
3632 aggressive, violent, premeditated, or willful manner;

3633 (c) the minor's mental, physical, educational, trauma, and social history; and

3634 (d) the criminal record and previous history of the minor.

3635 (6) The amount of weight that each factor in Subsection (5) is given is in the court's
3636 discretion.

3637 (7) (a) The court may consider written reports and other materials relating to the
3638 minor's mental, physical, educational, trauma, and social history.

3639 (b) Upon request by the minor, the minor's parent, guardian, or other interested party,
3640 the court shall require the person preparing the report or other material to appear and be subject
3641 to both direct and cross-examination.

3642 (8) A minor may testify under oath, call witnesses, cross-examine witnesses, and
3643 present evidence on the factors described in Subsection (5).

3644 Section 56. Section **78A-6-703.7** is enacted to read:

3645 **78A-6-703.7. Preliminary hearing.**

3646 (1) If a prosecuting attorney files a criminal information in accordance with Section
3647 78A-6-703.3, the court shall conduct a preliminary hearing to determine whether a minor
3648 should be bound over to the district court for a qualifying offense.

3649 (2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have
3650 the burden of establishing:

3651 (a) probable cause to believe that a qualifying offense was committed and the minor
3652 committed that offense; and

3653 (b) by a preponderance of the evidence, that it is contrary to the best interests of the
3654 minor and the public for the juvenile court to retain jurisdiction over the offense.

3655 (3) In making a determination under Subsection (2)(b), the court shall consider and
3656 make findings on:

3657 (a) the seriousness of the qualifying offense and whether the protection of the
3658 community requires that the minor is detained beyond the amount of time allowed under
3659 Subsection 78A-6-117(2)(h), or beyond the age of continuing jurisdiction that the court may
3660 exercise under Section 78A-6-703.5;

3661 (b) the extent to which the minor's actions in the qualifying offense were committed in
3662 an aggressive, violent, premeditated, or willful manner;

3663 (c) the minor's mental, physical, educational, trauma, and social history;

3664 (d) the criminal record or history of the minor; and

3665 (e) the likelihood of the minor's rehabilitation by the use of services and facilities that
3666 are available to the court.

3667 (4) The amount of weight that each factor in Subsection (3) is given is in the court's
3668 discretion.

3669 (5) (a) The court may consider any written report or other material that relates to the
3670 minor's mental, physical, educational, trauma, and social history.

3671 (b) Upon request by the minor, the minor's parent, guardian, or other interested party,
3672 the court shall require the person preparing the report, or other material, under Subsection
3673 (5)(a) to appear and be subject to direct and cross-examination.

3674 (6) At the preliminary hearing under Subsection (1), a minor may testify under oath,
3675 call witnesses, cross-examine witnesses, and present evidence on the factors described in
3676 Subsection (3).

3677 (7) (a) A proceeding before the court related to a charge filed under this part shall be
3678 conducted in conformity with the Utah Rules of Juvenile Procedure.

3679 (b) Title 78B, Chapter 22, Indigent Defense Act, and Section 78A-6-115 are applicable
3680 to the preliminary hearing under this section.

3681 (8) If the court finds that the prosecuting attorney has met the burden of proof under
3682 Subsection (2), the court shall bind the minor over to the district court to be held for trial.

3683 (9) (a) If the court finds that a qualifying offense has been committed by a minor, but
3684 the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the court
3685 shall:

3686 (i) proceed upon the criminal information as if the information were a petition under
3687 Section 78A-6-602;

3688 (ii) release or detain the minor in accordance with Section 78A-6-113; and

3689 (iii) proceed with an adjudication for the minor in accordance with this chapter.

3690 (b) If the court finds that the prosecuting attorney has not met the burden under
3691 Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a
3692 motion to extend the court's continuing jurisdiction over the minor's case until the minor is 25
3693 years old in accordance with Section 78A-6-703.5.

