

Representative V. Lowry Snow proposes the following substitute bill:

1 **JUVENILE JUSTICE AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: V. Lowry Snow**

5 Senate Sponsor: Todd Weiler

6

LONG TITLE

7 **General Description:**

8 This bill addresses provisions related to juvenile justice.

9 **Highlighted Provisions:**

10 This bill:

- 11 ▶ adds and modifies definitions;

12 ▶ amends provisions regarding offenses committed by minors on school property,
13 including requiring a referral to the Division of Juvenile Justice Services if a minor
14 refuses to participate in an evidence-based intervention;

- 15 ▶ amends a sunset date related to offenses committed by minors on school property;

- 16 ▶ clarifies a reporting requirement for the Division of Juvenile Justice Services;

- 17 ▶ defines the term "defendant" in Title 77, Chapter 38a, Crime Victims Restitution

18 Act, to exclude a minor who is adjudicated, or enters into a nonjudicial adjustment,

19 for any offense under Title 78A, Chapter 6, Juvenile Court Act;

20 ▶ amends and clarifies the jurisdiction of the juvenile court, district court, and justice
21 court regarding offenses committed by minors;

- 22 ▶ requires a peace officer to have probable cause in order to take a minor into custody;

23 ▶ requires a probable cause determination and detention hearing within 24 hours of a
24 minor being held for detention;



- 26 ▶ allows a court to order secure confinement for a minor if a minor's conduct resulted
27 in death;
- 28 ▶ requires a prosecutor or the court's probation department to notify a victim of the
29 restitution process;
- 30 ▶ requires a victim to provide the prosecutor with certain information for restitution;
- 31 ▶ amends the amount of time that restitution may be requested;
- 32 ▶ exempts certain offenses committed by a minor from the presumptive timeframes
33 for custody and supervision;
- 34 ▶ modifies the continuing jurisdiction of the juvenile court;
- 35 ▶ amends the exclusive jurisdiction of the district court over minors who committed
36 certain offenses;
- 37 ▶ amends requirements for minors who are charged in the district court for certain
38 offenses;
- 39 ▶ repeals the certification and transfer of minors who committed certain offenses to
40 the district court;
- 41 ▶ allows that a criminal information may be filed for minors who are 14 years old or
42 older and are alleged to have committed certain offenses;
- 43 ▶ requires a preliminary hearing before a juvenile court to determine whether a minor,
44 for which a criminal information or indictment has been filed, will be bound over to
45 the district court to be held for trial;
- 46 ▶ provides the requirements for binding a minor over to the district court;
- 47 ▶ provides the detention requirements for a minor who has been bound over to the
48 district court;
- 49 ▶ allows a juvenile court to extend continuing jurisdiction over a minor to the age of
50 25 years old if a minor is not bound over to the district court; and
- 51 ▶ makes technical and conforming changes.

52 **Money Appropriated in this Bill:**

53 None

54 **Other Special Clauses:**

55 This bill provides a special effective date.

56 This bill provides coordination clauses.

57 **Utah Code Sections Affected:**

58 AMENDS:

59 **17-18a-404**, as last amended by Laws of Utah 2017, Chapter 330
60 **53-10-403**, as last amended by Laws of Utah 2017, Chapter 289
61 **53G-8-211**, as last amended by Laws of Utah 2019, Chapter 293
62 **62A-4a-201**, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388
63 **62A-7-101**, as last amended by Laws of Utah 2019, Chapters 162 and 246
64 **62A-7-104**, as last amended by Laws of Utah 2019, Chapter 246
65 **62A-7-105.5**, as renumbered and amended by Laws of Utah 2005, Chapter 13
66 **62A-7-107.5**, as last amended by Laws of Utah 2017, Chapter 330
67 **62A-7-108.5**, as renumbered and amended by Laws of Utah 2005, Chapter 13
68 **62A-7-109.5**, as last amended by Laws of Utah 2017, Chapter 330
69 **62A-7-111.5**, as last amended by Laws of Utah 2007, Chapter 308
70 **62A-7-113**, as enacted by Laws of Utah 2019, Chapter 162
71 **62A-7-201**, as last amended by Laws of Utah 2019, Chapter 246
72 **62A-7-401.5**, as last amended by Laws of Utah 2019, Chapter 246
73 **62A-7-402**, as renumbered and amended by Laws of Utah 2005, Chapter 13
74 **62A-7-403**, as renumbered and amended by Laws of Utah 2005, Chapter 13
75 **62A-7-501**, as last amended by Laws of Utah 2019, Chapter 246
76 **62A-7-502**, as last amended by Laws of Utah 2019, Chapter 246
77 **62A-7-504**, as last amended by Laws of Utah 2017, Chapter 330
78 **62A-7-505**, as renumbered and amended by Laws of Utah 2005, Chapter 13
79 **62A-7-506**, as last amended by Laws of Utah 2019, Chapter 246
80 **62A-7-507**, as renumbered and amended by Laws of Utah 2005, Chapter 13
81 **62A-7-701**, as last amended by Laws of Utah 2019, Chapter 246
82 **62A-7-702**, as renumbered and amended by Laws of Utah 2005, Chapter 13
83 **63I-1-253**, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246,
84 325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter
85 246
86 **76-3-406**, as last amended by Laws of Utah 2019, Chapter 189
87 **76-5-401.3**, as enacted by Laws of Utah 2017, Chapter 397

88 **76-10-105** (**Superseded 07/01/20**), as last amended by Laws of Utah 2018, Chapter 415
89 **76-10-105** (**Effective 07/01/20**), as last amended by Laws of Utah 2019, Chapter 232
90 **76-10-1302**, as last amended by Laws of Utah 2019, Chapters 26, 189, and 200
91 **77-2-9**, as last amended by Laws of Utah 2017, Chapter 397
92 **77-38a-102**, as last amended by Laws of Utah 2017, Chapter 304
93 **77-38a-302**, as last amended by Laws of Utah 2019, Chapter 171
94 **77-38a-404**, as last amended by Laws of Utah 2017, Chapter 304
95 **78A-5-102**, as last amended by Laws of Utah 2010, Chapter 34
96 **78A-6-103**, as last amended by Laws of Utah 2019, Chapter 300
97 **78A-6-104**, as last amended by Laws of Utah 2019, Chapter 188
98 **78A-6-105**, as last amended by Laws of Utah 2019, Chapters 335 and 388
99 **78A-6-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3
100 **78A-6-112**, as last amended by Laws of Utah 2018, Chapter 415
101 **78A-6-113**, as last amended by Laws of Utah 2018, Chapter 285
102 **78A-6-116**, as last amended by Laws of Utah 2010, Chapter 38
103 **78A-6-117**, as last amended by Laws of Utah 2019, Chapters 162 and 335
104 **78A-6-118**, as last amended by Laws of Utah 2017, Chapter 330
105 **78A-6-120**, as last amended by Laws of Utah 2017, Chapter 330
106 **78A-6-306**, as last amended by Laws of Utah 2019, Chapters 136, 326, and 335
107 **78A-6-312**, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388
108 **78A-6-601**, as last amended by Laws of Utah 2010, Chapter 38
109 **78A-6-602**, as last amended by Laws of Utah 2018, Chapters 117 and 415
110 **78A-6-603**, as last amended by Laws of Utah 2018, Chapters 117 and 415
111 **78A-6-704**, as renumbered and amended by Laws of Utah 2008, Chapter 3
112 **78A-6-705**, as enacted by Laws of Utah 2015, Chapter 338
113 **78A-6-1107**, as renumbered and amended by Laws of Utah 2008, Chapter 3
114 **78A-6-1108**, as last amended by Laws of Utah 2011, Chapter 208
115 **78A-7-106**, as last amended by Laws of Utah 2019, Chapter 136
116 **78B-6-105**, as last amended by Laws of Utah 2013, Chapter 458
117 ENACTS:
118 **62A-7-404.5**, Utah Code Annotated 1953

119 **78A-6-703.1**, Utah Code Annotated 1953
120 **78A-6-703.2**, Utah Code Annotated 1953
121 **78A-6-703.3**, Utah Code Annotated 1953
122 **78A-6-703.4**, Utah Code Annotated 1953
123 **78A-6-703.5**, Utah Code Annotated 1953
124 **78A-6-703.6**, Utah Code Annotated 1953

125 REPEALS AND REENACTS:

126 **62A-7-404**, as last amended by Laws of Utah 2017, Chapter 330

127 REPEALS:

128 **78A-6-701**, as last amended by Laws of Utah 2017, Chapter 330
129 **78A-6-702**, as last amended by Laws of Utah 2015, Chapter 338
130 **78A-6-703**, as last amended by Laws of Utah 2019, Chapter 326

131 **Utah Code Sections Affected by Coordination Clause:**

132 **76-10-105**, as last amended by Laws of Utah 2019, Chapter 232
133 **76-10-1302**, as last amended by Laws of Utah 2019, Chapters 26, 189, and 200
134 **78A-6-105**, as last amended by Laws of Utah 2019, Chapters 335 and 388
135 **78A-6-116**, as last amended by Laws of Utah 2010, Chapter 38
136 **78A-6-601**, as last amended by Laws of Utah 2010, Chapter 38
137 **78A-6-602**, as last amended by Laws of Utah 2018, Chapters 117 and 415
138 **78A-6-602.5**, Utah Code Annotated 1953
139 **78A-6-603**, as last amended by Laws of Utah 2018, Chapters 117 and 415

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

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

143 **17-18a-404. Juvenile proceedings.**

144 For a proceeding involving [a charge of juvenile delinquency, infraction, or a status
145 offense] an offense committed by a minor as defined in Section 78A-6-105, a prosecutor shall:

146 (1) review cases pursuant to Section **78A-6-602**; and

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

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

149 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

150 (1) Sections 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person
151 who:
152 (a) has pled guilty to or has been convicted of any of the offenses under Subsection
153 (2)(a) or (b) on or after July 1, 2002;
154 (b) has pled guilty to or has been convicted by any other state or by the United States
155 government of an offense which if committed in this state would be punishable as one or more
156 of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;
157 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any
158 offense under Subsection (2)(c);
159 (d) has been booked:
160 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
161 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or
162 (ii) on or after January 1, 2015, for any felony offense; or
163 (e) is a minor under Subsection (3).
164 (2) Offenses referred to in Subsection (1) are:
165 (a) any felony or class A misdemeanor under the Utah Code;
166 (b) any offense under Subsection (2)(a):
167 (i) for which the court enters a judgment for conviction to a lower degree of offense
168 under Section 76-3-402; or
169 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
170 defined in Section 77-2a-1; or
171 (c) (i) any violent felony as defined in Section 53-10-403.5;
172 (ii) sale or use of body parts, Section 26-28-116;
173 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
174 (iv) driving with any amount of a controlled substance in a person's body and causing
175 serious bodily injury or death, Subsection 58-37-8(2)(g);
176 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;
177 (vi) a felony violation of propelling a substance or object at a correctional officer, a
178 peace officer, or an employee or a volunteer, including health care providers, Section
179 76-5-102.6;
180 (vii) aggravated human trafficking and aggravated human smuggling, Section

181 76-5-310;

182 (viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

183 (ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

184 (x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

185 (xi) sale of a child, Section 76-7-203;

186 (xii) aggravated escape, Subsection 76-8-309(2);

187 (xiii) a felony violation of assault on an elected official, Section 76-8-315;

188 (xiv) influencing, impeding, or retaliating against a judge or member of the Board of
189 Pardons and Parole, Section 76-8-316;

190 (xv) advocating criminal syndicalism or sabotage, Section 76-8-902;

191 (xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

192 (xvii) a felony violation of sexual battery, Section 76-9-702.1;

193 (xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

194 (xix) a felony violation of abuse or desecration of a dead human body, Section
195 76-9-704;

196 (xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section
197 76-10-402;

198 (xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
199 Section 76-10-403;

200 (xxii) possession of a concealed firearm in the commission of a violent felony,
201 Subsection 76-10-504(4);

202 (xxiii) assault with the intent to commit bus hijacking with a dangerous weapon,
203 Subsection 76-10-1504(3);

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

205 (xxv) a felony violation of failure to register as a sex or kidnap offender, Section
206 77-41-107;

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

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

209 (3) A minor under Subsection (1) is a minor 14 years [of age] old or older [whom a
210 Utah court has] who is adjudicated [to be within the jurisdiction of] by the juvenile court due to
211 the commission of any offense described in Subsection (2), and who [is]:

- 212 (a) committed an offense under Subsection (2) within the jurisdiction of the juvenile
213 court on or after July 1, 2002 [for an offense under Subsection (2)]; or
214 (b) is in the legal custody of the Division of Juvenile Justice Services on or after July 1,
215 2002, for an offense under Subsection (2).

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

217 **53G-8-211. Responses to school-based behavior.**

218 (1) As used in this section:

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

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

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

223 (iii) been approved by the state board.

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

225 [~~(b)~~] (c) "Mobile crisis outreach team" means the same as that term is defined in
226 Section **78A-6-105**.

227 (d) "Prosecuting attorney" means the same as that term is defined in Subsections
228 **78A-6-105(b)** and (c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

262 (i) when school is in session; or

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

264 (b) that is truancy.

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

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

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

273 (b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an

274 offense that is a class C misdemeanor, an infraction, a status offense on school property, or an
275 offense that is truancy, a school district, school, or law enforcement officer or agency may refer
276 the minor to evidence-based alternative interventions, including:

- 277 (i) a mobile crisis outreach team, as defined in Section 78A-6-105;
278 (ii) a [receiving] youth services center operated by the Division of Juvenile Justice
279 Services in accordance with Section 62A-7-104;
280 (iii) a youth court or comparable restorative justice program;
281 (iv) evidence-based interventions created and developed by the school or school
282 district; and
283 (v) other evidence-based interventions that may be jointly created and developed by a
284 local education agency, the state board, the juvenile court, local counties and municipalities,
285 the Department of Health, or the Department of Human Services.

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

- 287 (i) investigate possible criminal offenses and conduct, including conducting probable
288 cause searches;
289 (ii) consult with school administration about the conduct of a minor enrolled in a
290 school;
291 (iii) transport a minor enrolled in a school to a location if the location is permitted by
292 law;
293 (iv) take temporary custody of a minor [~~pursuant to~~] in accordance with Subsection
294 78A-6-112(1); or
295 (v) protect the safety of students and the school community, including the use of
296 reasonable and necessary physical force when appropriate based on the totality of the
297 circumstances.

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

- 302 (i) a prosecuting attorney or a court; or [~~may refer the minor to~~]
303 (ii) evidence-based alternative interventions at the discretion of the law enforcement
304 officer.

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

308 [(4)(a) Notwithstanding Subsection (3)(a) and subject to the requirements of this
309 Subsection (4), a]

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

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

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

320 (b) fails to participate in prevention and early intervention youth services provided by
321 the Division of Juvenile Justice Services under Subsection (4).

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

325 [(ii)] (b) A school representative appointed under [this] Subsection [(4)(b)] (6)(a) may
326 not be a school resource officer.

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

329 (i) attendance records for the minor;

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

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

334 (iv) a report from the Division of Juvenile Justice Services that demonstrates the
335 minor's failure to complete or participate in prevention and early intervention youth services

336 under Subsection (4); and

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

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

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

345 [~~(5)~~] (7) If the alleged offense is a class B misdemeanor or a class A misdemeanor, [~~the~~
346 ~~minor may be referred directly to the juvenile court by~~] the school administrator, the school
347 administrator's designee, or a school resource officer[~~, or the minor may be referred~~] may refer
348 the minor directly to a juvenile court or to the evidence-based alternative interventions in
349 Subsection (3)[(a)](b).

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

351 **62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of
352 state.**

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

361 (b) The fundamental liberty interest of a parent concerning the care, custody, and
362 management of the parent's children is recognized, protected, and does not cease to exist
363 simply because a parent may fail to be a model parent or because the parent's child is placed in
364 the temporary custody of the state. At all times, a parent retains a vital interest in preventing
365 the irretrievable destruction of family life. Prior to an adjudication of unfitness, government
366 action in relation to parents and their children may not exceed the least restrictive means or

367 alternatives available to accomplish a compelling state interest. Until the state proves parental
368 unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result,
369 the child and the child's parents share a vital interest in preventing erroneous termination of
370 their natural relationship and the state cannot presume that a child and the child's parents are
371 adversaries.

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

380 (d) The state recognizes that:

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

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

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

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

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

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

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

- 409 (a) when safe and appropriate, return the child to the child's parent; or
410 (b) as a last resort, pursue another permanency plan.

411 (5) In determining and making "reasonable efforts" with regard to a child, pursuant to
412 the provisions of Section 62A-4a-203, both the division's and the court's paramount concern
413 shall be the child's health, safety, and welfare. The desires of a parent for the parent's child,
414 and the constitutionally protected rights of a parent, as described in this section, shall be given
415 full and serious consideration by the division and the court.

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

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

429 the child.

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

434 (c) Subject to the parental rights recognized and protected under this section, if,
435 because of a parent's conduct or condition, the parent is determined to be unfit or incompetent
436 based on the grounds for termination of parental rights described in Title 78A, Chapter 6, Part
437 5, Termination of Parental Rights Act, the continuing welfare and best interest of the child is of
438 paramount importance, and shall be protected in determining whether that parent's rights
439 should be terminated.

440 (8) The state's right to direct or intervene in the provision of medical or mental health
441 care for a child is subject to Subsections ~~78A-6-105~~⁽³⁹⁾(40)(b)(i) through (iii) and
442 ~~78A-6-117~~(2) and Section ~~78A-6-301.5~~.

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

444 **62A-7-101. Definitions.**

445 As used in this chapter:

446 (1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in
447 Section ~~62A-7-112~~.

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

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

450 [~~(2)~~] (3) "Authority" means the Youth Parole Authority, established in accordance with
451 Section ~~62A-7-501~~.

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

453 (5) "Commission" means the State Commission on Criminal and Juvenile Justice
454 created in Section ~~63M-7-201~~.

455 [~~(3)~~] (6) "Community-based program" means a nonsecure residential or nonresidential
456 program designated to supervise and rehabilitate youth offenders in accordance with
457 Subsection ~~78A-6-117~~(2) that prioritizes the least restrictive nonresidential setting, consistent
458 with public safety, and designated or operated by or under contract with the division.

459 [~~(4)~~] (7) "Control" means the authority to detain, restrict, and supervise a youth in a

460 manner consistent with public safety and the well being of the youth and division employees.

461 (8) "Correctional facility" means:

462 (a) a county jail; or

463 (b) a secure correctional facility as defined in Section 64-13-1.

464 [u(5)] (9) "Court" means the juvenile court.

465 [u(6)] (10) "Delinquent act" is an act [which] that would constitute a felony or a

466 misdemeanor if committed by an adult.

467 [u(7)] (11) "Detention" means secure detention or home detention.

468 [u(8)] (12) "Detention center" means a facility established in accordance with Title 62A,
469 Chapter 7, Part 2, Detention Facilities.

470 [u(9)] (13) "Director" means the director of the Division of Juvenile Justice Services.