3694 (10) (a) A prosecuting attorney may charge a minor with a lesser offense in the same
3695 criminal information as the qualifying offense if the qualifying offense and lesser offense arise
3696 from a single criminal episode.

3697 (b) If the prosecuting attorney charges a minor with a lesser offense as described in
3698 Subsection (10)(a):

3699 (i) the prosecuting attorney shall have the burden of establishing probable cause to
3700 believe that the lesser offense was committed and the minor committed that offense; and

3701 (ii) if the prosecuting attorney establishes probable cause for the lesser offense under
3702 Subsection (10)(b)(i) and the court binds the minor over to the district court for the qualifying
3703 offense, the court shall also bind the minor over for the lesser offense to the district court.

3704 (11) If a grand jury indicts a minor for a qualifying offense:

3705 (a) the prosecuting attorney does not need to establish probable cause under Subsection
3706 (2)(a) for the qualifying offense and any lesser offense included in the indictment; and

3707 (b) the court shall proceed with determining whether the minor should be bound over
3708 to the district court for the qualifying offense and any lesser offense included in the indictment
3709 in accordance with Subsections (2)(b) and (3).

3710 (12) If a minor is bound over to the district court, the court shall:

3711 (a) issue a criminal warrant of arrest;

3712 (b) advise the minor of the right to bail; and

3713 (c) set initial bail in accordance with Title 77, Chapter 20, Bail.

3714 (13) (a) At the time that a minor is bound over to the district court, the court shall make
3715 an initial determination on where the minor is held until the time of trial.

3716 (b) In determining where a minor is held until the time of trial, the court shall consider:

- 3717 (i) the age of the minor;
3718 (ii) the minor's history of prior criminal acts;
3719 (iii) whether detention in a juvenile detention facility will adequately serve the need for
3720 community protection pending the outcome of any criminal proceedings;
3721 (iv) the relative ability of the facility to meet the needs of the minor and protect the
3722 public;
3723 (v) the physical maturity of the minor;
3724 (vi) the current mental state of the minor as evidenced by relevant mental health or
3725 psychological assessments or screenings that are made available to the court; and
3726 (vii) any other factors that the court considers relevant.
3727 (14) If the court orders a minor to be detained in a juvenile detention facility under
3728 Subsection (13), the minor shall remain in the facility:
3729 (a) until released by a district court; or
3730 (b) if convicted, until sentencing.
3731 (15) If the court orders the minor to be detained in a juvenile detention facility under
3732 Subsection (13) and the minor attains the age of 18 while detained at the facility, the minor
3733 shall be transferred within 30 days to an adult jail to remain:
3734 (a) until released by the district court; or
3735 (b) if convicted, until sentencing.
3736 (16) Except as provided in Subsection (17) and Section [78A-6-705](#), if a minor is bound
3737 over to the district court under this section, the jurisdiction of the Division of Juvenile Justice
3738 Services and the juvenile court over the minor is terminated for the qualifying offense and any
3739 other lesser offense for which the minor is bound over.
3740 (17) If a minor is bound over to the district court for a qualifying offense and the
3741 qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:
3742 (a) the juvenile court regains jurisdiction over any offense committed by the minor; and
3743 (b) the Division of Juvenile Justice Services regains jurisdiction over the minor.
3744 Section 57. Section **78A-6-703.9** is enacted to read:
3745 **78A-6-703.9. Criminal proceedings for a minor bound over to district court.**
3746 (1) If the juvenile court binds a minor over to the district court in accordance with
3747 Section [78A-6-703.7](#), the prosecuting attorney shall try the minor as if the minor is an adult in

3748 the district court except:

3749 (a) the minor is not subject to a sentence of death in accordance with Subsection
3750 76-3-206(2)(b); and

3751 (b) the minor is not subject to a sentence of life without parole in accordance with
3752 Subsections 76-3-206(2)(b) and 76-3-207.5(3) and Section 76-3-209.

3753 (2) A minor who is bound over to the district court to answer as an adult is not entitled
3754 to a preliminary hearing in the district court.

3755 (3) (a) If a minor is bound over to the district court by the juvenile court, the district
3756 court may reconsider the juvenile court's decision under Subsection 78A-6-703.7(13) as to
3757 where the minor is being held until trial.

3758 (b) If the district court reconsiders the juvenile court's decision as to where the minor is
3759 held, the district court shall consider and make findings on:

3760 (i) the age of the minor;

3761 (ii) the minor's history of prior criminal acts;

3762 (iii) whether detention in a juvenile detention facility will adequately serve the need for
3763 community protection pending the outcome of any criminal proceedings;

3764 (iv) the relative ability of the facility to meet the needs of the minor and protect the
3765 public;

3766 (v) the physical maturity of the minor;

3767 (vi) the current mental state of the minor as evidenced by relevant mental health or
3768 psychological assessments or screenings that are made available to the court; and

3769 (vii) any other factors the court considers relevant.

3770 (4) A minor who is ordered to a juvenile detention facility under Subsection (3) shall
3771 remain in the facility:

3772 (a) until released by a district court; or

3773 (b) if convicted, until sentencing.

3774 (5) If the district court orders the minor to be detained in a juvenile detention facility
3775 under Subsection (3) and the minor attains the age of 18 while detained at the facility, the
3776 minor shall be transferred within 30 days to an adult jail to remain:

3777 (a) until released by the district court; or

3778 (b) if convicted, until sentencing.

3779 (6) If a minor is bound over to the district court and detained in a juvenile detention
 3780 facility, the district court may order the minor be detained in another place of confinement that
 3781 is considered appropriate by the district court, including a jail or other place of pretrial
 3782 confinement for adults if the minor's conduct or condition endangers the safety and welfare of
 3783 others in the facility.

3784 (7) If the district court obtains jurisdiction over a minor under Section [78A-6-703.7](#),
 3785 the district court is not divested of jurisdiction for a qualifying offense or lesser offense listed
 3786 in the criminal information when the minor is allowed to enter a plea to, or is found guilty of,
 3787 another offense in the same criminal information.

3788 Section 58. Section **78A-6-704** is amended to read:

3789 **78A-6-704. Appeals from bind over proceedings.**

3790 (1) A minor may, as a matter of right, appeal from~~[-(a)]~~ an order of the juvenile court
 3791 binding the minor over to the district court ~~[as a serious youth offender pursuant to Section~~
 3792 ~~[78A-6-702](#); or (b) an order of the juvenile court, after certification proceedings pursuant to~~
 3793 ~~Section [78A-6-703](#), directing that the minor be held for criminal proceedings in the district~~
 3794 ~~court.]~~ under Section [78A-6-703.7](#).

3795 (2) The ~~[prosecution]~~ prosecuting attorney may, as a matter of right, appeal ~~[from: (a)]~~
 3796 an order of the juvenile court that a minor charged ~~[as a serious youth offender pursuant to~~
 3797 ~~Section [78A-6-702](#) be held for trial]~~ in accordance with Section [78A-6-703.7](#) will be
 3798 adjudicated in the juvenile court~~[-or]~~.

3799 ~~[(b) a refusal by the juvenile court, after certification proceedings pursuant to Section~~
 3800 ~~[78A-6-703](#), to order that a minor be held for criminal proceedings in the district court.]~~

3801 Section 59. Section **78A-6-705** is amended to read:

3802 **78A-6-705. Youth prison commitment.**

3803 (1) (a) Before sentencing a minor, who ~~[is under the jurisdiction of the district court~~
 3804 ~~under Section [78A-6-701](#), [78A-6-702](#), or [78A-6-703](#)]~~ was bound over to the district court
 3805 under Section [78A-6-703.7](#) to be tried as an adult, to prison the district court shall request a
 3806 report from the Division of Juvenile Justice Services regarding the potential risk to other
 3807 ~~[juveniles]~~ minors if the minor were to be committed to the custody of the ~~[division]~~ Division
 3808 of Juvenile Justice Services.