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

473 [u(11)] (15) "Division" means the Division of Juvenile Justice Services.

474 [u(12)] (16) "Home detention" means predispositional placement of a child in the child's
475 home or a surrogate home with the consent of the child's parent, guardian, or custodian for
476 conduct by a child who is alleged to have committed a delinquent act or postdispositional
477 placement [pursuant to] in accordance with Subsection 78A-6-117(2)(f) or 78A-6-1101(3).

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

482 (18) "Juvenile offender" means:

483 (a) a serious youth offender; or

484 (b) a youth offender.

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

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

490 (a) provides incentives for the implementation of evidence-based juvenile justice

491 programs or programs rated as effective for reducing recidivism by a standardized tool pursuant
492 to Section 63M-7-208; and

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

495 [~~(16)~~] (21) "Receiving center" means a nonsecure, nonresidential program established
496 by the division, or under contract with the division, that is responsible for juveniles taken into
497 custody by a law enforcement officer for status offenses, infractions, or delinquent acts.

498 [~~(17)~~] (22) "Rescission" means a written order of the Youth Parole Authority that
499 rescinds a parole date.

500 [~~(18)~~] (23) "Revocation of parole" means a written order of the Youth Parole Authority
501 that terminates parole supervision of a [youth] juvenile offender and directs return of the youth
502 offender to the custody of a secure facility after a hearing and a determination that there has
503 been a violation of law or of a condition of parole that warrants a return to a secure facility in
504 accordance with Section 62A-7-504.

505 [~~(19)~~] (24) "Runaway" means a youth who willfully leaves the residence of a parent or
506 guardian without the permission of the parent or guardian.

507 [~~(20)~~] (25) "Secure detention" means predisposition placement in a facility operated by
508 or under contract with the division, for conduct by a child who is alleged to have committed a
509 delinquent act.

510 [~~(21)~~] (26) "Secure facility" means any facility operated by or under contract with the
511 division, that provides 24-hour supervision and confinement for [youth] juvenile offenders
512 committed to the division for custody and rehabilitation.

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

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

515 (b) committed a felony listed in Subsection 78A-6-703.3(1) and the continuing
516 jurisdiction of the court was extended over the individual's case until the individual was 25
517 years old in accordance with Section 78A-6-703.4; and

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

521 [~~(22)~~] (28) "Shelter" means the temporary care of [children] a child in a physically

522 unrestricted [facilities] facility pending court disposition or transfer to another jurisdiction.

523 [§23] (29) (a) "Temporary custody" means control and responsibility of
524 nonadjudicated youth until the youth can be released to the parent, guardian, a responsible
525 adult, or to an appropriate agency.

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

529 [§24] (30) "Termination" means a written order of the Youth Parole Authority that
530 terminates a [youth] juvenile offender from parole.

531 [§25] (31) "Ungovernable" means a youth in conflict with a parent or guardian, and the
532 conflict:

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

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

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

537 [§26] (32) "Work program" means a nonresidential public or private service work
538 project established and administered by the division for [youth] juvenile offenders for the
539 purpose of rehabilitation, education, and restitution to victims.

540 [§27] (33) "Youth offender" means [a person 12 years of age or older, and who has not
541 reached 21 years of age,] an individual who is:

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

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

547 [§28] (34) (a) "Youth services" means services provided in an effort to resolve family
548 conflict:

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

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

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

552 (i) resolve family conflict;

553 (ii) maintain or reunite minors with their families; and
554 (iii) divert minors from entering or escalating in the juvenile justice system.

555 (c) [The services] "Youth services" may provide:
556 (i) crisis intervention;
557 (ii) short-term shelter;
558 (iii) time out placement; and
559 (iv) family counseling.

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

561 **62A-7-104. Division responsibilities.**

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

565 (2) The division shall:

566 (a) establish and administer a continuum of community, secure, and nonsecure
567 programs for all [~~youth~~] juvenile offenders committed to the division;
568 (b) establish and maintain all detention and secure facilities and set minimum standards
569 for those facilities;

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

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

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

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

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

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

- 584 (a) supervise and control [youth] juvenile offenders in secure facilities or in the
585 community;
- 586 (b) supervise and coordinate treatment of [youth] juvenile offenders committed to the
587 division for placement in community-based programs; and
- 588 (c) control and supervise adjudicated and nonadjudicated youth placed with the
589 division for temporary services in receiving centers, youth services, and other programs
590 established by the division.
- 591 (6) (a) Youth in the custody or temporary custody of the division are controlled or
592 detained in a manner consistent with public safety and rules made by the division. In the event
593 of an unauthorized leave from a secure facility, detention center, community-based program,
594 receiving center, home, or any other designated placement, division employees have the
595 authority and duty to locate and apprehend the youth, or to initiate action with local law
596 enforcement agencies for assistance.
- 597 (b) A rule made by the division under this Subsection (6) may not permit secure
598 detention based solely on the existence of multiple status offenses, misdemeanors, or
599 infractions alleged in the same criminal episode.
- 600 (7) The division shall establish and operate compensatory-service work programs for
601 [youth] juvenile offenders committed to the division by the [juvenile] court. The
602 compensatory-service work program may not be residential and shall:
- 603 (a) provide labor to help in the operation, repair, and maintenance of public facilities,
604 parks, highways, and other programs designated by the division;
- 605 (b) provide educational and prevocational programs in cooperation with the State
606 Board of Education for [youth] juvenile offenders placed in the program; and
- 607 (c) provide counseling to [youth] juvenile offenders.
- 608 (8) The division shall establish minimum standards for the operation of all private
609 residential and nonresidential rehabilitation facilities that provide services to juveniles who
610 have committed a delinquent act or infraction in this state or in any other state.
- 611 (9) The division shall provide regular training for staff of secure facilities, detention
612 staff, case management staff, and staff of the community-based programs.
- 613 (10) (a) The division is authorized to employ special function officers, as defined in
614 Section 53-13-105, to locate and apprehend minors who have absconded from division

615 custody, transport minors taken into custody pursuant to division policy, investigate cases, and
616 carry out other duties as assigned by the division.

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

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

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

625 (a) ~~[has been]~~ is adjudicated delinquent ~~[based on]~~ for an offense listed in Subsection
626 77-41-102(17)(a) or 77-43-102(2);

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

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

630 (ii) if the individual is a serious youth offender, remains in the division's custody 30
631 days before the individual's 25th birthday.

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

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

635 **62A-7-105.5. Information supplied to division.**

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

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

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

643 **62A-7-107.5. Contracts with private providers.**

644 (1) This chapter does not prohibit the division from contracting with private providers
645 or other agencies for the construction, operation, and maintenance of juvenile facilities or the

646 provision of care, treatment, and supervision of [youth] juvenile offenders who have been
647 committed to the care of the division.

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

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

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

655 **62A-7-108.5. Records -- Property of division.**

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

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

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

662 **62A-7-109.5. Restitution by a juvenile offender.**

663 (1) The division shall make reasonable efforts to ensure that restitution is made to the
664 victim of a [youth] juvenile offender. Restitution shall be made through the employment of
665 [youth] juvenile offenders in work programs. However, reimbursement to the victim of a
666 [youth] juvenile offender is conditional upon [that youth] the juvenile offender's involvement
667 in the work program.

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

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

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

673 **62A-7-111.5. Cost of support and maintenance of a juvenile offender --**

674 **Responsibility.**

675 On commitment of a [youth] juvenile offender to the division, and on recommendation
676 of the division to the [juvenile] court, the [juvenile] court may order the [youth] juvenile

677 offender or [his] the juvenile offender's parent, guardian, or custodian, to share in the costs of
678 support and maintenance for the [youth] offender during [his] the juvenile offender's term of
679 commitment.

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

681 **62A-7-113. Rulemaking authority and division responsibilities.**

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

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

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

692 (b) the amount of savings from General Fund appropriations calculated by the division
693 for the previous fiscal year;

694 (c) an accounting of the money expended or committed to be expended under
695 Subsection **62A-7-112**(4); and

696 (d) the balance of the account.

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

698 **62A-7-201. Confinement -- Facilities -- Restrictions.**

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

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

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

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

- 713 (a) in a jail, lockup, or cell used for an adult who is charged with a crime; or
714 (b) in a secure facility operated by the division.

715 (2) (a) The division shall detain a child in accordance with Sections 78A-6-703.2,
716 78A-6-703.5, and 78A-6-703.6 if:

717 (i) the child is charged with an offense under Section 78A-6-703.2 or 78A-6-703.3;
718 (ii) the district court has obtained jurisdiction over the offense and the child is bound
719 over to the district court under Section 78A-6-703.5; and

- 720 (iii) the court orders the detention of the child.

721 (b) (i) If a child is detained before a hearing under Subsection 78A-6-113(3) or Section
722 78A-6-703.5, the child may only be held in certified juvenile detention accommodations in
723 accordance with rules made by the [Commission on Criminal and Juvenile Justice. Those
724 rules] commission.

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

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

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

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

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

737 (i) for short-term holding [purposes, with a maximum confinement of six hours, for
738 children] of a child who is alleged to have committed an act [which] that would be a criminal

739 offense if committed by an adult[. ~~Acceptable short-term holding purposes are:~~; and]
740 (ii) for a maximum confinement period of six hours.
741 (c) A child may only be held in an accommodation described in Subsection (3)(a) for:
742 (i) identification[;];
743 (ii) notification of a juvenile court [officials;] official;
744 (iii) processing[;]; and
745 (iv) allowance of adequate time for evaluation of needs and circumstances regarding
746 the release or transfer of the child to a shelter or detention facility.

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

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

754 (b) A holding room described in Subsection (4)(a) shall be certified by [the
755 Commission on Criminal and Juvenile Justice, according to the Commission on Criminal and
756 Juvenile Justice's] the commission in accordance with the commission's rules. [Those rules]

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

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

760 (6) (a) The division is responsible for the custody and detention of [children under 18
761 years of age who require]:

762 (i) a child who requires detention care before trial or examination, or [while] is
763 awaiting assignment to a home or facility, as a dispositional placement under Subsection
764 78A-6-117(2)(f)(i)[;]; and [of youth offenders]

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

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

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

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

772 ~~[(e) All other custody or detention shall be provided by the]~~

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

777 (ii) This Subsection [(e) (6)(d)] does not apply to [juveniles] a child held in [~~an~~

778 ~~adult detention facility~~ a correctional facility in accordance with Subsection (2)(a).

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

780 **62A-7-401.5. Secure facilities.**

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

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

789 (3) (a) The division, in cooperation with the State Board of Education, shall provide
790 instruction, or make instruction available, to ~~youth~~ juvenile offenders in secure facilities. The
791 instruction shall be appropriate to the age, needs, and range of abilities of the ~~youth~~ juvenile
792 offender.

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

796 (c) Prevocational education shall be provided to acquaint ~~youth~~ juvenile offenders
797 with vocations, and vocational requirements and opportunities.

798 (4) The division shall place ~~youth~~ juvenile offenders who have been committed to the
799 division for secure confinement and rehabilitation in a secure facility, operated by the division
800 or by a private entity, that is appropriate to ensure that humane care and rehabilitation

801 opportunities are afforded to the [youth] juvenile offender.

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

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

805 **62A-7-402. Aiding or concealing offender -- Trespass -- Criminal penalties.**

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

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

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

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

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

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

816 (i) escaped from a secure facility; or

817 (ii) absconded from:

818 (A) a facility or supervision; or

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

820 (b) willfully aided or assisted a [youth] juvenile offender who has been lawfully
821 committed to a secure facility in escaping or attempting to escape from that facility.

822 (3) As used in this section:

823 (a) a [youth] juvenile offender absconds from a facility when [he] the juvenile
824 offender:

825 (i) leaves the facility without permission; or

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

827 (b) A [youth] juvenile offender absconds from supervision when [he] the juvenile
828 offender:

829 (i) changes [his] the juvenile offender's residence from the residence that [he] the
830 juvenile offender reported to the division as [his] the juvenile offender's correct address to
831 another residence, without notifying the [Division of Juvenile Justice Services] division or

832 obtaining permission; or

833 (ii) for the purpose of avoiding supervision:

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

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

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

837 **62A-7-403. Care of pregnant juvenile offender.**

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

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

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

847 **62A-7-404. Commitment.**

848 (1) If a youth offender has been committed to a secure facility under Section

849 78A-6-117, the youth offender shall remain at the secure facility until the youth offender is:

850 (a) 21 years old;

851 (b) paroled; or

852 (c) discharged.

853 (2) If a serious youth offender has been committed to a secure facility under Section

854 78A-6-117, the serious youth offender shall remain at the secure facility until the serious youth

855 offender is:

856 (a) 25 years old;

857 (b) paroled; or

858 (c) discharged.

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

860 **62A-7-404.5. Review and termination of commitment.**

861 (1) If a juvenile offender has been committed to a secure facility, the juvenile offender

862 shall appear before the authority within 45 days after the day on which the juvenile offender is

863 committed to a secure facility for review of a treatment plan and to establish parole release
864 guidelines.

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

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

- 870 (i) termination would interrupt the completion of a necessary treatment program; or
871 (ii) the juvenile offender commits a new misdemeanor or felony offense.

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

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

879 (e) The authority shall:

- 880 (i) record the length of the extension and the grounds for the extension; and
881 (ii) report annually the length and grounds of extension to the commission.

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

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

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

- 891 (i) termination would interrupt the completion of a necessary treatment program;
892 (ii) the juvenile offender commits a new misdemeanor or felony offense; or
893 (iii) restitution has not been completed.

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

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

900 (f) The authority shall:

901 (i) record the grounds for extension of the presumptive length of parole and the length
902 of the extension; and

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

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

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

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

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

910 (c) Section 76-5-203, murder or attempted murder;

911 (d) Section 76-5-302, aggravated kidnapping;

912 (e) Section 76-5-405, aggravated sexual assault;

913 (f) Section 76-6-103, aggravated arson;

914 (g) Section 76-6-203, aggravated burglary;

915 (h) Section 76-6-302, aggravated robbery;

916 (i) Section 76-10-508.1, felony discharge of a firearm;

917 (j) an offense other than an offense listed in Subsections (4)(a) through (i) involving
918 the use of a dangerous weapon:

919 (i) if the offense would be a felony had an adult committed the offense; and

920 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
921 involving the use of a dangerous weapon that would have been a felony if committed by an
922 adult; or

923 (k) an offense other than an offense listed in Subsections (4)(a) through (j) and the
924 minor has been previously committed to the custody of the Division of Juvenile Justice

925 Services for secure confinement.

926 (5) (a) The division may continue to have responsibility over a juvenile offender, who
927 is discharged under this section from parole, to participate in a specific educational or
928 rehabilitative program:

929 (i) until the juvenile offender is:

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

931 (B) if the juvenile offender is a serious youth offender, 25 years old; and

932 (ii) under an agreement by the division and the juvenile offender that the program has
933 certain conditions.

934 (b) The division and the juvenile offender may terminate participation in a program
935 under Subsection (5)(a) at any time.

936 (c) The division shall offer an educational or rehabilitative program before a juvenile
937 offender's discharge date in accordance with this section.

938 (d) A juvenile offender may request the services described in this Subsection (5), even
939 if the offender has been previously declined services or services were terminated for
940 noncompliance.

941 (e) Notwithstanding Subsection (5)(c), the division:

942 (i) shall consider a request by a juvenile offender under Subsection (5)(d) for the
943 services described in this section for up to 365 days after the juvenile offender's effective date
944 of discharge, even if the juvenile offender has previously declined services or services were
945 terminated for noncompliance; and

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

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

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

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

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

953 **62A-7-501. Youth Parole Authority -- Expenses -- Responsibilities -- Procedures.**

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

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

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

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

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

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

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

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

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

973 (b) hold any public office;

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

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

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

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

981 (a) Section 63A-3-106;

982 (b) Section 63A-3-107; and

983 (c) rules made by the Division of Finance [pursuant to] in accordance with Sections
984 63A-3-106 and 63A-3-107.

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

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

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

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

997 Section 20. Section **62A-7-502** is amended to read:

998 **62A-7-502. Youth Parole Authority -- Parole procedures.**

999 (1) The authority has responsibility for parole release, rescission, revocation, and
1000 termination for [youth] juvenile offenders who have been committed to the division for secure
1001 confinement. The authority shall determine when and under what conditions [youth] juvenile
1002 offenders who have been committed to a secure facility are eligible for parole.

1003 (2) [Each youth] A juvenile offender shall be served with notice of parole hearings[;]
1004 and has the right to personally appear before the authority for parole consideration.

1005 (3) Orders and decisions of the authority shall be in writing, and [each youth] a
1006 juvenile offender shall be provided written notice of the authority's reasoning and decision in
1007 the [youth] juvenile offender's case.

1008 (4) The authority shall establish policies and procedures for the authority's governance,
1009 meetings, hearings, the conduct of proceedings before [it] the authority, the parole of [youth]
1010 juvenile offenders, and the general conditions under which parole may be granted, rescinded,
1011 revoked, modified, and terminated.

1012 Section 21. Section **62A-7-504** is amended to read:

1013 **62A-7-504. Parole revocation -- Hearing -- Procedures.**

1014 (1) The authority may revoke the parole of a [youth] juvenile offender only after a
1015 hearing and upon determination that there has been a violation of law or of a condition of
1016 parole by the [youth] juvenile offender that warrants the [youth] juvenile offender's return to a
1017 secure facility. The parole revocation hearing shall be held at a secure facility.

1018 (2) (a) Before returning a [youth] juvenile offender to a secure facility for a parole
1019 revocation or rescission hearing, the division shall provide a prerevocation or prerescission
1020 hearing within the vicinity of the alleged violation, to determine whether there is probable
1021 cause to believe that the [youth] juvenile offender violated the conditions of the [youth]
1022 juvenile offender's parole.

1023 (b) Upon a finding of probable cause, the [youth] juvenile offender may be remanded
1024 to a secure facility, pending a revocation hearing.

1025 (3) The authority shall only proceed with the parole revocation or rescission process in
1026 accordance with the system of appropriate responses developed [pursuant to] in accordance
1027 with Section 78A-6-123 on [and] or after July 1, 2018.

1028 (4) A paroled [youth] juvenile offender is entitled to legal representation at the parole
1029 revocation hearing, and if the [youth] juvenile offender or the [youth] juvenile offender's family
1030 has requested but cannot afford legal representation, the authority shall appoint legal counsel.

1031 (5) The authority and the administrative officer have power to issue subpoenas, compel
1032 attendance of witnesses, compel production of books, papers and other documents, administer
1033 oaths, and take testimony under oath for the purposes of conducting the hearings.

1034 (6) (a) A [youth] juvenile offender shall receive timely advance notice of the date,
1035 time, place, and reason for the hearing, and has the right to appear at the hearing.

1036 (b) The authority shall provide the [youth] juvenile offender an opportunity to be
1037 heard, to present witnesses and evidence, and to confront and cross-examine adverse witnesses,
1038 unless there is good cause for disallowing that confrontation.

1039 (7) Decisions in parole revocation or rescission hearings shall be reached by a majority
1040 vote of the present members of the authority.

1041 (8) The administrative officer shall maintain summary records of all hearings and
1042 provide written notice to the [youth] juvenile offender of the decision and reason for the
1043 decision.

1044 (9) (a) The authority may issue a warrant to order any peace officer or division
1045 employee to take into custody a [youth] juvenile offender alleged to be in violation of parole
1046 conditions in accordance with Section 78A-6-123 on [and] or after July 1, 2018.

1047 (b) The division may issue a warrant to any peace officer or division employee to
1048 retake a [youth] juvenile offender who has escaped from a secure facility.

1049 (c) Based upon the warrant issued under this Subsection (9), a [youth] juvenile
1050 offender may be held in a local detention facility for no longer than 48 hours, excluding
1051 weekends and legal holidays, to allow time for a prerevocation or prerecission hearing of the
1052 alleged parole violation, or in the case of an escapee, arrangement for transportation to the
1053 secure facility.

1054 Section 22. Section **62A-7-505** is amended to read:

1055 **62A-7-505. Conditions of parole.**

1056 Conditions of parole shall be specified in writing and agreed to by the [youth] juvenile
1057 offender. That agreement shall be evidenced by the signature of the [youth] juvenile offender,
1058 which shall be affixed to the parole document.

1059 Section 23. Section **62A-7-506** is amended to read:

1060 **62A-7-506. Discharge of juvenile offender.**

1061 (1) A [youth] juvenile offender may be discharged from the jurisdiction of the division
1062 at any time, by written order of the [~~Youth Parole Authority~~] authority, upon a finding that no
1063 further purpose would be served by secure confinement or supervision in a community setting.

1064 (2) A [youth] juvenile offender shall be discharged in accordance with Section

1065 [[62A-7-404](#)] [62A-7-404.5](#).

1066 (3) Discharge of a [youth] juvenile offender is a complete release of all penalties
1067 incurred by adjudication of the offense for which the [youth] juvenile offender was committed.

1068 Section 24. Section **62A-7-507** is amended to read:

1069 **62A-7-507. Appeal regarding parole release or revocation.**

1070 (1) A [youth] juvenile offender, or the parent or legal guardian of a [youth] juvenile
1071 offender, may appeal to the executive director or his designee any decision of the authority
1072 regarding parole release, rescission, or revocation.

1073 (2) The executive director, or [his] the executive director's designee, may set aside or
1074 remand the authority's decision only if [it] the authority's decision is arbitrary, capricious, an
1075 abuse of discretion, or contrary to law.

1076 Section 25. Section **62A-7-701** is amended to read:

1077 **62A-7-701. Community-based programs.**

1078 (1) (a) The division shall operate residential and nonresidential community-based
1079 programs to provide care, treatment, and supervision for [youth] juvenile offenders committed

1080 to the division by juvenile courts.

1081 (b) The division shall operate or contract for nonresidential community-based
1082 programs and independent living programs to provide care, treatment, and supervision of
1083 paroled [youth] juvenile offenders.

1084 (2) The division shall adopt minimum standards for the organization and operation of
1085 community-based corrections programs for [youth] juvenile offenders.

1086 (3) The division shall place [youth] juvenile offenders committed to [it] the division
1087 for community-based programs in the most appropriate program based upon the division's
1088 evaluation of the [youth] juvenile offender's needs and the division's available resources in
1089 accordance with Sections [62A-7-404] 62A-7-404.5 and 78A-6-117.

1090 Section 26. Section **62A-7-702** is amended to read:

1091 **62A-7-702. Case management staff.**

1092 (1) The division shall provide a sufficient number of case management staff members
1093 to provide care, treatment, and supervision for [youth] juvenile offenders on parole and for
1094 [youth] juvenile offenders committed to the division by the juvenile courts for
1095 community-based programs.

1096 (2) (a) Case management staff shall develop treatment programs for each [youth]
1097 juvenile offender in the community, provide appropriate services, and monitor individual
1098 progress.

1099 (b) Progress reports shall be filed every three months with the [juvenile] court for each
1100 [youth] juvenile offender committed to the division for community-based programs and with
1101 the authority for each parolee.

1102 (c) The authority, in the case of parolees, or the [juvenile] court, in the case of youth
1103 committed to the division for placement in community programs, shall be immediately
1104 notified, in writing, of any violation of law or of conditions of parole or placement.

1105 (3) Case management staff shall:

1106 (a) conduct investigations and make reports requested by the courts to aid them in
1107 determining appropriate case dispositions; and

1108 (b) conduct investigations and make reports requested by the authority to aid it in
1109 making appropriate dispositions in cases of parole, revocation, and termination.

1110 Section 27. Section **63I-1-253** is amended to read:

1111 **63I-1-253. Repeal dates, Titles 53 through 53G.**

1112 The following provisions are repealed on the following dates:

1113 (1) Subsection [53-6-203](#)(1)(b)(ii), regarding being 19 years old at certification, is

1114 repealed July 1, 2022.

1115 (2) Subsection [53-13-104](#)(6), regarding being 19 years old at certification, is repealed

1116 July 1, 2022.

1117 (3) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

1118 (4) Section [53B-18-1501](#) is repealed July 1, 2021.

1119 (5) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

1120 (6) Section [53B-24-402](#), Rural residency training program, is repealed July 1, 2020.

1121 (7) Subsection [53C-3-203](#)(4)(b)(vii), which provides for the distribution of money
1122 from the Land Exchange Distribution Account to the Geological Survey for test wells, other
1123 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

1124 (8) Section [53E-3-515](#) is repealed January 1, 2023.

1125 (9) In relation to a standards review committee, on January 1, 2023:

1126 (a) in Subsection [53E-4-202](#)(8), the language that states "by a standards review
1127 committee and the recommendations of a standards review committee established under
1128 Section [53E-4-203](#)" is repealed; and

1129 (b) Section [53E-4-203](#) is repealed.

1130 (10) In relation to the SafeUT and School Safety Commission, on January 1, 2023:

1131 (a) Subsection [53B-17-1201](#)(1) is repealed;

1132 (b) Section [53B-17-1203](#) is repealed;

1133 (c) Subsection [53B-17-1204](#)(2) is repealed;

1134 (d) Subsection [53B-17-1204](#)(4)(a), the language that states "in accordance with the
1135 method described in Subsection (4)(c)" is repealed; and

1136 (e) Subsection [53B-17-1204](#)(4)(c) is repealed.

1137 (11) Section [53F-2-514](#) is repealed July 1, 2020.

1138 (12) Section [53F-5-203](#) is repealed July 1, 2024.

1139 (13) Section [53F-5-212](#) is repealed July 1, 2024.

1140 (14) Section [53F-5-213](#) is repealed July 1, 2023.

1141 (15) Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State

1142 Plan Pilot Program, is repealed July 1, 2022.

1143 [(16) Section 53F-6-201 is repealed July 1, 2019.]

1144 [(17) (16) Section 53F-9-501 is repealed January 1, 2023.

1145 [(18) (17) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety
1146 Commission, are repealed January 1, 2025.

1147 [(19) (18) Subsection 53G-8-211[(4)](5), regarding referrals of a minor to court for a
1148 class C misdemeanor, is repealed July 1, [2020] 2022.

1149 Section 28. Section **76-3-406** is amended to read:

1150 **76-3-406. Crimes for which probation, suspension of sentence, lower category of
1151 offense, or hospitalization may not be granted.**

1152 (1) Notwithstanding Sections 76-3-201 and 77-18-1 and Title 77, Chapter 16a,
1153 Commitment and Treatment of Persons with a Mental Illness, except as provided in Section
1154 76-5-406.5, probation may not be granted, the execution or imposition of sentence may not be
1155 suspended, the court may not enter a judgment for a lower category of offense, and
1156 hospitalization may not be ordered, the effect of which would in any way shorten the prison
1157 sentence for an individual who commits a capital felony or a first degree felony involving:

1158 (a) Section 76-5-202, aggravated murder;

1159 (b) Section 76-5-203, murder;

1160 (c) Section 76-5-301.1, child kidnaping;

1161 (d) Section 76-5-302, aggravated kidnaping;

1162 (e) Section 76-5-402, rape, if the individual is sentenced under Subsection

1163 76-5-402(3)(b), (3)(c), or (4);

1164 (f) Section 76-5-402.1, rape of a child;

1165 (g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection

1166 76-5-402.2(1)(b), (1)(c), or (2);

1167 (h) Section 76-5-402.3, object rape of a child;

1168 (i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection

1169 76-5-403(3)(b), (3)(c), or (4);

1170 (j) Section 76-5-403.1, sodomy on a child;

1171 (k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under

1172 Subsection 76-5-404(2)(b) or (3);

1173 (l) Subsections 76-5-404.1(4) and (5), aggravated sexual abuse of a child;
1174 (m) Section 76-5-405, aggravated sexual assault; or
1175 (n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).
1176 (2) [The] Except for an offense before the district court in accordance with Section
1177 78A-6-703.2 or 78A-6-703.5, the provisions of this section do not apply if the sentencing court
1178 finds that the defendant:

1179 (a) was under [the age of] 18 years old at the time of the offense; and
1180 (b) could have been adjudicated in the juvenile court but for the delayed reporting or
1181 delayed filing of the [Information, unless the offenses are before the court pursuant to Section
1182 78A-6-701, 78A-6-702, or 78A-6-703] information.

1183 Section 29. Section 76-5-401.3 is amended to read:

1184 **76-5-401.3. Unlawful adolescent sexual activity.**

1185 (1) As used in this section:

1186 (a) "Adolescent" means [a person] an individual in the transitional phase of human
1187 physical and psychological growth and development between childhood and adulthood who is
1188 12 years [of age] old or older, but under 18 years [of age] old.

1189 (b) "Unlawful adolescent sexual activity" means sexual activity between adolescents
1190 under circumstances not amounting to:

1191 (i) rape, in violation of Section 76-5-402;
1192 (ii) rape of a child, in violation of Section 76-5-402.1;
1193 (iii) object rape, in violation of Section 76-5-402.2;
1194 (iv) object rape of a child, in violation of Section 76-5-402.3;
1195 (v) forcible sodomy, in violation of Section 76-5-403;
1196 (vi) sodomy on a child, in violation of Section 76-5-403.1;
1197 [(vii) aggravated sexual assault, in violation of Section 76-5-405;]
1198 [(viii)] (vii) sexual abuse of a child, in violation of Section 76-5-404; [or]
1199 (viii) aggravated sexual assault, in violation of Section 76-5-405; or
1200 (ix) incest, in violation of Section 76-7-102.

1201 (2) Unlawful adolescent sexual activity is punishable as a:

1202 (a) third degree felony if an adolescent who is 17 years [of age] old engages in
1203 unlawful adolescent sexual activity with an adolescent who is 12 or 13 years [of age] old;

1204 (b) third degree felony if an adolescent who is 16 years [of age] old engages in
1205 unlawful adolescent sexual activity with an adolescent who is 12 years [of age] old;
1206 (c) class A misdemeanor if an adolescent who is 16 years [of age] old engages in
1207 unlawful adolescent sexual activity with an adolescent who is 13 years [of age] old;
1208 (d) class A misdemeanor if an adolescent who is 14 or 15 years [of age] old engages in
1209 unlawful adolescent sexual activity with an adolescent who is 12 years [of age] old;
1210 (e) class B misdemeanor if an adolescent who is 17 years [of age] old engages in
1211 unlawful adolescent sexual activity with an adolescent who is 14 years [of age] old;
1212 (f) class B misdemeanor if an adolescent who is 15 years [of age] old engages in
1213 unlawful adolescent sexual activity with an adolescent who is 13 years [of age] old;
1214 (g) class C misdemeanor if an adolescent who is 12 or 13 years [of age] old engages in
1215 unlawful adolescent sexual activity with an adolescent who is 12 or 13 years [of age] old; and
1216 (h) class C misdemeanor if an adolescent who is 14 years [of age] old engages in
1217 unlawful adolescent sexual activity with an adolescent who is 13 years [of age] old.

1218 (3) [Offenses] An offense under this section [are] is not eligible for a nonjudicial
1219 adjustment under Section 78A-6-602 or a referral to youth court under Section 78A-6-1203.

1220 (4) [Unless the offenses are before the court pursuant to Section 78A-6-701,
1221 78A-6-702, or 78A-6-703] Except for an offense that is transferred to a district court by the
1222 juvenile court in accordance with Section 78A-6-703.7, the district court may enter any
1223 sentence or combination of sentences [which] that would have been available in juvenile court
1224 but for the delayed reporting or delayed filing of the information in the district court.

1225 (5) An offense under this section is not subject to registration under Subsection
1226 77-41-102(17).

1227 Section 30. Section **76-10-105 (Superseded 07/01/20)** is amended to read:

1228 **76-10-105 (Superseded 07/01/20). Buying or possessing a cigar, cigarette,
1229 electronic cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

1230 (1) Any 18 year old person who buys or attempts to buy, accepts, or has in the person's
1231 possession any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of a class C
1232 misdemeanor and subject to:

1233 (a) a minimum fine or penalty of \$60; and
1234 (b) participation in a court-approved tobacco education program, which may include a

1235 participation fee.

1236 (2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
1237 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is [subject
1238 to the jurisdiction of the juvenile court and] subject to Section 78A-6-602, unless the violation
1239 is committed on school property under Section 53G-8-211. If a violation under this section is
1240 adjudicated under Section 78A-6-117, the minor may be subject to the following:

1241 (a) a fine or penalty, in accordance with Section 78A-6-117; and

1242 (b) participation in a court-approved tobacco education program, which may include a
1243 participation fee.

1244 (3) A compliance officer appointed by a board of education under Section 53G-4-402
1245 may not issue a citation for a violation of this section committed on school property. A cited
1246 violation committed on school property shall be addressed in accordance with Section
1247 53G-8-211.

1248 Section 31. Section **76-10-105 (Effective 07/01/20)** is amended to read:

1249 **76-10-105 (Effective 07/01/20). Buying or possessing a cigar, cigarette, electronic
1250 cigarette, or tobacco by a minor -- Penalty -- Compliance officer authority.**

1251 (1) (a) An individual who is 18 years old or older, but younger than the age specified in
1252 Subsection (1)(b), and buys or attempts to buy, accepts, or has in the individual's possession
1253 any cigar, cigarette, electronic cigarette, or tobacco in any form is guilty of an infraction and
1254 subject to:

1255 (i) a minimum fine or penalty of \$60; and

1256 (ii) participation in a court-approved tobacco education or cessation program, which
1257 may include a participation fee.

1258 (b) For purposes of Subsection (1)(a), the individual is younger than:

1259 (i) beginning July 1, 2020, and ending June 30, 2021, 20 years old; and

1260 (ii) beginning July 1, 2021, 21 years old.

1261 (2) (a) An individual under [the age of] 18 years old who buys or attempts to buy,
1262 accepts, or has in the individual's possession any cigar, cigarette, electronic cigarette, or
1263 tobacco in any form is [subject to the jurisdiction of the juvenile court and] subject to Section
1264 78A-6-602, unless the violation is committed on school property under Section 53G-8-211.

1265 (b) If a violation under this section is adjudicated under Section 78A-6-117, the minor

1266 may be subject to the following:

1267 [~~(a)~~] (i) a fine or penalty, in accordance with Section [78A-6-117](#); and

1268 [~~(b)~~] (ii) participation in a court-approved tobacco education program, which may
1269 include a participation fee.

1270 (3) (a) A compliance officer appointed by a board of education under Section
1271 [53G-4-402](#) may not issue a citation for a violation of this section committed on school
1272 property.

1273 (b) A cited violation committed on school property shall be addressed in accordance
1274 with Section [53G-8-211](#).

1275 (4) (a) This section does not apply to the purchase or possession of a cigar, cigarette,
1276 electronic cigarette, tobacco, or tobacco paraphernalia by an individual who is 18 years old or
1277 older and is:

1278 (i) on active duty in the United States Armed Forces; or

1279 (ii) a spouse or dependent of an individual who is on active duty in the United States
1280 Armed Forces.

1281 (b) A valid, government-issued military identification card is required to verify proof
1282 of age under Subsection (4)(a).

1283 Section 32. Section **76-10-1302** is amended to read:

1284 **76-10-1302. Prostitution.**

1285 (1) An individual is guilty of prostitution when the individual:

1286 (a) engages, offers, or agrees to engage in any sexual activity with another individual
1287 for a fee, or the functional equivalent of a fee;

1288 (b) takes steps in arranging a meeting through any form of advertising, agreeing to
1289 meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee
1290 or the functional equivalent of a fee; or

1291 (c) loiters in or within view of any public place for the purpose of being hired to
1292 engage in sexual activity.

1293 (2) (a) Except as provided in Subsection (2)(b) and Section [76-10-1309](#), prostitution is
1294 a class B misdemeanor.

1295 (b) Except as provided in Section [76-10-1309](#), an individual who is convicted a second
1296 time, and on all subsequent convictions, of a subsequent offense of prostitution under this

1297 section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of
1298 a class A misdemeanor.

1299 (3) (a) As used in this Subsection (3):

1300 (i) "Child" means the same as that term is defined in Section 76-10-1301.

1301 (ii) "Child engaged in commercial sex" means a child who engages in conduct
1302 described in Subsection (1).

1303 (iii) "Child engaged in sexual solicitation" means a child who offers or agrees to
1304 commit or engage in any sexual activity with another person for a fee or the functional
1305 equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

1306 (iv) "Division" means the Division of Child and Family Services created in Section
1307 62A-4a-103.

1308 (v) "Receiving center" means the same as that term is defined in Section 62A-7-101.

1309 (b) Upon encountering a child engaged in commercial sex or sexual solicitation, a law
1310 enforcement officer shall:

1311 (i) conduct an investigation regarding possible human trafficking of the child pursuant
1312 to Sections 76-5-308 and 76-5-308.5;

1313 (ii) refer the child to the division;

1314 (iii) bring the child to a receiving center, if available; and

1315 (iv) contact the child's parent or guardian, if practicable.

1316 (c) When law enforcement refers a child to the division under Subsection (3)(b)(ii) the
1317 division shall provide services to the child under Title 62A, Chapter 4a, Child and Family
1318 Services.

1319 (4) A child may not be subjected to [delinquency proceedings under Title 62A, Chapter
1320 7, Juvenile Justice Services, and Section 78A-6-601 through Section 78A-6-704] a delinquency
1321 proceeding for prostitution under Title 78A, Chapter 6, Juvenile Court Act.