3809 (b) The ~~[division]~~ Division of Juvenile Justice Services shall submit the requested

3810 report to the district court as part of the pre-sentence report or as a separate report.

3811 (2) If, after receiving the report described in Subsection (1), the district court
3812 determines that probation is not appropriate and commitment to prison is an appropriate
3813 sentence, the district court shall order the minor committed to prison and the minor shall be
3814 provisionally housed in a secure facility operated by the Division of Juvenile Justice Services
3815 until the minor reaches 18 years [~~of age~~] old, unless released earlier from incarceration by the
3816 Board of Pardons and Parole.

3817 (3) The district court may order the minor committed directly to the custody of the
3818 Department of Corrections if the court finds that:

3819 (a) the minor would present an unreasonable risk to others while in the [~~division's~~]
3820 custody of the Division of Juvenile Justice Services;

3821 (b) the minor has previously been committed to a prison for adult offenders; or

3822 (c) housing the minor in a secure facility operated by the Division of Juvenile Justice
3823 Services would be contrary to the interests of justice.

3824 (4) (a) The Division of Juvenile Justice Services shall adopt procedures by rule,
3825 [~~pursuant to~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3826 regarding the transfer of a minor provisionally housed in a division facility under Subsection
3827 (2) to the custody of the Department of Corrections.

3828 (b) If, in accordance with [~~those rules~~] the rules adopted under Subsection (4)(a), the
3829 [~~division~~] Division of Juvenile Justice Services determines that housing the minor in a division
3830 facility presents an unreasonable risk to others or that it is not in the best interest of the minor,
3831 [~~it~~] the Division of Juvenile Justice Services shall transfer the physical custody of the minor to
3832 the Department of Corrections.

3833 (5) (a) When a minor is committed to prison but ordered by a district court to be
3834 housed in a Division of Juvenile Justice Services facility under this section, the district court
3835 and the [~~division~~] Division of Juvenile Justice Services shall immediately notify the Board of
3836 Pardons and Parole so that the minor may be scheduled for a hearing according to board
3837 procedures.

3838 (b) If a minor who is provisionally housed in a [~~division~~] Division of Juvenile Justice
3839 Services facility under this section has not been paroled or otherwise released from
3840 incarceration by the time the minor reaches 18 years [~~of age, the division~~] old, the Division of

3841 Juvenile Justice Services shall as soon as reasonably possible, but not later than when the
 3842 minor reaches 18 years and 6 months [~~of age~~] old, transfer the minor to the physical custody of
 3843 the Department of Corrections.

3844 (6) Upon the commitment of a minor to the custody of the Division of Juvenile Justice
 3845 Services or the Department of Corrections under this section, the Board of Pardons and Parole
 3846 has authority over the minor for purposes of parole, pardon, commutation, termination of
 3847 sentence, remission of fines or forfeitures, orders of restitution, and all other purposes
 3848 authorized by law.

3849 (7) The Youth Parole Authority may hold hearings, receive reports, or otherwise keep
 3850 informed of the progress of a minor in the custody of the Division of Juvenile Justice Services
 3851 under this section and may forward to the Board of Pardons and Parole any information or
 3852 recommendations concerning the minor.

3853 (8) Commitment of a minor under this section is a prison commitment for all
 3854 sentencing purposes.

3855 Section 60. Section **78A-6-1107** is amended to read:

3856 **78A-6-1107. Transfer of continuing jurisdiction to other district.**

3857 (1) [~~Jurisdiction over~~] If a minor is on probation or under protective supervision, or [~~of~~
 3858 ~~a minor who is otherwise~~] under the continuing jurisdiction of the court, [~~may be transferred by~~
 3859 ~~the court~~] the court may transfer the minor's case to [the] a court of another district, if the
 3860 receiving court consents, or upon direction of the chair of the Board of Juvenile Court Judges.

3861 (2) The receiving court has the same powers with respect to the minor that it would
 3862 have if the proceedings originated in that court.