1322 (5) A prosecutor may not prosecute an individual for a violation of Subsection (1) if
1323 the individual engages in a violation of Subsection (1) at or near the time the individual
1324 witnesses or is a victim of any of the following offenses, or an attempt to commit any of the
1325 following offenses, and the individual reports the offense or attempt to law enforcement in
1326 good faith:

1327 (a) assault, Section 76-5-102;

1328 (b) aggravated assault, Section 76-5-103;
1329 (c) mayhem, Section 76-5-105;
1330 (d) aggravated murder, murder, manslaughter, negligent homicide, child abuse
1331 homicide, or homicide by assault under Title 76, Chapter 5, Part 2, Criminal Homicide;
1332 (e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or
1333 aggravated human trafficking, human smuggling or aggravated human smuggling, or human
1334 trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and
1335 Smuggling;
1336 (f) rape, Section 76-5-402;
1337 (g) rape of a child, Section 76-5-402.1;
1338 (h) object rape, Section 76-5-402.2;
1339 (i) object rape of a child, Section 76-5-402.3;
1340 (j) forcible sodomy, Section 76-5-403;
1341 (k) sodomy on a child, Section 76-5-403.1;
1342 (l) forcible sexual abuse, Section 76-5-404;
1343 (m) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;
1344 (n) aggravated sexual assault, Section 76-5-405;
1345 (o) sexual exploitation of a minor, Section 76-5b-201;
1346 (p) sexual exploitation of a vulnerable adult, Section 76-5b-202;
1347 (q) aggravated burglary or burglary of a dwelling under Title 76, Chapter 6, Part 2,
1348 Burglary and Criminal Trespass;
1349 (r) aggravated robbery or robbery under Title 76, Chapter 6, Part 3, Robbery; or
1350 (s) theft by extortion under Subsection 76-6-406(2)(a) or (b).
1351 Section 33. Section 77-2-9 is amended to read:
1352 **77-2-9. Offenses ineligible for diversion.**
1353 [(1) Except as provided in Subsection (2), diversion may not be granted by a magistrate
1354 for:]
1355 (1) A magistrate may not grant a diversion for:
1356 (a) a capital felony;
1357 (b) a felony in the first degree;
1358 (c) any case involving a sexual offense against a victim who is under [the age of] 14

1359 years old;

1360 (d) any motor vehicle related offense involving alcohol or drugs;

1361 (e) any case involving using a motor vehicle in the commission of a felony;

1362 (f) driving a motor vehicle or commercial motor vehicle on a revoked or suspended
1363 license;

1364 (g) any case involving operating a commercial motor vehicle in a negligent manner
1365 causing the death of another including the offenses of:

1366 (i) manslaughter under Section 76-5-205; or

1367 (ii) negligent homicide under Section 76-5-206; or

1368 (h) a crime of domestic violence as defined in Section 77-36-1.

1369 (2) When [a person] an individual is alleged to have committed any violation of Title
1370 76, Chapter 5, Part 4, Sexual Offenses, while under [~~the age of~~] 16 years old, the court may
1371 enter a diversion in the matter if the court enters on the record [~~its~~] the court's findings that:

1372 (a) the offenses could have been adjudicated in juvenile court but for the delayed
1373 reporting or delayed filing of the information in the district court, unless the offenses are before
1374 the court [~~pursuant to Section 78A-6-701, 78A-6-702, or 78A-6-703~~] in accordance with
1375 Section 78A-6-703.2 or 78A-6-703.5;

1376 (b) the [person] individual did not use coercion or force;

1377 (c) there is no more than three years' difference between the ages of the participants;
1378 and

1379 (d) it would be in the best interest of the person to grant diversion.

1380 Section 34. Section 77-38a-102 is amended to read:

1381 **77-38a-102. Definitions.**

1382 As used in this chapter:

1383 (1) "Conviction" includes a:

1384 (a) judgment of guilt;

1385 (b) a plea of guilty; or

1386 (c) a plea of no contest.

1387 (2) "Criminal activities" means:

1388 (a) any misdemeanor or felony offense of which the defendant is convicted; or

1389 (b) any other criminal conduct for which the defendant admits responsibility to the

1390 sentencing court with or without an admission of committing the criminal conduct.

1391 (3) (a) "Defendant" means an individual who has been convicted of, or entered into a
1392 plea disposition for, a criminal activity.

1393 (b) "Defendant" does not include a minor, as defined in Section 78A-6-105, who is
1394 adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter
1395 6, Juvenile Court Act.

1396 [~~(3)~~] (4) "Department" means the Department of Corrections.

1397 [~~(4)~~] (5) "Diversion" means suspending criminal proceedings prior to conviction on the
1398 condition that a defendant agree to participate in a rehabilitation program, make restitution to
1399 the victim, or fulfill some other condition.

1400 [~~(5)~~] (6) "Party" means the prosecutor, defendant, or department involved in a
1401 prosecution.

1402 [~~(6)~~] (7) "Pecuniary damages" means all demonstrable economic injury, whether or not
1403 yet incurred, including those which a person could recover in a civil action arising out of the
1404 facts or events constituting the defendant's criminal activities and includes the fair market value
1405 of property taken, destroyed, broken, or otherwise harmed, and losses, including lost earnings,
1406 including those and other travel expenses reasonably incurred as a result of participation in
1407 criminal proceedings, and medical and other expenses, but excludes punitive or exemplary
1408 damages and pain and suffering.

1409 [~~(7)~~] (8) "Plea agreement" means an agreement entered between the prosecution and
1410 defendant setting forth the special terms and conditions and criminal charges upon which the
1411 defendant will enter a plea of guilty or no contest.

1412 [~~(8)~~] (9) "Plea disposition" means an agreement entered into between the prosecution
1413 and defendant including diversion, plea agreement, plea in abeyance agreement, or any
1414 agreement by which the defendant may enter a plea in any other jurisdiction or where charges
1415 are dismissed without a plea.

1416 [~~(9)~~] (10) "Plea in abeyance" means an order by a court, upon motion of the
1417 prosecution and the defendant, accepting a plea of guilty or of no contest from the defendant
1418 but not, at that time, entering judgment of conviction against him nor imposing sentence upon
1419 him on condition that he comply with specific conditions as set forth in a plea in abeyance
1420 agreement.

1421 [¶10] (11) "Plea in abeyance agreement" means an agreement entered into between the
1422 prosecution and the defendant setting forth the specific terms and conditions upon which,
1423 following acceptance of the agreement by the court, a plea may be held in abeyance.

1424 [¶11] (12) "Restitution" means full, partial, or nominal payment for pecuniary
1425 damages to a victim, including prejudgment interest, the accrual of interest from the time of
1426 sentencing, insured damages, reimbursement for payment of a reward, and payment for
1427 expenses to a governmental entity for extradition or transportation and as may be further
1428 defined by law.

1429 [¶12] (13) (a) "Reward" means a sum of money:

1430 (i) offered to the public for information leading to the arrest and conviction of an
1431 offender; and

1432 (ii) that has been paid to a person or persons who provide this information, except that
1433 the person receiving the payment may not be a codefendant, an accomplice, or a bounty hunter.

1434 (b) "Reward" does not include any amount paid in excess of the sum offered to the
1435 public.

1436 [¶13] (14) "Screening" means the process used by a prosecuting attorney to terminate
1437 investigative action, proceed with prosecution, move to dismiss a prosecution that has been
1438 commenced, or cause a prosecution to be diverted.

1439 [¶14] (15) (a) "Victim" means [any person] an individual or entity, including the Utah
1440 Office for Victims of Crime, [who] that the court determines has suffered pecuniary damages
1441 as a result of the defendant's criminal activities.

1442 (b) "Victim" may not include a codefendant or accomplice.

1443 Section 35. Section **77-38a-302** is amended to read:

1444 **77-38a-302. Restitution criteria.**

1445 (1) When a defendant enters into a plea disposition or is convicted of criminal activity
1446 that has resulted in pecuniary damages, in addition to any other sentence or term of a plea in
1447 abeyance [it] the court may impose, the court shall order that the defendant make restitution to
1448 [victims] any victim of crime as provided in this chapter, or for conduct for which the
1449 defendant has agreed to make restitution as part of a plea disposition. [For purposes of
1450 restitution, "victim" means the same as that term is defined in Subsection **77-38a-102**(14).] In
1451 determining whether restitution is appropriate, the court shall follow the criteria and procedures

1452 as provided in Subsections (2) through (5).

1453 (2) In determining restitution, the court shall determine complete restitution and
1454 court-ordered restitution.

1455 (a) "Complete restitution" means restitution necessary to compensate a victim for all
1456 losses caused by the defendant.

1457 (b) "Court-ordered restitution" means the restitution the court having criminal
1458 jurisdiction orders the defendant to pay as a part of the criminal sentence.

1459 (c) Complete restitution and court-ordered restitution shall be determined as provided
1460 in Subsection (5).

1461 (3) If the court determines that restitution is appropriate or inappropriate under this
1462 part, the court shall make the reasons for the decision part of the court record.

1463 (4) If the defendant objects to the imposition, amount, or distribution of the restitution,
1464 the court shall allow the defendant a full hearing on the issue.

1465 (5) (a) For the purpose of determining restitution for an offense, the offense shall
1466 include any criminal conduct admitted by the defendant to the sentencing court or for which the
1467 defendant agrees to pay restitution. A victim of an offense that involves as an element a
1468 scheme, a conspiracy, or a pattern of criminal activity, includes any person directly harmed by
1469 the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

1470 (b) In determining the monetary sum and other conditions for complete restitution, the
1471 court shall consider all relevant facts, including:

1472 (i) the cost of the damage or loss if the offense resulted in damage to or loss or
1473 destruction of property of a victim of the offense;

1474 (ii) the cost of necessary medical and related professional services and devices relating
1475 to physical or mental health care, including nonmedical care and treatment rendered in
1476 accordance with a method of healing recognized by the law of the place of treatment;

1477 (iii) the cost of necessary physical and occupational therapy and rehabilitation;

1478 (iv) the income lost by the victim as a result of the offense;

1479 (v) the individual victim's reasonable determinable wages that are lost due to theft of or
1480 damage to tools or equipment items of a trade that were owned by the victim and were essential
1481 to the victim's current employment at the time of the offense;

1482 (vi) the cost of necessary funeral and related services if the offense resulted in the death

1483 of a victim; and

1484 (vii) expenses incurred by a victim in implementing reasonable security measures in

1485 response to the offense.

1486 (c) In determining the monetary sum and other conditions for court-ordered restitution,

1487 the court shall consider:

1488 (i) the factors listed in Subsections (5)(a) and (b);

1489 (ii) the financial resources of the defendant, as disclosed in the financial declaration

1490 described in Section 77-38a-204;

1491 (iii) the burden that payment of restitution will impose, with regard to the other

1492 obligations of the defendant;

1493 (iv) the ability of the defendant to pay restitution on an installment basis or on other

1494 conditions to be fixed by the court;

1495 (v) the rehabilitative effect on the defendant of the payment of restitution and the

1496 method of payment; and

1497 (vi) other circumstances that the court determines may make restitution inappropriate.

1498 (d) (i) The prosecuting agency shall submit all requests for complete restitution and

1499 court-ordered restitution to the court at the time of sentencing if feasible, otherwise within one

1500 year after sentencing.

1501 (ii) If a defendant is placed on probation pursuant to Section 77-18-1:

1502 (A) the court shall determine complete restitution and court-ordered restitution; and

1503 (B) the time period for determination of complete restitution and court-ordered

1504 restitution may be extended by the court upon a finding of good cause, but may not exceed the

1505 period of the probation term served by the defendant.

1506 (iii) If the defendant is committed to prison:

1507 (A) any pecuniary damages that have not been determined by the court within one year

1508 after sentencing may be determined by the Board of Pardons and Parole; and

1509 (B) the Board of Pardons and Parole may, within one year after sentencing, refer an

1510 order of judgment and commitment back to the court for determination of restitution.

1511 Section 36. Section 77-38a-404 is amended to read:

1512 **77-38a-404. Priority.**

1513 (1) Restitution payments made pursuant to a court order shall be disbursed to victims

1514 within 60 days of receipt from the defendant by the court or department provided:

1515 (a) the victim has complied with Subsection 77-38a-203(1)(b);

1516 (b) if the defendant has tendered a negotiable instrument, funds from the financial

1517 institution are actually received; and

1518 (c) the payment to the victim is at least \$5, unless the payment is the final payment.

1519 (2) If restitution to more than one person, agency, or entity is required at the same time,

1520 the department shall establish the following priorities of payment, except as provided in

1521 Subsection (4):

1522 (a) the crime victim;

1523 (b) the Utah Office for Victims of Crime;

1524 (c) any other government agency which has provided reimbursement to the victim as a

1525 result of the offender's criminal conduct;

1526 (d) the person, entity, or governmental agency that has offered and paid a reward under

1527 Section 77-32a-101 [or 78A-6-117];

1528 (e) any insurance company which has provided reimbursement to the victim as a result

1529 of the offender's criminal conduct; and

1530 (f) any county correctional facility to which the defendant is required to pay restitution

1531 under Subsection 76-3-201(6).

1532 (3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and

1533 surcharges are paid.

1534 (4) If the offender is required under Section 53-10-404 to reimburse the department for

1535 the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority after

1536 restitution to the crime victim under Subsection (2)(a).

1537 (5) All money collected for court-ordered obligations from offenders by the department

1538 will be applied:

1539 (a) first, to victim restitution, except the current and past due amount of \$30 per month

1540 required to be collected by the department under Section 64-13-21, if applicable; and

1541 (b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection

1542 (4).

1543 (6) Restitution owed to more than one victim shall be disbursed to each victim

1544 according to the percentage of each victim's share of the total restitution order.

1545 Section 37. Section **78A-5-102** is amended to read:

1546 **78A-5-102. Jurisdiction -- Appeals.**

1547 (1) As used in this section:

1548 (a) "Qualifying offense" means an offense described in Subsection **78A-6-703.2(1)(b)**.

1549 (b) "Separate offense" means any offense that is not a qualifying offense.

1550 (c) "Single criminal episode" means the same as that term is defined in Section

1551 **76-1-401**.

1552 [(1) The] (2) Except as otherwise provided by the Utah Constitution or by statute, the
1553 district court has original jurisdiction in all matters civil and criminal[, not excepted in the Utah
1554 Constitution and not prohibited by law].

1555 [(2) The district court judges]

1556 (3) A district court judge may issue all extraordinary writs and other writs necessary to
1557 carry into effect [their] the district court judge's orders, judgments, and decrees.

1558 [(3)] (4) The district court has jurisdiction over matters of lawyer discipline consistent
1559 with the rules of the Supreme Court.

1560 [(4)] (5) The district court has jurisdiction over all matters properly filed in the circuit
1561 court prior to July 1, 1996.

1562 [(5)] (6) The district court has appellate jurisdiction over judgments and orders of the
1563 justice court as outlined in Section **78A-7-118** and small claims appeals filed [pursuant to] in
1564 accordance with Section **78A-8-106**.

1565 [(6) Appeals] (7) Jurisdiction over appeals from the final orders, judgments, and
1566 decrees of the district court [are under] is described in Sections **78A-3-102** and **78A-4-103**.

1567 [(7)] (8) The district court has jurisdiction to review:

1568 (a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4,
1569 Administrative Procedures Act, and shall comply with the requirements of that chapter in its
1570 review of agency adjudicative proceedings; and

1571 (b) municipal administrative proceedings in accordance with Section **10-3-703.7**.

1572 [(8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in
1573 class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only
1574 if:]

1575 (9) Notwithstanding Section **78A-7-106**, the district court has original jurisdiction

1576 over:

1577 (a) a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an
1578 ordinance for which a justice court has original jurisdiction under Section 78A-6-106 if:

1579 [(a)] (i) there is no justice court with territorial jurisdiction;

1580 [(b)] (ii) the offense occurred within the boundaries of the municipality in which the
1581 district courthouse is located and that municipality has not formed, or has not formed and then
1582 dissolved, a justice court; or

1583 [they are] (iii) the offense is included in an indictment or information covering a
1584 single criminal episode alleging the commission of a felony or a class A misdemeanor[:] by an
1585 individual who is 18 years old or older; or

1586 (b) a qualifying offense committed by an individual who is 16 or 17 years old.

1587 [(9) If the district court has subject matter jurisdiction pursuant to Subsection (5) or (8),
1588 it also has jurisdiction over offenses listed in Section 78A-7-106 even if those offenses are
1589 committed by a person 16 years of age or older.]

1590 (10) (a) Notwithstanding Section 78A-7-106(2), the district court has exclusive
1591 jurisdiction over any separate offense:

1592 (i) committed by an individual who is 16 or 17 years old; and

1593 (ii) arising from a single criminal episode containing a qualifying offense for which the
1594 district court has original jurisdiction under Subsection (9)(b).

1595 (b) If an individual who is charged with a qualifying offense enters a plea to, or is
1596 found guilty of, a separate offense other than the qualifying offense, the district court shall have
1597 jurisdiction over the separate offense.

1598 (c) If an individual who is 16 or 17 years old is charged with a qualifying offense and
1599 the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal, the
1600 exclusive jurisdiction of the district court over any separate offense is terminated.

1601 (11) If a district court has jurisdiction in accordance with Subsection (6), (9)(a)(i), or
1602 (9)(b)(ii), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2)
1603 even if the offense is committed by an individual who is 16 or 17 years old.

1604 (12) The district court has subject matter jurisdiction over an offense for which the
1605 juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the
1606 offense to the district court in accordance with Section 78A-6-703.5.

1607 [¶(10)] (13) The district court has subject matter jurisdiction [of actions] over an action
1608 under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the
1609 [case] action to the district court.

1610 Section 38. Section **78A-6-103** is amended to read:

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

1612 [¶(1) Except as otherwise provided by law, the juvenile court has exclusive original
1613 jurisdiction in proceedings concerning:]

1614 [(a) a child who has violated any federal, state, or local law or municipal ordinance or a
1615 person younger than 21 years of age who has violated any law or ordinance before becoming
1616 18 years of age, regardless of where the violation occurred, excluding offenses.]

1617 [(i) in Section **53G-8-211** until such time that the child is referred to the courts under
1618 Section **53G-8-211**; and]

1619 [(ii) in Subsection **78A-7-106(2)**;]

1620 (1) Except as otherwise provided by Subsections **78A-5-102(9), 78A-5-102(10), and**
1621 **78A-7-106(2)**, the juvenile court has original jurisdiction over:

1622 (a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
1623 state, or federal law, that was committed by a child; and

1624 (b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal,
1625 state, or federal law, that was committed by an individual:

1626 (i) who is under 21 years old at the time of all court proceedings; and

1627 (ii) who was under 18 years old at the time the offense was committed.