3863 Section 61. Section **78A-6-1108** is amended to read:

3864 **78A-6-1108. New hearings authorized -- Grounds and procedure.**

3865 (1) A parent, guardian, [~~or~~] custodian, or attorney of [~~any~~] a child adjudicated under
 3866 this chapter, [~~or any~~] a minor who is at least 18 years old, or an adult affected by a decree in a
 3867 proceeding under this chapter[;] may at any time petition the court for a new hearing on the
 3868 ground that new evidence [~~which~~] has been discovered that:

3869 (a) was not known [~~and~~];

3870 (b) could not with due diligence have been made available at the original hearing; and
 3871 [~~which~~]

3872 (c) might affect the decree~~[-has been discovered]~~.

3873 (2) If it appears to the court that there is new evidence ~~[which]~~ that might affect ~~[its]~~
3874 the court's decree, ~~[it]~~ the court shall order a new hearing, enter a decree, and make any
3875 disposition of the case warranted by all the facts and circumstances and the best interests of the
3876 minor.

3877 (3) This section does not apply to a minor's case handled under ~~[the provisions of~~
3878 ~~Section 78A-6-702]~~ Part 7, Transfer of Jurisdiction.

3879 Section 62. Section 78A-7-106 is amended to read:

3880 **78A-7-106. Jurisdiction.**

3881 (1) ~~[Justice courts have]~~ Except as otherwise provided by Subsection 78A-5-102(8), a
3882 justice court has original jurisdiction over class B and C misdemeanors, violation of
3883 ordinances, and infractions committed within ~~[their]~~ the justice court's territorial jurisdiction by
3884 ~~[a person]~~ an individual who is 18 years ~~[of age]~~ old or older.

3885 (2) ~~[Except those offenses over which the juvenile court has exclusive jurisdiction,~~
3886 ~~justice courts have]~~ Except for an offense for which the juvenile court has exclusive
3887 jurisdiction under Subsection 78A-6-103(3), a justice court has original jurisdiction over the
3888 following offenses committed within ~~[their]~~ the justice court's territorial jurisdiction by ~~[a~~
3889 ~~person]~~ an individual who is 16 or 17 years ~~[of age]~~ old:

3890 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
3891 Licensing Act; and

3892 (b) class B and C misdemeanor and infraction violations of:

3893 (i) Title 23, Wildlife Resources Code of Utah;

3894 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

3895 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
3896 Under the Influence and Reckless Driving;

3897 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
3898 Operators Act;

3899 (v) Title 41, Chapter 22, Off-Highway Vehicles;

3900 (vi) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

3901 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

3902 (viii) Title 73, Chapter 18b, Water Safety; and

3903 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
3904 Operators Act.

3905 [~~(3)~~ As used in this section, "the court's jurisdiction" means the territorial jurisdiction
3906 of a justice court.]

3907 [~~(4)~~] (3) An offense is committed within the territorial jurisdiction of a justice court if:

3908 (a) conduct constituting an element of the offense or a result constituting an element of
3909 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
3910 itself unlawful;

3911 (b) either [~~a person~~] an individual committing an offense or a victim of an offense is
3912 located within the court's jurisdiction at the time the offense is committed;

3913 (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs
3914 within the court's jurisdiction;

3915 (d) [~~a person~~] an individual commits any act constituting an element of an inchoate
3916 offense within the court's jurisdiction, including an agreement in a conspiracy;

3917 (e) [~~a person~~] an individual solicits, aids, or abets, or attempts to solicit, aid, or abet
3918 another [~~person~~] individual in the planning or commission of an offense within the court's
3919 jurisdiction;

3920 (f) the investigation of the offense does not readily indicate in which court's
3921 jurisdiction the offense occurred, and:

3922 (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
3923 passing within the court's jurisdiction;

3924 (ii) (A) the offense is committed on or in any body of water bordering on or within this
3925 state if the territorial limits of the justice court are adjacent to the body of water; and

3926 (B) as used in Subsection [~~(4)~~] (3)(f)(ii)(A), "body of water" includes any stream, river,
3927 lake, or reservoir, whether natural or man-made;

3928 (iii) [~~a person~~] an individual who commits theft exercises control over the affected
3929 property within the court's jurisdiction; or

3930 (iv) the offense is committed on or near the boundary of the court's jurisdiction;

3931 (g) the offense consists of an unlawful communication that was initiated or received
3932 within the court's jurisdiction; or

3933 (h) jurisdiction is otherwise specifically provided by law.

3934 ~~[(5) A]~~ (4) If in a criminal case the defendant is 16 or 17 years old, a justice court
 3935 judge may transfer [a criminal matter in which the defendant is a child] the case to the juvenile
 3936 court for further proceedings if the justice court judge determines and the juvenile court
 3937 concurrs that the best interests of the [minor] defendant would be served by the continuing
 3938 jurisdiction of the juvenile court~~[, subject to Section 78A-6-602].~~

3939 ~~[(6)]~~ (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter
 3940 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial
 3941 jurisdiction of the justice court.

3942 Section 63. Section **78B-6-105** is amended to read:

3943 **78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction**
 3944 **over nonresidents -- Time for filing.**

3945 (1) Adoption proceedings shall be commenced by filing a petition with the clerk of the
 3946 district court either:

- 3947 (a) in the district where the prospective adoptive parent resides;
- 3948 (b) if the prospective adoptive parent is not a resident of this state, in the district where:
 - 3949 (i) the adoptee was born;
 - 3950 (ii) the adoptee resides on the day on which the petition is filed; or
 - 3951 (iii) a parent of the proposed adoptee resides on the day on which the petition is filed;

3952 or

- 3953 (c) with the juvenile court as provided in Subsection ~~78A-6-103~~~~[(1)]~~(2).

3954 (2) All orders, decrees, agreements, and notices in the proceedings shall be filed with
 3955 the clerk of the court where the adoption proceedings were commenced under Subsection (1).

3956 (3) A petition for adoption:

- 3957 (a) may be filed before the birth of a child;
- 3958 (b) may be filed before or after the adoptee is placed in the home of the petitioner for
 3959 the purpose of adoption; and

3960 (c) shall be filed no later than 30 days after the day on which the adoptee is placed in
 3961 the home of the petitioners for the purpose of adoption, unless:

- 3962 (i) the time for filing has been extended by the court; or
- 3963 (ii) the adoption is arranged by a child-placing agency in which case the agency may
 3964 extend the filing time.

3965 (4) (a) If a person whose consent for the adoption is required under Section 78B-6-120
3966 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state
3967 shall confer jurisdiction on the court in proceedings under this chapter as to such absent person,
3968 provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

3969 (b) The notice may not include the name of:

3970 (i) a prospective adoptive parent; or

3971 (ii) an unmarried mother without her consent.

3972 (5) Service of notice as provided in Subsection (6) shall vest the court with jurisdiction
3973 over the person served in the same manner and to the same extent as if the person served was
3974 served personally within the state.

3975 (6) In the case of service outside the state, service completed not less than five days
3976 before the time set in the notice for appearance of the person served shall be sufficient to confer
3977 jurisdiction.

3978 (7) Computation of periods of time not otherwise set forth in this section shall be made
3979 in accordance with the Utah Rules of Civil Procedure.

3980 **Section 64. Repealer.**

3981 This bill repeals:

3982 Section 78A-6-701, **Jurisdiction of district court.**

3983 Section 78A-6-702, **Serious youth offender -- Procedure.**

3984 Section 78A-6-703, **Certification hearings -- Juvenile court to hold preliminary
3985 hearing -- Factors considered by juvenile court for waiver of jurisdiction to district court.**

3986 **Section 65. Effective date.**

3987 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

3988 (2) The actions affecting Section 76-10-105 (Effective 07/01/20) take effect on July 1,

3989 2020.