1628 (2) The juvenile court has original jurisdiction over any proceeding concerning:

1629 [(b)] (a) a child who is an abused child, neglected child, or dependent child, as those
1630 terms are defined in Section **78A-6-105**;

1631 [(c)] (b) a protective order for a child [pursuant to] in accordance with Title 78B,
1632 Chapter 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district
1633 court if the juvenile court has entered an ex parte protective order and finds that:

1634 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
1635 parent of the child who is the object of the petition;

1636 (ii) the district court has a petition pending or an order related to custody or parent-time
1637 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,

1638 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
1639 respondent are parties; and

1640 (iii) the best interests of the child will be better served in the district court;

1641 [~~(d)~~] (c) the appointment of a guardian of the [person] individual or other guardian of a
1642 minor who comes within the court's jurisdiction under other provisions of this section;

1643 [~~(e)~~] (d) the emancipation of a minor in accordance with Part 8, Emancipation;

1644 [~~(f)~~] (e) the termination of the legal parent-child relationship in accordance with Part 5,
1645 Termination of Parental Rights Act, including termination of residual parental rights and
1646 duties;

1647 [~~(g)~~] (f) the treatment or commitment of a minor who has an intellectual disability;

1648 [~~(h)~~] (g) the judicial consent to the marriage of a minor 16 or 17 years old upon a
1649 determination of voluntariness or where otherwise required by law;

1650 [~~(i)~~] (h) any parent [~~or parents~~] of a child committed to a secure youth facility, to order,
1651 at the discretion of the court and on the recommendation of a secure facility, the parent [~~or~~
1652 ~~parents~~] of a child committed to a secure facility for a custodial term, to undergo group
1653 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of
1654 that parent's [~~or parents'~~] child, or any other therapist the court may direct, for a period directed
1655 by the court as recommended by a secure facility;

1656 [~~(j)~~] (i) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

1657 [~~(k)~~ subject to Subsection (8);]

1658 (j) the treatment or commitment of a child with a mental illness in accordance with
1659 Subsection (10);

1660 [~~(l)~~] (k) the commitment of a child to a secure drug or alcohol facility in accordance
1661 with Section 62A-15-301;

1662 [~~(m)~~] (l) a minor found not competent to proceed [~~pursuant to~~] in accordance with
1663 Section 78A-6-1301;

1664 [~~(n)~~] (m) de novo review of final agency actions resulting from an informal
1665 adjudicative proceeding as provided in Section 63G-4-402; and

1666 [~~(o)~~] (n) adoptions conducted in accordance with the procedures described in Title
1667 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an
1668 order terminating the rights of a parent and finds that adoption is in the best interest of the

1669 child.

1670 [(2) (a) Notwithstanding Section 78A-7-106 and Subsection 78A-5-102(9), the juvenile
1671 court has exclusive jurisdiction over the following offenses committed by a child:]

1672 [(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;]

1673 [(ii) Section 73-18-12, reckless operation; and]

1674 [(iii) class B and C misdemeanors, infractions, or violations of ordinances that are part
1675 of a single criminal episode filed in a petition that contains an offense over which the court has
1676 jurisdiction.]

1677 [(b) A juvenile court may only order substance use disorder treatment or an educational
1678 series if the minor has an assessed need for the intervention on the basis of the results of a
1679 validated assessment.]

1680 (3) (a) Except as provided in Subsection (3)(c), the juvenile court has exclusive
1681 jurisdiction over a felony, misdemeanor, infraction, or violation of an ordinance:

1682 (i) committed by a child and that arises from a single criminal episode containing an
1683 offense for which:

1684 (A) a citation, petition, indictment, or criminal information is filed; and

1685 (B) the court has original jurisdiction; and

1686 (ii) committed by an individual who is under 21 years old at the time of all court
1687 proceedings, but committed before the individual was 18 years old, and that arises from a
1688 single criminal episode containing an offense for which:

1689 (A) a citation, petition, indictment, or criminal information is filed; and

1690 (B) the court has original jurisdiction.

1691 (b) For purposes of this Subsection (3), the juvenile court has jurisdiction over the
1692 following offenses committed by an individual who is under 21 years old at the time of all
1693 court proceedings, but was under 18 years old at the time the offense was committed:

1694 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

1695 (ii) Section 73-18-12.

1696 (c) If a juvenile court transfers jurisdiction of an offense to the district court under
1697 Section 78A-6-703.5, the exclusive jurisdiction of the juvenile court over that offense is
1698 terminated.

1699 (4) (a) As used in this Subsection (4):

1700 (i) "Qualifying offense" means an offense described in Sections 78A-3-703.2 and
1701 78A-3-703.3.
1702 (ii) "Separate offense" means any offense that is not a qualifying offense.
1703 (b) The juvenile court:
1704 (i) regains exclusive jurisdiction over any separate offense described in Subsection
1705 (3)(a) if:
1706 (A) the individual who is alleged to have committed the separate offense is bound over
1707 to the district court for a qualifying offense under Section 78A-6-703.5; and
1708 (B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal;
1709 and
1710 (ii) gains exclusive jurisdiction over any separate offense described in Subsection
1711 (3)(a) if:
1712 (A) the individual who is alleged to have committed the separate offense is charged for
1713 a qualifying offense under Section 78A-6-703.2 in the district court; and
1714 (B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal
1715 in the district court.
1716 [(3)] (5) The juvenile court has jurisdiction over an ungovernable or runaway child
1717 who is referred to [it] the juvenile court by the Division of Child and Family Services or by
1718 public or private agencies that contract with the division to provide services to that child when,
1719 despite earnest and persistent efforts by the division or agency, the child has demonstrated that
1720 the child:
1721 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the
1722 extent that the child's behavior or condition endangers the child's own welfare or the welfare of
1723 others; or
1724 (b) has run away from home.
1725 (6) The juvenile court has continuing jurisdiction over a minor's case for an offense
1726 that is adjudicated under Section 78A-6-117 until jurisdiction is terminated in accordance with
1727 Section 78A-6-120.
1728 [(4)] (7) This section does not restrict the right of access to the juvenile court by private
1729 agencies or other persons.
1730 [(5)] (8) The juvenile court has jurisdiction of all magistrate functions relative to cases

1731 arising under [Section 78A-6-702] Part 7, Transfer of Jurisdiction.

1732 [¶(6)] (9) The juvenile court has jurisdiction to make a finding of substantiated,
1733 unsubstantiated, or without merit, in accordance with Section 78A-6-323.

1734 [¶(7)] (10) The juvenile court has subject matter jurisdiction [of] over matters
1735 transferred to [it] the juvenile court by another trial court [pursuant to] in accordance with
1736 Subsection 78A-7-106[¶(5)](4) [and subject to Section 53G-8-211] and Section 78A-6-601.

1737 [¶(8)] (11) The juvenile court may commit a child to the physical custody of a local
1738 mental health authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of
1739 Persons Under Age 18 to Division of Substance Abuse and Mental Health, but not directly to
1740 the Utah State Hospital.

1741 Section 39. Section 78A-6-104 is amended to read:

1742 **78A-6-104. Concurrent jurisdiction.**

1743 (1) The district court, or any other court, has concurrent jurisdiction with the juvenile
1744 court [as follows: (a) ~~when a person who is 18 years of age or older and who is under the~~
1745 ~~continuing jurisdiction of the juvenile court under Section 78A-6-117 violates any federal,~~
1746 ~~state, or local law or municipal ordinance; and (b)~~] in establishing paternity and ordering
1747 testing for the purposes of establishing paternity, in accordance with Title 78B, Chapter 15,
1748 Utah Uniform Parentage Act, with regard to proceedings initiated under Part 3, Abuse, Neglect,
1749 and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.

1750 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth
1751 certificate if the court otherwise has jurisdiction over the minor.

1752 (3) This section does not deprive the district court of jurisdiction to appoint a guardian
1753 for a child, or to determine the support, custody, and parent-time of a child upon writ of habeas
1754 corpus or when the question of support, custody, and parent-time is incidental to the
1755 determination of a cause in the district court.

1756 (4) (a) When a support, custody, or parent-time award has been made by a district court
1757 in a divorce action or other proceeding, and the jurisdiction of the district court in the case is
1758 continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the
1759 child is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile
1760 court under Section 78A-6-103.

1761 (b) The juvenile court may, by order, change the custody, subject to Subsection

1762 30-3-10(6), support, parent-time, and visitation rights previously ordered in the district court as
1763 necessary to implement the order of the juvenile court for the safety and welfare of the child.
1764 The juvenile court order remains in effect so long as the jurisdiction of the juvenile court
1765 continues.

1766 (c) If a copy of the findings and order of the juvenile court has been filed with the
1767 district court, the findings and order of the juvenile court are binding on the parties to the
1768 divorce action as though entered in the district court.

1769 (5) The juvenile court has jurisdiction over questions of custody, support, and
1770 parent-time of a minor who comes within the court's jurisdiction under this section or Section
1771 78A-6-103.

1772 Section 40. Section 78A-6-105 is amended to read:

1773 **78A-6-105. Definitions.**

1774 As used in this chapter:

1775 (1) (a) "Abuse" means:
1776 (i) (A) nonaccidental harm of a child;
1777 (B) threatened harm of a child;
1778 (C) sexual exploitation;
1779 (D) sexual abuse; or
1780 (E) human trafficking of a child in violation of Section 76-5-308.5; or
1781 (ii) that a child's natural parent:
1782 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
1783 child;
1784 (B) is identified by a law enforcement agency as the primary suspect in an investigation
1785 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
1786 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
1787 recklessly causing the death of another parent of the child.

1788 (b) "Abuse" does not include:
1789 (i) reasonable discipline or management of a child, including withholding privileges;
1790 (ii) conduct described in Section 76-2-401; or
1791 (iii) the use of reasonable and necessary physical restraint or force on a child:
1792 (A) in self-defense;

1793 (B) in defense of others;

1794 (C) to protect the child; or

1795 (D) to remove a weapon in the possession of a child for any of the reasons described in

1796 Subsections (1)(b)(iii)(A) through (C).

1797 (2) "Abused child" means a child who has been subjected to abuse.

1798 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the

1799 facts alleged in the petition have been proved. [A]

1800 (b) "Adjudication" does not mean a finding of not competent to proceed [pursuant to]

1801 in accordance with Section 78A-6-1302 [is not an adjudication].

1802 (4) (a) "Adult" means an individual [~~18 years of age or over, except that an individual~~

1803 ~~18 years or over under~~] who is 18 years old or older.

1804 (b) "Adult" does not include an individual:

1805 (i) who is 18 years old or older; and

1806 (ii) whose case is under the continuing jurisdiction of the juvenile court [pursuant to] in

1807 accordance with Section 78A-6-120 [shall be referred to as a minor].

1808 (5) "Board" means the Board of Juvenile Court Judges.

1809 (6) "Child" means an individual who is under 18 years [of age] old.

1810 (7) "Child placement agency" means:

1811 (a) a private agency licensed to receive a child for placement or adoption under this

1812 code; or

1813 (b) a private agency that receives a child for placement or adoption in another state,

1814 which agency is licensed or approved where such license or approval is required by law.

1815 (8) "Clandestine laboratory operation" means the same as that term is defined in

1816 Section 58-37d-3.

1817 (9) "Commit" means, unless specified otherwise:

1818 (a) with respect to a child, to transfer legal custody; and

1819 (b) with respect to a minor who is at least 18 years [of age] old, to transfer custody.

1820 (10) "Court" means the juvenile court.

1821 (11) "Criminogenic risk factors" means evidence-based factors that are associated with

1822 a minor's likelihood of reoffending.

1823 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if

1824 committed by an adult.

1825 (13) "Department" means the Department of Human Services created in Section
1826 [62A-1-102](#).

1827 (14) "Dependent child" includes a child who is homeless or without proper care
1828 through no fault of the child's parent, guardian, or custodian.

1829 (15) "Deprivation of custody" means transfer of legal custody by the court from a
1830 parent or the parents or a previous legal custodian to another person, agency, or institution.

1831 (16) "Detention" means home detention and secure detention as defined in Section
1832 [62A-7-101](#) for the temporary care of a minor who requires secure custody in a physically
1833 restricting facility:

1834 (a) pending court disposition or transfer to another jurisdiction; or
1835 (b) while the minor's case is under the continuing jurisdiction of the court.

1836 (17) "Detention risk assessment tool" means an evidence-based tool established under
1837 Section [78A-6-124](#), on and after July 1, 2018, that assesses a minor's risk of failing to appear in
1838 court or reoffending pre-adjudication and designed to assist in making detention
1839 determinations.

1840 (18) "Developmental immaturity" means incomplete development in one or more
1841 domains which manifests as a functional limitation in the minor's present ability to consult with
1842 counsel with a reasonable degree of rational understanding and have a rational as well as
1843 factual understanding of the proceedings.

1844 (19) "Division" means the Division of Child and Family Services.

1845 (20) "Educational neglect" means that, after receiving a notice of compulsory education
1846 violation under Section [53G-6-202](#), the parent or guardian fails to make a good faith effort to
1847 ensure that the child receives an appropriate education.

1848 (21) "Educational series" means an evidence-based instructional series:

1849 (a) obtained at a substance abuse program that is approved by the Division of
1850 Substance Abuse and Mental Health in accordance with Section [62A-15-105](#); and

1851 (b) designed to prevent substance use or the onset of a mental health disorder.

1852 [(21)] (22) "Evidence-based" means a program or practice that has had multiple
1853 randomized control studies or a meta-analysis demonstrating that the program or practice is
1854 effective for a specific population or has been rated as effective by a standardized program

1855 evaluation tool.

1856 [§22] (23) "Forensic evaluator" means the same as that term is defined in Section
1857 77-15-2.

1858 [§23] (24) "Formal probation" means a minor is under field supervision by the
1859 probation department or other agency designated by the court and subject to return to the court
1860 in accordance with Section 78A-6-123 on and after July 1, 2018.

1861 [§24] (25) "Formal referral" means a written report from a peace officer or other
1862 person informing the court that a minor is, or appears to be, within the court's jurisdiction and
1863 that [a case] the minor's case must be reviewed by the court's probation department or a
1864 prosecuting attorney.

1865 [§25] (26) "Group rehabilitation therapy" means psychological and social counseling
1866 of one or more individuals in the group, depending upon the recommendation of the therapist.

1867 [§26] (27) "Guardianship of the person" includes the authority to consent to:

- 1868 (a) marriage;
- 1869 (b) enlistment in the armed forces;
- 1870 (c) major medical, surgical, or psychiatric treatment; or
- 1871 (d) legal custody, if legal custody is not vested in another individual, agency, or
1872 institution.

1873 [§27] (28) "Habitual truant" means the same as that term is defined in Section
1874 53G-6-201.

1875 [§28] (29) "Harm" means:

- 1876 (a) physical or developmental injury or damage;
- 1877 (b) emotional damage that results in a serious impairment in the child's growth,
1878 development, behavior, or psychological functioning;
- 1879 (c) sexual abuse; or
- 1880 (d) sexual exploitation.

1881 [§29] (30) (a) "Incest" means engaging in sexual intercourse with an individual whom
1882 the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
1883 nephew, niece, or first cousin.

1884 (b) The relationships described in Subsection [§29] (30)(a) include:

- 1885 (i) blood relationships of the whole or half blood, without regard to legitimacy;

1886 (ii) relationships of parent and child by adoption; and
1887 (iii) relationships of stepparent and stepchild while the marriage creating the
1888 relationship of a stepparent and stepchild exists.

1889 [~~(30)~~] (31) "Intake probation" means a period of court monitoring that does not include
1890 field supervision, but is overseen by a juvenile probation officer, during which a minor is
1891 subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

1892 [~~(31)~~] (32) "Intellectual disability" means a significant subaverage general intellectual
1893 functioning existing concurrently with deficits in adaptive behavior that constitutes a
1894 substantial limitation to the individual's ability to function in society.

1895 [~~(32)~~] (33) "Legal custody" means a relationship embodying the following rights and
1896 duties:

1897 (a) the right to physical custody of the minor;
1898 (b) the right and duty to protect, train, and discipline the minor;
1899 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
1900 medical care;
1901 (d) the right to determine where and with whom the minor shall live; and
1902 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

1903 [~~(33)~~] (34) "Material loss" means an uninsured:
1904 (a) property loss;
1905 (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;
1906 (c) lost wages because of an injury, time spent as a witness, or time spent assisting the
1907 police or prosecution; or
1908 (d) medical [expenses] expense.

1909 [~~(34)~~] (35) "Mental illness" means:
1910 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
1911 behavioral, or related functioning; or
1912 (b) the same as that term is defined in:
1913 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
1914 published by the American Psychiatric Association; or
1915 (ii) the current edition of the International Statistical Classification of Diseases and
1916 Related Health Problems.

1917 [§35] (36) "Minor" means:
1918 [(a) a child; or]
1919 [(b) an individual who is:]
1920 [(i) at least 18 years of age and younger than 21 years of age; and]
1921 [(ii) under the jurisdiction of the juvenile court.]
1922 (a) for the purpose of juvenile delinquency:
1923 (i) a child; or
1924 (ii) an individual:
1925 (A) who is at least 18 years old and younger than 25 years old; and
1926 (B) whose case is under the jurisdiction of the juvenile court; and
1927 (b) for all other purposes in this chapter:
1928 (i) a child; or
1929 (ii) an individual:
1930 (A) who is at least 18 years old and younger than 21 years old; and
1931 (B) whose case is under the jurisdiction of the juvenile court.
1932 [§36] (37) "Mobile crisis outreach team" means a crisis intervention service for
1933 [minors or families of minors experiencing] a minor or the family of a minor experiencing a
1934 behavioral health or psychiatric [emergencies] emergency.
1935 [§37] (38) "Molestation" means that an individual, with the intent to arouse or gratify
1936 the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any
1937 child, or the breast of a female child, or takes indecent liberties with a child as defined in
1938 Section 76-5-416.
1939 [§38] (39) (a) "Natural parent" means a minor's biological or adoptive parent[, and].
1940 (b) "Natural parent" includes the minor's noncustodial parent.
1941 [§39] (40) (a) "Neglect" means action or inaction causing:
1942 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
1943 Relinquishment of a Newborn Child;
1944 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
1945 guardian, or custodian;
1946 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
1947 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or

1948 well-being;

1949 (iv) a child to be at risk of being neglected or abused because another child in the same

1950 home is neglected or abused;

1951 (v) abandonment of a child through an unregulated custody transfer; or

1952 (vi) educational neglect.

1953 (b) "Neglect" does not include:

1954 (i) a parent or guardian legitimately practicing religious beliefs and who, for that

1955 reason, does not provide specified medical treatment for a child;

1956 (ii) a health care decision made for a child by the child's parent or guardian, unless the

1957 state or other party to a proceeding shows, by clear and convincing evidence, that the health

1958 care decision is not reasonable and informed;

1959 (iii) a parent or guardian exercising the right described in Section [78A-6-301.5](#); or

1960 (iv) permitting a child, whose basic needs are met and who is of sufficient age and

1961 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,

1962 including:

1963 (A) traveling to and from school, including by walking, running, or bicycling;

1964 (B) traveling to and from nearby commercial or recreational facilities;

1965 (C) engaging in outdoor play;

1966 (D) remaining in a vehicle unattended, except under the conditions described in

1967 Subsection [76-10-2202\(2\)](#);

1968 (E) remaining at home unattended; or

1969 (F) engaging in a similar independent activity.

1970 [~~(40)~~] (41) "Neglected child" means a child who has been subjected to neglect.

1971 [~~(41)~~] (42) "Nonjudicial adjustment" means closure of the case by the assigned

1972 probation officer without judicial determination upon the consent in writing of:

1973 (a) the assigned probation officer; and

1974 (b) (i) the minor; or

1975 (ii) the minor and the minor's parent, legal guardian, or custodian.

1976 [~~(42)~~] (43) "Not competent to proceed" means that a minor, due to a mental illness,

1977 intellectual disability or related condition, or developmental immaturity, lacks the ability to:

1978 (a) understand the nature of the proceedings against [them] the minor or of the

1979 potential disposition for the offense charged; or
1980 (b) consult with counsel and participate in the proceedings against [them] the minor
1981 with a reasonable degree of rational understanding.
1982 [(43)] (44) "Physical abuse" means abuse that results in physical injury or damage to a
1983 child.
1984 [(44)] (45) "Probation" means a legal status created by court order following an
1985 adjudication on the ground of a violation of law or under Section 78A-6-103, whereby the
1986 minor is permitted to remain in the minor's home under prescribed conditions.
1987 (46) "Prosecuting attorney" means:
1988 (a) the attorney general and any assistant attorney general;
1989 (b) any district attorney or deputy district attorney;
1990 (c) any county attorney or assistant county attorney; and
1991 (d) any other attorney authorized to commence an action on behalf of the state.
1992 [(45)] (47) "Protective supervision" means a legal status created by court order
1993 following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor
1994 is permitted to remain in the minor's home, and supervision and assistance to correct the abuse,
1995 neglect, or dependency is provided by the probation department or other agency designated by
1996 the court.
1997 [(46)] (48) (a) "Related condition" means a condition that:
1998 (i) is found to be closely related to intellectual disability;
1999 (ii) results in impairment of general intellectual functioning or adaptive behavior
2000 similar to that of an intellectually disabled individual;
2001 (iii) is likely to continue indefinitely; and
2002 (iv) constitutes a substantial limitation to the individual's ability to function in society.
2003 (b) "Related condition" does not include mental illness, psychiatric impairment, or
2004 serious emotional or behavioral disturbance.
2005 [(47)] (49) (a) "Residual parental rights and duties" means those rights and duties
2006 remaining with the parent after legal custody or guardianship, or both, have been vested in
2007 another person or agency, including:
2008 (i) the responsibility for support;
2009 (ii) the right to consent to adoption;

- 2010 (iii) the right to determine the child's religious affiliation; and
2011 (iv) the right to reasonable parent-time unless restricted by the court.
2012 (b) If no guardian has been appointed, "residual parental rights and duties" [also
2013 ~~include~~] includes the right to consent to:
2014 (i) marriage;
2015 (ii) enlistment; and
2016 (iii) major medical, surgical, or psychiatric treatment.
2017 [~~(48)~~] (50) "Secure facility" means any facility operated by or under contract with the
2018 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
2019 youth offenders committed to the division for custody and rehabilitation [~~pursuant to~~] in
2020 accordance with Subsection 78A-6-117(2)(d).
2021 [~~(49)~~] (51) "Severe abuse" means abuse that causes or threatens to cause serious harm
2022 to a child.
2023 [~~(50)~~] (52) "Severe neglect" means neglect that causes or threatens to cause serious
2024 harm to a child.
2025 [~~(51)~~] (53) "Sexual abuse" means:
2026 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
2027 adult directed towards a child;
2028 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
2029 committed by a child towards another child if:
2030 (i) there is an indication of force or coercion;
2031 (ii) the children are related, as described in Subsection [~~(29)~~] (30), including siblings
2032 by marriage while the marriage exists or by adoption;
2033 (iii) there have been repeated incidents of sexual contact between the two children,
2034 unless the children are 14 years [~~of age~~] old or older; or
2035 (iv) there is a disparity in chronological age of four or more years between the two
2036 children;
2037 (c) engaging in any conduct with a child that would constitute an offense under any of
2038 the following, regardless of whether the individual who engages in the conduct is actually
2039 charged with, or convicted of, the offense:
2040 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the

2041 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

2042 (ii) child bigamy, Section 76-7-101.5;

2043 (iii) incest, Section 76-7-102;

2044 (iv) lewdness, Section 76-9-702;

2045 (v) sexual battery, Section 76-9-702.1;

2046 (vi) lewdness involving a child, Section 76-9-702.5; or

2047 (vii) voyeurism, Section 76-9-702.7; or

2048 (d) subjecting a child to participate in or threatening to subject a child to participate in

2049 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural

2050 marriage.

2051 [(52)] (54) "Sexual exploitation" means knowingly:

2052 (a) employing, using, persuading, inducing, enticing, or coercing any child to:

2053 (i) pose in the nude for the purpose of sexual arousal of any individual; or

2054 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,

2055 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

2056 (b) displaying, distributing, possessing for the purpose of distribution, or selling

2057 material depicting a child:

2058 (i) in the nude, for the purpose of sexual arousal of any individual; or

2059 (ii) engaging in sexual or simulated sexual conduct; or

2060 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,

2061 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct

2062 is actually charged with, or convicted of, the offense.

2063 [(53)] (55) "Shelter" means the temporary care of a child in a physically unrestricted

2064 facility pending court disposition or transfer to another jurisdiction.

2065 (56) "Single criminal episode" means the same as that term is defined in Section

2066 76-1-401.

2067 [(54)] (57) "Status offense" means a violation of the law that would not be a violation

2068 but for the age of the offender.

2069 [(55)] (58) "Substance abuse" means the misuse or excessive use of alcohol or other

2070 drugs or substances.

2071 [(56)] (59) "Substantiated" means the same as that term is defined in Section

2072 **62A-4a-101.**

2073 [§57] (60) "Supported" means the same as that term is defined in Section **62A-4a-101**.

2074 [§58] (61) "Termination of parental rights" means the permanent elimination of all
2075 parental rights and duties, including residual parental rights and duties, by court order.

2076 [§59] (62) "Therapist" means:

2077 (a) an individual employed by a state division or agency for the purpose of conducting
2078 psychological treatment and counseling of a minor in its custody; or

2079 (b) any other individual licensed or approved by the state for the purpose of conducting
2080 psychological treatment and counseling.

2081 [§60] (63) "Threatened harm" means actions, inactions, or credible verbal threats,
2082 indicating that the child is at an unreasonable risk of harm or neglect.

2083 [§61] (64) "Unregulated custody transfer" means the placement of a child:

2084 (a) with an individual who is not the child's parent, step-parent, grandparent, adult
2085 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with
2086 whom the child is familiar, or a member of the child's federally recognized tribe;

2087 (b) with the intent of severing the child's existing parent-child or guardian-child
2088 relationship; and

2089 (c) without taking:

2090 (i) reasonable steps to ensure the safety of the child and permanency of the placement;
2091 and

2092 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
2093 guardianship to the individual taking custody of the child.

2094 [§62] (65) "Unsupported" means the same as that term is defined in Section
2095 **62A-4a-101**.

2096 [§63] (66) "Unsubstantiated" means the same as that term is defined in Section
2097 **62A-4a-101**.

2098 [§64] (67) "Validated risk and needs assessment" means an evidence-based tool that
2099 assesses a minor's risk of reoffending and a minor's criminogenic needs.

2100 (68) (a) "Victim" means a person that the court determines has suffered a material loss
2101 as a result of a minor's wrongful act or conduct.

2102 (b) "Victim" includes the Utah Office for Victims of Crime.

2103 [65] (69) "Without merit" means the same as that term is defined in Section
2104 62A-4a-101.

2105 Section 41. Section **78A-6-108** is amended to read:

2106 **78A-6-108. Title of petition and other court documents -- Form and contents of**
2107 **petition -- Order for temporary custody or protective services -- Physical or psychological**
2108 **examination of minor, parent, or guardian -- Dismissal of petition.**

2109 (1) The petition and all subsequent court documents in the proceeding shall be entitled:
2110 "State of Utah, in the interest of....., [a person] an individual under 18 years
2111 [of age] old (or [a person] an individual under 21 years [of age] old)."

2112 (2) The petition shall be verified and statements in the petition may be made upon
2113 information and belief.

2114 (3) The petition shall be written in simple and brief language and include the facts
2115 which bring the minor within the jurisdiction of the court, as provided in Section 78A-6-103.

2116 (4) The petition shall further state:

- (a) the name, age, and residence of the minor;
- (b) the names and residences of the minor's parents;
- (c) the name and residence of the guardian, if there is one;
- (d) the name and address of the nearest known relative, if no parent or guardian of a
2121 minor is known; and

2122 (e) the name and residence of the person having physical custody of the minor. If any
2123 of the facts required are not known by the petitioner, the petition shall so state.

2124 (5) At any time after a petition is filed, the court may make an order:

- (a) providing for temporary custody of the minor; or
- (b) that the [Division of Child and Family Services] division provide protective
2127 services to the child, if the court determines that:

2128 (i) the child is at risk of being removed from the child's home due to abuse or neglect;
2129 and

2130 (ii) the provision of protective services may make the removal described in Subsection
2131 (5)(b)(i) unnecessary.

2132 (6) (a) The court may order that a minor concerning whom a petition has been filed
2133 shall be examined by a physician, surgeon, psychiatrist, or psychologist and may place the

2134 minor in a hospital or other facility for examination.

2135 (b) After notice and a hearing set for the specific purpose, the court may order a similar
2136 examination of a parent or guardian whose ability to care for a minor is at issue, if the court
2137 finds from the evidence presented at the hearing that the parent's or guardian's physical, mental,
2138 or emotional condition may be a factor in causing the neglect, dependency, or delinquency of
2139 the minor.

2140 [~~(7) Pursuant to Rule 506(d)(3), Utah Rules of Evidence, examinations conducted~~
2141 ~~pursuant to Subsection (6) are not privileged communications, but are exempt from the general~~
2142 ~~rule of privilege.]~~

2143 (7) An examination conducted in accordance with Subsection (6) is not a privileged
2144 communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general
2145 rule of privilege.

2146 (8) The court may dismiss a petition at any stage of the proceedings.

2147 (9) If the petition is filed under Section 78A-6-304 or 78A-6-505, or if the matter is
2148 referred to the court under Subsection 78A-6-104[~~(5)~~](6), the court may require the parties to
2149 participate in mediation in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute
2150 Resolution Act.

2151 Section 42. Section 78A-6-112 is amended to read:

2152 **78A-6-112. Minor taken into custody by peace officer, private citizen, or**
2153 **probation officer -- Grounds -- Notice requirements -- Release or detention -- Grounds**
2154 **for peace officer to take adult into custody.**

2155 (1) A minor may be taken into custody by a peace officer without [~~order of the court~~
2156 ~~if:~~] a court order if the officer has probable cause to believe that:

2157 (a) [~~in the presence of the officer~~] the minor has [~~violated a state law, federal law, local~~
2158 ~~law, or municipal ordinance~~] committed an offense under municipal, state, or federal law;

2159 (b) [~~there are reasonable grounds to believe~~] the minor has committed an act which if
2160 committed by an adult would be a felony;

2161 (c) the minor:

2162 (i) (A) is seriously endangered in the minor's surroundings; or

2163 (B) seriously endangers others; and

2164 (ii) immediate removal appears to be necessary for the minor's protection or the

2165 protection of others;

2166 (d) [there are reasonable grounds to believe] the minor has run away or escaped from
2167 the minor's parents, guardian, or custodian; or

2168 (e) [there is reason to believe] that the minor is:

2169 (i) subject to the state's compulsory education law; and

2170 (ii) absent from school without legitimate or valid excuse, subject to Section
2171 **53G-6-208.**

2172 (2) (a) A private citizen or a probation officer may take a minor into custody if under
2173 the circumstances the private citizen or probation officer could make a citizen's arrest if the
2174 minor was an adult.

2175 (b) A probation officer may [also] take a minor into custody:

2176 (i) under the same circumstances as a peace officer in Subsection (1); [~~or if~~]
2177 (ii) if the minor has violated the conditions of probation[, ~~if~~];
2178 (iii) if the minor is under the continuing jurisdiction of the juvenile court; or
2179 (iv) in emergency situations in which a peace officer is not immediately available.

2180 (3) (a) (i) If an officer or other person takes a minor into temporary custody under
2181 Subsection (1) or (2), the officer or person shall, without unnecessary delay, notify the parents,
2182 guardian, or custodian.

2183 (ii) The minor shall then be released to the care of the minor's parent or other
2184 responsible adult, unless the minor's immediate welfare or the protection of the community
2185 requires the minor's detention.

2186 (b) If the minor is taken into custody under Subsection (1) or (2) or placed in detention
2187 under Subsection (4) for a violent felony, as defined in Section **76-3-203.5**, or an offense in
2188 violation of Title 76, Chapter 10, Part 5, Weapons, the officer or other law enforcement agent
2189 taking the minor into custody shall, as soon as practicable or as established under Subsection
2190 **53G-8-402(2)**, notify the school superintendent of the district in which the minor resides or
2191 attends school for the purposes of the minor's supervision and student safety.

2192 (i) The notice shall disclose only:

2193 (A) the name of the minor;

2194 (B) the offense for which the minor was taken into custody or detention; and

2195 (C) if available, the name of the victim, if the victim:

2196 (I) resides in the same school district as the minor; or
2197 (II) attends the same school as the minor.
2198 (ii) The notice shall be classified as a protected record under Section [63G-2-305](#).
2199 (iii) All other records disclosures are governed by Title 63G, Chapter 2, Government
2200 Records Access and Management Act, and the federal Family Educational Rights and Privacy
2201 Act.

2202 (c) Employees of a governmental agency are immune from any criminal liability for
2203 providing or failing to provide the information required by this section unless the person acts or
2204 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

2205 (d) Before the minor is released, the parent or other person to whom the minor is
2206 released shall be required to sign a written promise on forms supplied by the court to bring the
2207 minor to the court at a time set or to be set by the court.

2208 (4) (a) A child may not be held in temporary custody by law enforcement any longer
2209 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
2210 information and to contact the child's parents, guardian, or custodian.

2211 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place
2212 of detention or shelter without unnecessary delay.

2213 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
2214 file with the detention or shelter facility a written report on a form provided by the division
2215 stating:

2216 (i) the details of the presently alleged offense;
2217 (ii) the facts that bring the minor within the jurisdiction of the juvenile court;
2218 (iii) the reason the minor was not released by law enforcement; and
2219 (iv) the eligibility of the minor under the division guidelines for detention admissions
2220 established by the Division of Juvenile Justice Services under Section [62A-7-202](#) if the minor
2221 is under consideration for detention.

2222 (b) (i) The designated facility staff person shall immediately review the form and
2223 determine, based on the guidelines for detention admissions established by the Division of
2224 Juvenile Justice Services under Section [62A-7-202](#), the results of the detention risk assessment,
2225 and the criteria for detention eligibility under Section [78A-6-113](#), whether to:
2226 (A) admit the minor to secure detention;

- 2227 (B) admit the minor to home detention;
- 2228 (C) place the minor in another alternative to detention; or
- 2229 (D) return the minor home upon written promise to bring the minor to the court at a
2230 time set, or without restriction.
- 2231 (ii) If the designated facility staff person determines to admit the minor to home
2232 detention, that staff person shall notify the juvenile court of that determination. The court shall
2233 order that notice be provided to the designated persons in the local law enforcement agency and
2234 the school or transferee school, if applicable, which the minor attends of the home detention.
2235 The designated persons may receive the information for purposes of the minor's supervision
2236 and student safety.
- 2237 (iii) Any employee of the local law enforcement agency and the school [~~which~~ that the
2238 minor attends who discloses the notification of home detention is not:
- 2239 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as
2240 provided in Section [63G-7-202](#); and
- 2241 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
2242 of Section [63G-2-801](#).
- 2243 (iv) The person who takes a minor to a detention facility or the designated facility staff
2244 person may release a minor to a less restrictive alternative even if the minor is eligible for
2245 secure detention under this Subsection (5).
- 2246 (c) A minor may not be admitted to detention unless:
2247 (i) the minor is detainable based on the guidelines; or
2248 (ii) the minor has been brought to detention [~~pursuant to~~] in accordance with:
2249 (A) a judicial order; or
2250 (B) a division warrant [~~pursuant to~~] in accordance with Section [62A-7-504](#).
- 2251 (d) If a minor taken to detention does not qualify for admission under the guidelines
2252 established by the division under Section [62A-7-104](#) or the eligibility criteria under Subsection
2253 (4) and this Subsection (5), detention staff shall arrange an appropriate alternative.
- 2254 (e) If a minor is taken into custody and admitted to a secure detention or shelter
2255 facility, facility staff shall:
2256 (i) immediately notify the minor's parents, guardian, or custodian; and
2257 (ii) promptly notify the court of the placement.

2258 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
2259 the minor's residence and it is determined in the hearing held under Subsection 78A-6-113(3)
2260 that detention shall continue, the judge or commissioner shall direct the sheriff of the county of
2261 the minor's residence to transport the minor to a detention or shelter facility as provided in this
2262 section.

2263 (6) [A person] An individual may be taken into custody by a peace officer without a
2264 court order:

2265 (i) if the [person] individual is in apparent violation of a protective order; or
2266 (ii) if there is reason to believe that a child is being abused by the [person] individual
2267 and any of the situations [outlined] described in Section 77-7-2 exist.

2268 Section 43. Section 78A-6-113 is amended to read:

2269 **78A-6-113. Placement of minor in detention or shelter facility -- Grounds --**
2270 **Detention hearings -- Period of detention -- Notice -- Confinement for criminal**
2271 **proceedings -- Bail laws inapplicable -- Exception.**

2272 (1) (a) A minor may not be placed or kept in a secure detention facility pending court
2273 proceedings, except in accordance with Section 78A-6-112.

2274 (b) A child may not be placed or kept in a shelter facility pending court proceedings
2275 unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

2276 (c) (i) A court may temporarily place in a detention facility, as provided in Subsection
2277 (4), a child who is taken into custody based upon a warrant issued under Subsection
2278 78A-6-106(6), if the court finds that detention is the least restrictive placement available to
2279 ensure the immediate safety of the child.

2280 (ii) A child placed in detention under Subsection (1)(c)(i) may not be held in detention
2281 longer than is necessary for the division to identify a less restrictive, available, and appropriate
2282 placement for the child.

2283 (2) (a) After admission of a child to a detention facility pursuant to Section 78A-6-112
2284 and immediate investigation by an authorized officer of the court, the judge or the officer shall
2285 order the release of the child to the child's [parents] parent, guardian, or custodian if [it is
2286 found] the judge or officer finds that the child can be safely returned to [their] the parent's, the
2287 guardian's, or the custodian's care, either upon written promise to bring the child to the court at
2288 a time set or without restriction.

2289 [(a)] (b) If a child's parent, guardian, or custodian fails to retrieve the child from a
2290 facility within 24 hours after notification of release, the parent, guardian, or custodian is
2291 responsible for the cost of care for the time the child remains in the facility.

2292 [(b)] (c) The facility shall determine the cost of care.

2293 [(c)] (d) Any money collected under this Subsection (2) shall be retained by the
2294 Division of Juvenile Justice Services to recover the cost of care for the time the child remains
2295 in the facility.

2296 (3) (a) When a child is detained in a detention or shelter facility, the parents or
2297 guardian shall be informed by the person in charge of the facility that the parent's or guardian's
2298 child has the right to a prompt hearing in court to determine whether the child is to be further
2299 detained or released.

2300 (b) When a minor is detained in a detention facility, the minor shall be informed by the
2301 person in charge of the facility that the minor has the right to a prompt hearing in court to
2302 determine whether the minor is to be further detained or released.

2303 (c) Detention hearings shall be held by the judge or by a commissioner.

2304 (d) The court may, at any time, order the release of the minor, whether a detention
2305 hearing is held or not.

2306 (e) If a child is released, and the child remains in the facility, because the parents,
2307 guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be
2308 responsible for the cost of care as provided in Subsections [(2)(a), (b), and (c)] (2)(b), (c), and
2309 (d).

2310 [~~(4) (a) A minor may not be held in a detention facility longer than 48 hours before a
2311 detention hearing, excluding weekends and holidays, unless the court has entered an order for
2312 continued detention.]~~

2313 (4) (a) A minor may not be held in a detention facility longer than 24 hours, unless a
2314 court determines that there is probable cause for the minor's arrest.

2315 (b) The court shall hold a detention hearing within 48 hours of the minor's arrest,
2316 excluding weekends and holidays, to determine whether the minor should:

2317 (i) remain in detention in accordance with Subsection 78A-6-113(4)(f);
2318 (ii) be released to a parent or guardian; or
2319 (iii) be placed in any other party's custody as authorized by statute.

2320 (c) The probable cause determination under Subsection (4)(a) and the detention hearing
2321 under Subsection (4)(b) may occur at the same time if the probable cause determination and
2322 detention hearing occur within the time frames under Subsection (4)(a) and (4)(b).

2323 [t~~b~~] (d) A child may not be held in a shelter facility longer than 48 hours before a
2324 shelter hearing, excluding weekends and holidays, unless a court order for extended shelter has
2325 been entered by the court after notice to all parties described in Section [78A-6-306](#).

2326 [t~~c~~] (e) A hearing for detention or shelter may not be waived. Detention staff shall
2327 provide the court with all information received from the person who brought the minor to the
2328 detention facility.

2329 [t~~d~~] (f) The judge or commissioner may only order a minor to be held in the facility or
2330 be placed in another appropriate facility, subject to further order of the court, if the court finds
2331 at a detention hearing that:

2332 (i) releasing the minor to the minor's parent, guardian, or custodian presents an
2333 unreasonable risk to public safety;

2334 (ii) less restrictive nonresidential alternatives to detention have been considered and,
2335 where appropriate, attempted; and

2336 (iii) the minor is eligible for detention under the division guidelines for detention
2337 admissions established by the Division of Juvenile Justice Services, under Section [62A-7-202](#)
2338 and under Section [78A-6-112](#).

2339 [t~~e~~] (g) (i) After a detention hearing has been held, only the court may release a minor
2340 from detention. If a minor remains in a detention facility, periodic reviews shall be held
~~[pursuant to the Utah State Juvenile Court Rules of Practice and Procedure]~~ in accordance with
2342 the Utah Rules of Juvenile Procedure to ensure that continued detention is necessary.

2343 (ii) After a detention hearing for a violent felony, as defined in Section [76-3-203.5](#), or
2344 an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that
2345 notice of [its] the court's decision, including any disposition, order, or no contact orders, be
2346 provided to designated persons in the appropriate local law enforcement agency and the district
2347 superintendent or the school or transferee school, if applicable, that the minor attends. The
2348 designated persons may receive the information for purposes of the minor's supervision and
2349 student safety.

2350 (iii) Any employee of the local law enforcement agency, the school district, and the

2351 school that the minor attends who discloses the court's order of probation is not:

2352 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
2353 provided in Section 63G-7-202; and

2354 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
2355 of Section 63G-2-801.

2356 (5) A minor may not be held in a detention facility, following a dispositional order of
2357 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for
2358 community-based placement under Section 62A-7-101.

2359 (6) (a) Except as otherwise provided in this section, a minor may not be held in a
2360 detention facility following a disposition order of the court for longer than 72 hours, excluding
2361 weekends and holidays.

2362 (b) The period of detention may be extended by the court for a cumulative total of
2363 seven calendar days if:

2364 (i) the Division of Juvenile Justice Services, or another agency responsible for
2365 placement, files a written petition with the court requesting the extension and setting forth good
2366 cause; and

2367 (ii) the court enters a written finding that it is in the best interests of both the minor and
2368 the community to extend the period of detention.

2369 (c) The court may extend the period of detention beyond the seven calendar days if the
2370 court finds by clear and convincing evidence that:

2371 (i) the Division of Juvenile Justice Services or another agency responsible for
2372 placement does not have space for the minor; and

2373 (ii) the safety of the minor and community requires an extension of the period of
2374 detention.

2375 (d) The Division of Juvenile Justice Services shall report to the court every 48 hours,
2376 excluding weekends and holidays, regarding [the status of] whether the Division of Juvenile
2377 Justice Services or another agency responsible for placement has space for the minor.

2378 (7) The agency requesting an extension shall promptly notify the detention facility that
2379 a written petition has been filed.

2380 (8) The court shall promptly notify the detention facility regarding [its] the court's
2381 initial disposition and any ruling on a petition for an extension, whether granted or denied.

2382 (9) (a) (i) A child [~~under 16 years of age~~] who is younger than 16 years old may not be
2383 held in a jail, lockup, or other place for adult detention, except as provided by [Section
2384 ~~62A-7-201 or unless certified as an adult pursuant to Section 78A-6-703~~] Section 62A-7-201,
2385 78A-6-703.5 or 78A-6-703.6.

2386 (ii) Section 62A-7-201 regarding confinement facilities applies to this Subsection (9).

2387 (b) (i) A child [~~16 years of age or older~~] who is 16 years old or older and whose
2388 conduct or condition endangers the safety or welfare of others in the detention facility for
2389 children may, by court order that specifies the reasons, be detained in another place of
2390 confinement considered appropriate by the court, including a jail or other place of confinement
2391 for adults. [However, a]

2392 (ii) A secure facility is not an appropriate place of confinement for detention purposes
2393 under this section.

2394 (10) A sheriff, warden, or other official in charge of a jail or other facility for the
2395 detention of adult offenders or [persons] individuals charged [with crime] with an offense shall
2396 immediately notify the juvenile court when [a person] an individual who is or appears to be
2397 under 18 years [~~of age~~] old is received at the facility and shall make arrangements for the
2398 transfer of the [person] individual to a detention facility, unless otherwise ordered by the
2399 juvenile court.

2400 (11) This section does not apply to a minor who is brought to the adult facility [~~under~~
2401 charges pursuant to Section ~~78A-6-701~~ or by order of the juvenile court to be held for criminal
2402 proceedings in the district court under Section ~~78A-6-702 or 78A-6-703.~~] in accordance with
2403 Section 78A-6-703.2, 78A-6-703.5, or 78A-6-703.6.

2404 [(12) A minor held for criminal proceedings under Section ~~78A-6-701, 78A-6-702, or~~
2405 ~~78A-6-703~~ may be detained in a jail or other place of detention used for adults charged with
2406 crime.]

2407 [(13) Provisions of law]

2408 (12) A provision of law regarding bail [~~are~~] is not applicable to minors detained or
2409 taken into custody under this chapter, except that bail may be allowed:

2410 (a) if a minor who need not be detained lives outside this state; or

2411 (b) when a minor who need not be detained comes within one of the classes in

2412 [Subsection ~~78A-6-603~~(11)] Section 78A-6-1101.

2413 [14] (13) Section 76-8-418 is applicable to a child who willfully and intentionally
2414 commits an act against a jail or other place of confinement, including a Division of Juvenile
2415 Justice Services detention, shelter, or secure confinement facility [which] that would be a third
2416 degree felony if committed by an adult.

2417 Section 44. Section 78A-6-116 is amended to read:

2418 **78A-6-116. Minor's cases considered civil proceedings -- Effect of adjudication of
2419 jurisdiction by juvenile court -- Minor not to be charged with crime -- Exception for a
2420 prior adjudication -- Traffic violation cases -- Abstracts to Department of Public Safety.**

2421 (1) Except as provided in [Sections 78A-6-701, 78A-6-702, and 78A-6-703] Section
2422 78A-6-703.2, 78A-6-703.5, or 78A-6-703.6, [proceedings] a proceeding in a minor's case [shall
2423 be regarded as civil proceedings] is a civil proceeding with the court exercising equitable
2424 powers.

2425 (2) (a) An adjudication by a juvenile court [~~that a minor is within its jurisdiction under
2426 Section 78A-6-103]~~ of a minor under Section 78A-6-117 is not considered a conviction of a
2427 crime, except in cases involving traffic violations.

2428 (b) An adjudication may not:

2429 (i) operate to impose any civil disabilities upon the minor [~~nor to~~]; or
2430 (ii) disqualify the minor for any civil service or military service or appointment.

2431 (3) (a) [A] Except in cases involving traffic violations, and as provided in Section
2432 78A-6-703.2, 78A-6-703.3, or 78A-6-703.5, a minor may not be charged with a crime [or] and
2433 convicted in any court [except as provided in Sections 78A-6-701, 78A-6-702, and 78A-6-703,
2434 and in cases involving traffic violations. When].

2435 (b) Except as provided in Section 78A-6-703.5, if a petition [has been] is filed in the
2436 juvenile court, the minor may not later be [subjected] subject to criminal prosecution based on
2437 the same facts [except as provided in Section 78A-6-702 or 78A-6-703].

2438 (4) (a) An adjudication by a juvenile court [~~that a minor is within its jurisdiction under
2439 Section 78A-6-103]~~ of a minor under Section 78A-6-117 is considered a conviction for the
2440 purposes of determining the level of offense for which a minor may be charged and enhancing
2441 the level of an offense in the juvenile court.

2442 (b) A prior adjudication may be used to enhance the level or degree of an offense
2443 committed by an adult only as otherwise specifically provided.

2444 (5) Abstracts of court records for all adjudications of traffic violations shall be
2445 submitted to the Department of Public Safety as provided in Section 53-3-218.

2446 (6) Information necessary to collect unpaid fines, fees, assessments, bail, or restitution
2447 may be forwarded to employers, financial institutions, law enforcement, constables, the Office
2448 of Recovery Services, or other agencies for purposes of enforcing the order as provided in
2449 Section 78A-6-117.

2450 Section 45. Section 78A-6-117 is amended to read:

2451 **78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
2452 **Enumeration of possible court orders -- Considerations of court.**

2453 (1) (a) Except as provided in Subsection (1)(b), when a minor is found to come within
2454 Section 78A-6-103, the court shall adjudicate the case and make findings of fact upon which
2455 the court bases the court's jurisdiction over the [minor] case.

2456 (b) For a case described in Subsection 78A-6-103(1), findings of fact are not necessary.

2457 (c) If the court adjudicates a minor for [a crime] an offense of violence or an offense in
2458 violation of Title 76, Chapter 10, Part 5, Weapons, the court shall order that notice of the
2459 adjudication be provided to the school superintendent of the district in which the minor resides
2460 or attends school. Notice shall be made to the district superintendent within three days of the
2461 adjudication and shall include:

2462 (i) the specific offenses for which the minor was adjudicated; and

2463 (ii) if available, whether the victim:

2464 (A) resides in the same school district as the minor; or

2465 (B) attends the same school as the minor.

2466 (d) (i) An adjudicated minor shall undergo a risk screening or, if indicated, a validated
2467 risk and needs assessment.

2468 (ii) Results of the screening or assessment shall be used to inform disposition decisions
2469 and case planning. Assessment results, if available, may not be shared with the court before
2470 adjudication.

2471 (2) Upon adjudication the court may make the following dispositions by court order:

2472 (a) (i) the court may place the minor on probation or under protective supervision in
2473 the minor's own home and upon conditions determined by the court, including community or
2474 compensatory service;

2475 (ii) a condition ordered by the court under Subsection (2)(a)(i):
2476 (A) shall be individualized and address a specific risk or need;
2477 (B) shall be based on information provided to the court, including the results of a
2478 validated risk and needs assessment conducted under Subsection (1)(d);
2479 (C) if the court orders substance abuse treatment or an educational series, shall be
2480 based on a validated risk and needs assessment conducted under Subsection (1)(d); and
2481 (D) if the court orders protective supervision, may not designate the division as the
2482 provider of protective supervision unless there is a petition regarding abuse, neglect, or
2483 dependency before the court requesting that the division provide protective supervision;
2484 (iii) a court may not issue a standard order that contains control-oriented conditions;
2485 (iv) prohibitions on weapon possession, where appropriate, shall be specific to the
2486 minor and not the minor's family;
2487 (v) if the court orders probation, the court may direct that notice of the court's order be
2488 provided to designated individuals in the local law enforcement agency and the school or
2489 transferee school, if applicable, that the minor attends. The designated individuals may receive
2490 the information for purposes of the minor's supervision and student safety; and
2491 (vi) an employee of the local law enforcement agency and the school that the minor
2492 attends who discloses the court's order of probation is not:
2493 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
2494 provided in Section [63G-7-202](#); and
2495 (B) civilly or criminally liable except when the disclosure constitutes a knowing
2496 violation of Section [63G-2-801](#).
2497 (b) The court may place the minor in the legal custody of a relative or other suitable
2498 individual, with or without probation or other court-specified child welfare services, but the
2499 juvenile court may not assume the function of developing foster home services.
2500 (c) The court shall only vest legal custody of the minor in the Division of Juvenile
2501 Justice Services and order the Division of Juvenile Justice Services to provide dispositional
2502 recommendations and services if:
2503 (i) nonresidential treatment options have been exhausted or nonresidential treatment
2504 options are not appropriate; and
2505 (ii) the minor is adjudicated under this section for a felony offense, a misdemeanor

2506 when the minor has five prior misdemeanors or felony adjudications arising from separate
2507 criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in
2508 Section 76-1-601.

2509 (d) (i) The court may not vest legal custody of a minor in the Division of Juvenile
2510 Justice Services for:

- 2511 (A) contempt of court except to the extent permitted under Section 78A-6-1101;
- 2512 (B) a violation of probation;
- 2513 (C) failure to pay a fine, fee, restitution, or other financial obligation;
- 2514 (D) unfinished compensatory or community service hours;
- 2515 (E) an infraction; or
- 2516 (F) a status offense.

2517 (ii) (A) A minor who is 18 years old or older, but younger than 21 years old, may
2518 petition the court to express the minor's desire to be removed from the jurisdiction of the
2519 juvenile court and from the custody of the [Division of Child and Family Services] division if
2520 the minor is in the division's custody on grounds of abuse, neglect, or dependency.

2521 (B) If the minor's parent's rights have not been terminated in accordance with Part 5,
2522 Termination of Parental Rights Act, the minor's petition shall contain a statement from the
2523 minor's parent or guardian agreeing that the minor should be removed from the custody of the
2524 [Division of Child and Family Services] division.

- 2525 (C) The minor and the minor's parent or guardian shall sign the petition.
- 2526 (D) The court shall review the petition within 14 days.

2527 (E) The court shall remove the minor from the custody of the [Division of Child and
2528 Family Services] division if the minor and the minor's parent or guardian have met the
2529 requirements described in Subsections (2)(d)(ii)(B) and (C) and if the court finds, based on
2530 input from the [Division of Child and Family Services] division, the minor's guardian ad litem,
2531 and the Office of the Attorney General, that the minor does not pose an imminent threat to self
2532 or others.

2533 (F) A minor removed from custody under Subsection (2)(d)(ii)(E) may, within 90 days
2534 of the date of removal, petition the court to re-enter custody of the [Division of Child and
2535 Family Services] division.

2536 (G) Upon receiving a petition under Subsection (2)(d)(ii)(F), the court shall order the

2537 [Division of Child and Family Services] division to take custody of the minor based on the
2538 findings the court entered when the court originally vested custody in the [Division of Child
2539 and Family Services] division.

2540 (e) The court shall only commit a minor to the Division of Juvenile Justice Services for
2541 secure confinement if the court finds that:

2542 (i) (A) the minor poses a risk of harm to others; [and] or

2543 (B) the minor's conduct resulted in the victim's death; and

2544 (ii) the minor is adjudicated under this section for:

2545 (f) (A) a felony offense;

2546 (f) (B) a misdemeanor if the minor has five prior misdemeanor or felony

2547 adjudications arising from separate criminal episodes; or

2548 (f) (C) a misdemeanor involving use of a dangerous weapon as defined in Section

2549 76-1-601.

2550 (f) (i) A minor under the jurisdiction of the court solely on the ground of abuse,
2551 neglect, or dependency under Subsection 78A-6-103(1)(b) may not be committed to the
2552 Division of Juvenile Justice Services.

2553 (ii) The court may not commit a minor to the Division of Juvenile Justice Services for
2554 secure confinement for:

2555 (A) contempt of court;

2556 (B) a violation of probation;

2557 (C) failure to pay a fine, fee, restitution, or other financial obligation;

2558 (D) unfinished compensatory or community service hours;

2559 (E) an infraction; or

2560 (F) a status offense.

2561 (g) The court may order nonresidential, diagnostic assessment, including substance use
2562 disorder, mental health, psychological, or sexual behavior risk assessment.

2563 (h) (i) The court may commit a minor to a place of detention or an alternative to
2564 detention for a period not to exceed 30 cumulative days per adjudication subject to the court
2565 retaining continuing jurisdiction over the [minor] minor's case. This commitment may not be
2566 suspended upon conditions ordered by the court.

2567 (ii) This Subsection (2)(h) applies only to a minor adjudicated for:

2568 (A) an act which if committed by an adult would be a criminal offense; or
2569 (B) contempt of court under Section 78A-6-1101.

2570 (iii) The court may not commit a minor to a place of detention for:
2571 (A) contempt of court except to the extent allowed under Section 78A-6-1101;
2572 (B) a violation of probation;
2573 (C) failure to pay a fine, fee, restitution, or other financial obligation;
2574 (D) unfinished compensatory or community service hours;
2575 (E) an infraction; or
2576 (F) a status offense.

2577 (iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30
2578 cumulative days eligible as a disposition under Subsection (2)(h)(i). If the minor spent more
2579 than 30 days in a place of detention before disposition, the court may not commit a minor to
2580 detention under this section.

2581 (B) Notwithstanding Subsection (2)(h)(iv)(A), the court may commit a minor for a
2582 maximum of seven days while a minor is awaiting placement under Subsection (2)(c). Only the
2583 seven days under this Subsection (2)(h)(iv)(B) may be combined with a nonsecure placement.

2584 (v) Notwithstanding Subsection (2)(v), no more than seven days of detention may be
2585 ordered in combination with an order under Subsection (2)(c).

2586 (i) The court may vest legal custody of an abused, neglected, or dependent minor in the
2587 [Division of Child and Family Services] division or any other appropriate person in accordance
2588 with the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
2589 Dependency Proceedings.

2590 (j) (i) The court may order a minor to repair, replace, or otherwise make restitution for
2591 material loss caused by the minor's wrongful act or for conduct for which the minor agrees to
2592 make restitution.

2593 (ii) A victim[,-as defined in Subsection 77-38a-102(14);] of an offense that involves as
2594 an element a scheme, a conspiracy, or a pattern of criminal activity, includes any person
2595 directly harmed by the minor's delinquency conduct in the course of the scheme, conspiracy, or
2596 pattern.

2597 (iii) If the victim and the minor agree to participate, the court may refer the case to a
2598 restorative justice program such as victim offender mediation to address how loss resulting

2599 from the adjudicated act may be addressed.

2600 (iv) For the purpose of determining whether and how much restitution is appropriate,
2601 the court shall consider the following:

2602 (A) restitution shall only be ordered for the victim's material loss;

2603 (B) restitution may not be ordered if the court finds that the minor is unable to pay or
2604 acquire the means to pay;

2605 (C) any amount paid by the minor to the victim in civil penalty shall be credited against
2606 restitution owed; and

2607 (D) the length of the presumptive term of supervision shall be taken into account in
2608 determining the minor's ability to satisfy the restitution order within the presumptive term.

2609 (v) Any amount paid to the victim in restitution shall be credited against liability in a
2610 civil suit.

2611 (vi) The court may also require a minor to reimburse an individual, entity, or
2612 governmental agency who offered and paid a reward to a person or persons for providing
2613 information resulting in a court adjudication that the minor is within the jurisdiction of the
2614 juvenile court due to the commission of a criminal offense.

2615 (vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the
2616 court may order the minor to make restitution for costs expended by any governmental entity
2617 for the return.

2618 (viii) Within seven days after the day on which a petition is filed under Section
2619 78A-6-602, the prosecuting attorney or the court's probation department shall provide
2620 notification of the restitution process to all reasonably identifiable and locatable victims of an
2621 offense listed in the petition.

2622 (ix) A victim that receives notice under Subsection (2)(j)(viii) is responsible for
2623 providing the prosecutor with:

2624 (A) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket
2625 loss;

2626 (B) all documentation of any compensation or reimbursement from an insurance
2627 company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

2628 (C) if applicable, the victim's proof of identification, including the victim's date of
2629 birth, social security number, or driver license number; and

2630 (D) the victim's contact information, including the victim's current home and work
2631 address and telephone number.

2632 [(viii) The prosecutor]

2633 (x) A prosecutor or victim shall submit a request for restitution to the court at the time
2634 of disposition, if feasible, otherwise within [three months] 90 days after disposition.

2635 [(ix) A financial disposition ordered shall prioritize the payment of restitution.]

2636 (xi) The court shall order a financial disposition that prioritizes the payment of
2637 restitution.

2638 (k) The court may issue orders necessary for the collection of restitution and fines
2639 ordered by the court, including garnishments, wage withholdings, and executions, except for an
2640 order that changes the custody of the minor, including detention or other secure or nonsecure
2641 residential placements.

2642 (l) (i) The court may through the court's probation department encourage the
2643 development of nonresidential employment or work programs to enable a minor to fulfill the
2644 minor's obligations under Subsection (2)(j) and for other purposes considered desirable by the
2645 court.

2646 (ii) Consistent with the order of the court, the probation officer may permit a minor
2647 [found to be within the jurisdiction of the court] to participate in a program of work restitution
2648 or compensatory service in lieu of paying part or all of the fine imposed by the court.

2649 (iii) The court may order the minor to:

2650 (A) pay a fine, fee, restitution, or other cost; or
2651 (B) complete service hours.

2652 (iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to
2653 complete service hours, those dispositions shall be considered collectively to ensure that the
2654 order:

2655 (A) is reasonable;

2656 (B) prioritizes restitution; and

2657 (C) takes into account the minor's ability to satisfy the order within the presumptive
2658 term of supervision.

2659 (v) If the court orders a minor to pay a fine, fee, or other cost, or complete service
2660 hours, the cumulative order shall be limited per criminal episode as follows:

2661 (A) for [children under age 16] a minor younger than 16 years old at adjudication, the
2662 court may impose up to \$180 or up to 24 hours of service; and

2663 (B) for [minors 16 and] a minor 16 years old or older at adjudication, the court may
2664 impose up to \$270 or up to 36 hours of service.

2665 (vi) The cumulative order under Subsection (2)(l)(v) does not include restitution.

2666 (vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of
2667 conversion shall be no less than the minimum wage.

2668 (m) (i) In violations of traffic laws within the court's jurisdiction, when the court finds
2669 that as part of the commission of the violation the minor was in actual physical control of a
2670 motor vehicle, the court may, in addition to any other disposition authorized by this section:

2671 (A) restrain the minor from driving for periods of time the court considers necessary;
2672 and

2673 (B) take possession of the minor's driver license.

2674 (ii) (A) The court may enter any other eligible disposition under Subsection (2)(m)(i)
2675 except for a disposition under Subsection (2)(c), (d), (e), or (f).[-However, the]

2676 (B) The suspension of driving privileges for an offense under Section 78A-6-606 is
2677 governed only by Section 78A-6-606.

2678 (n) (i) The court may order a minor to complete community or compensatory service
2679 hours in accordance with Subsections (2)(l)(iv) and (v).

2680 (ii) When community service is ordered, the presumptive service order shall include
2681 between five and 10 hours of service.

2682 (iii) Satisfactory completion of an approved substance use disorder prevention or
2683 treatment program or other court-ordered condition may be credited by the court as
2684 compensatory service hours.

2685 (iv) When a minor [is found within the jurisdiction of the juvenile court under Section
2686 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti] commits an
2687 offense involving the use of graffiti under Section 76-6-106 or 76-6-206, the court may order
2688 the minor to clean up graffiti created by the minor or any other individual at a time and place
2689 within the jurisdiction of the court. Compensatory service ordered under this section may be
2690 performed in the presence and under the direct supervision of the minor's parent or legal
2691 guardian. The parent or legal guardian shall report completion of the order to the court. The

2692 court may also require the minor to perform other alternative forms of restitution or repair to
2693 the damaged property pursuant to Subsection (2)(j).

2694 (o) (i) Subject to Subsection (2)(o)(iii), the court may order that a minor:

2695 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

2696 (B) receive other special care.

2697 (ii) For purposes of receiving the examination, treatment, or care described in
2698 Subsection (2)(o)(i), the court may place the minor in a hospital or other suitable facility that is
2699 not a secure facility or secure detention.

2700 (iii) In determining whether to order the examination, treatment, or care described in
2701 Subsection (2)(o)(i), the court shall consider:

2702 (A) the desires of the minor;

2703 (B) if the minor is [~~under the age of 18~~] younger than 18 years old, the desires of the
2704 parents or guardian of the minor; and

2705 (C) whether the potential benefits of the examination, treatment, or care outweigh the
2706 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
2707 function impairment, or emotional or physical harm resulting from the compulsory nature of
2708 the examination, treatment, or care.

2709 (iv) The [~~Division of Child and Family Services~~] division shall:

2710 (A) take reasonable measures to notify a parent or guardian of any non-emergency
2711 health treatment or care scheduled for a child[~~, shall~~];

2712 (B) include the parent or guardian as fully as possible in making health care decisions
2713 for the child[~~, and shall~~]; and

2714 (C) defer to the parent's or guardian's reasonable and informed decisions regarding the
2715 child's health care to the extent that the child's health and well being are not unreasonably
2716 compromised by the parent's or guardian's decision.

2717 (v) The [~~Division of Child and Family Services~~] division shall notify the parent or
2718 guardian of a child within five business days after a child in the custody of the [~~Division of
2719 Child and Family Services~~] division receives emergency health care or treatment.

2720 (vi) The [~~Division of Child and Family Services~~] division shall use the least restrictive
2721 means to accomplish a compelling interest in the care and treatment of a child described in this
2722 Subsection (2)(o).

2723 (p) (i) The court may appoint a guardian for the minor if it appears necessary in the
2724 interest of the minor, and may appoint as guardian a public or private institution or agency, but
2725 not a nonsecure residential placement provider, in which legal custody of the minor is vested.

2726 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
2727 private agency or institution, the court shall give primary consideration to the welfare of the
2728 minor. When practicable, the court may take into consideration the religious preferences of the
2729 minor and of a child's parents.

2730 (q) (i) In support of a decree under Section 78A-6-103, the court may order reasonable
2731 conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any
2732 other person who has been made a party to the proceedings. Conditions may include:

2733 (A) parent-time by the parents or one parent;
2734 (B) restrictions on the minor's associates;
2735 (C) restrictions on the minor's occupation and other activities; and
2736 (D) requirements to be observed by the parents or custodian.

2737 (ii) A minor whose parents or guardians successfully complete a family or other
2738 counseling program may be credited by the court for detention, confinement, or probation time.

2739 (r) The court may order the child to be committed to the physical custody of a local
2740 mental health authority, in accordance with the procedures and requirements of Title 62A,
2741 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
2742 Mental Health.

2743 (s) (i) The court may make an order committing a minor within the court's jurisdiction
2744 to the Utah State Developmental Center if the minor has an intellectual disability in accordance
2745 with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with
2746 an Intellectual Disability.

2747 (ii) The court shall follow the procedure applicable in the district courts with respect to
2748 judicial commitments to the Utah State Developmental Center when ordering a commitment
2749 under Subsection (2)(s)(i).

2750 (t) The court may terminate all parental rights upon a finding of compliance with Title
2751 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

2752 (u) The court may make other reasonable orders for the best interest of the minor and
2753 as required for the protection of the public, except that a child may not be committed to jail,

2754 prison, secure detention, or the custody of the Division of Juvenile Justice Services under
2755 Subsections (2)(c), (d), (e), and (f).

2756 (v) The court may combine the dispositions listed in this section if it is permissible and
2757 they are compatible.

2758 (w) Before depriving any parent of custody, the court shall give due consideration to
2759 the rights of parents concerning their child. The court may transfer custody of a minor to
2760 another individual, agency, or institution in accordance with the requirements and procedures
2761 of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

2762 (x) Except as provided in Subsection (2)(z)(i), an order under this section for probation
2763 or placement of a minor with an individual or an agency shall include a date certain for a
2764 review and presumptive termination of the case by the court in accordance with Subsection (6)
2765 and Section [62A-7-404] 62A-7-404.5. A new date shall be set upon each review.

2766 (y) In reviewing foster home placements, special attention shall be given to making
2767 adoptable children available for adoption without delay.

2768 (z) (i) The juvenile court may enter an order of permanent custody and guardianship
2769 with an individual or relative of a child where the court has previously acquired jurisdiction as
2770 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
2771 order for child support on behalf of the child against the natural or adoptive parents of the
2772 child.

2773 (ii) Orders under Subsection (2)(z)(i):

2774 (A) shall remain in effect until the child reaches majority;

2775 (B) are not subject to review under Section 78A-6-118; and

2776 (C) may be modified by petition or motion as provided in Section 78A-6-1103.

2777 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
2778 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
2779 of the juvenile court.

2780 (3) [In addition to the dispositions described in Subsection (2), when a minor comes
2781 within the court's jurisdiction,] If a court adjudicates a minor for an offense, the minor may be
2782 given a choice by the court to serve in the National Guard in lieu of other sanctions[, provided]
2783 described in Subsection (2) if:

2784 (a) the minor meets the current entrance qualifications for service in the National

2785 Guard as determined by a recruiter, whose determination is final;

2786 (b) the [minor is not under the jurisdiction of the court for any act that] offense:

2787 (i) would be a felony if committed by an adult;

2788 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

2789 (iii) was committed with a weapon; and

2790 (c) the court retains jurisdiction over the minor under conditions set by the court and
2791 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

2792 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
2793 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
2794 designated employees of the court or, if the minor is in the legal custody of the Division of
2795 Juvenile Justice Services, then by designated employees of the division under Subsection
2796 53-10-404(5)(b).

2797 (b) The responsible agency shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

2800 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
2801 Specimen Restricted Account created in Section 53-10-407.

2802 (d) Payment of the reimbursement is second in priority to payments the minor is
2803 ordered to make for restitution under this section and treatment under Section 78A-6-321.

2804 (5) (a) A disposition made by the court [pursuant to] in accordance with this section
2805 may not be suspended, except for the following:

2806 (i) If a minor qualifies for commitment to the Division of Juvenile Justice Services
2807 under Subsection [(2)(c), (d), (e), or (f)] (2)(e), the court may suspend a custody order
2808 [pursuant to Subsection (2)(c), (d), (e), or (f)] in accordance with Subsection (2)(c) in lieu of
2809 immediate commitment, upon the condition that the minor commit no new misdemeanor or
2810 felony offense during the three months following the day of disposition.

2811 (ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not
2812 exceed three months post-disposition and may not be extended under any circumstance.

2813 (iii) The court may only impose a custody order suspended under Subsection (5)(a)(i):
2814 (A) following adjudication of a new misdemeanor or felony offense committed by the
2815 minor during the period of suspension set out under Subsection (5)(a)(ii);

2816 (B) if a new assessment or evaluation has been completed and recommends that a
2817 higher level of care is needed and nonresidential treatment options have been exhausted or
2818 nonresidential treatment options are not appropriate; or

2819 (C) if, after a notice and a hearing, the court finds a new or previous evaluation
2820 recommends a higher level of treatment, and the minor willfully failed to comply with a lower
2821 level of treatment and has been unsuccessfully discharged from treatment.

2822 (iv) A suspended custody order may not be imposed without notice to the minor, notice
2823 to counsel, and a hearing.

2824 (b) The court [pursuant to] in accordance with Subsection (5)(a) shall terminate
2825 continuing jurisdiction over [the minor] a minor's case at the end of the presumptive time frame
2826 unless at least one the following circumstances exists:

2827 (i) termination [pursuant to] in accordance with Subsection (6)(a)(ii) would interrupt
2828 the completion of a program determined to be necessary by the results of a validated risk and
2829 needs assessment with completion found by the court after considering the recommendation of
2830 a licensed service provider on the basis of the minor completing the goals of the necessary
2831 treatment program;

2832 (ii) the minor commits a new misdemeanor or felony offense;
2833 (iii) service hours have not been completed; or
2834 (iv) there is an outstanding fine.

2835 (6) When the court places a minor on probation under Subsection (2)(a) or vests legal
2836 custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c) [or
2837 (d)], the court shall do so for a defined period of time [pursuant to] in accordance with this
2838 section.

2839 (a) [For the purposes of] In placing a minor on probation under Subsection (2)(a), the
2840 court shall establish a presumptive term of probation as specified in this Subsection (6):

2841 (i) the presumptive [maximum] length of intake probation may not exceed three
2842 months; and

2843 (ii) the presumptive [maximum] length of formal probation may not exceed four to six
2844 months.

2845 (b) [For the purposes of] In vesting legal custody of the minor in the Division of
2846 Juvenile Justice Services under Subsection (2)(c) or (d), the court shall establish a maximum

2847 term of custody and a maximum term of aftercare as specified in this Subsection (6):

2848 (i) the presumptive [maximum] length of out-of-home placement may not exceed three
2849 to six months; and

2850 (ii) the presumptive [maximum] length of aftercare supervision, for those previously
2851 placed out-of-home, may not exceed three to four months, and minors may serve the term of
2852 aftercare in the home of a qualifying relative or guardian or at an independent living program
2853 contracted or operated by the Division of Juvenile Justice Services.

2854 (c) The court [~~pursuant to~~] in accordance with Subsections (6)(a) and (b), and the
2855 Youth Parole Authority [~~pursuant to~~] in accordance with Subsection (6)(b), shall terminate
2856 continuing jurisdiction over [~~the minor~~] a minor's case at the end of the presumptive time frame
2857 unless at least one of the following circumstances exists:

2858 (i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a
2859 court ordered program determined to be necessary by the results of a validated assessment, with
2860 completion found by the court after considering the recommendations of a licensed service
2861 provider or facilitator of court ordered treatment or intervention program on the basis of the
2862 minor completing the goals of the necessary treatment program;

2863 (ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the
2864 completion of a program determined to be necessary by the results of a validated assessment,
2865 with completion determined on the basis of whether the minor has regularly and consistently
2866 attended the treatment program and completed the goals of the necessary treatment program as
2867 determined by the court or Youth Parole Authority after considering the recommendation of a
2868 licensed service provider or facilitator of court ordered treatment or intervention program;

2869 (iii) the minor commits a new misdemeanor or felony offense;

2870 (iv) service hours have not been completed;

2871 (v) there is an outstanding fine; or

2872 (vi) there is a failure to pay restitution in full.

2873 (d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)
2874 exists, the court may extend jurisdiction for the time needed to address the specific
2875 circumstance.

2876 (ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)
2877 exists, and the Youth Parole Authority has jurisdiction, the Youth Parole Authority may extend

2878 jurisdiction for the time needed to address the specific circumstance.

2879 (e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth
2880 Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one
2881 time for up to three months.

2882 (f) Grounds for extension of the presumptive length of supervision or placement and
2883 the length of any extension shall be recorded in the court record or records of the Youth Parole
2884 Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by
2885 the Administrative Office of the Courts and the Division of Juvenile Justice Services.

2886 (g) (i) For a minor who is under the supervision of the juvenile court and whose
2887 supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be
2888 continued under the supervision of intake probation.

2889 (ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose
2890 supervision is extended under Subsection (6)(c)(iv), (v), or (vi), jurisdiction may only be
2891 continued on parole and not in secure confinement.

2892 (h) In the event of an unauthorized leave lasting more than 24 hours, the supervision
2893 period shall toll until the minor returns.

2894 (7) Subsection (6) does not apply to any minor adjudicated under this section for:
2895 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
2896 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
2897 (c) Section 76-5-203, murder or attempted murder;
2898 (d) Section 76-5-205, manslaughter;
2899 (e) Section 76-5-206, negligent homicide;
2900 (f) Section 76-5-207, automobile homicide;
2901 (g) Section 76-5-207.5, automobile homicide involving handheld wireless
2902 communication device;
2903 (h) Section 76-5-208, child abuse homicide;
2904 (i) Section 76-5-209, homicide by assault;
2905 [¶] (j) Section 76-5-302, aggravated kidnapping;
2906 [¶] (k) Section 76-5-405, aggravated sexual assault;
2907 [¶] (l) a felony violation of Section 76-6-103, aggravated arson;
2908 [¶] (m) Section 76-6-203, aggravated burglary;

2909 [¶] (n) Section 76-6-302, aggravated robbery;
2910 [¶] (o) Section 76-10-508.1, felony discharge of a firearm; [or]
2911 [¶] (p) (i) an offense other than [those] an offense listed in Subsections (7)(a) through
2912 [¶] (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a
2913 felony[;]; and
2914 (ii) the minor has been previously adjudicated or convicted of an offense involving the
2915 use of a dangerous weapon[:]; or
2916 (q) a felony offense other than an offense listed in Subsections (7)(a) through (p) and
2917 the minor has been previously committed to the custody of the Division of Juvenile Justice
2918 Services for secure confinement.

2919 Section 46. Section 78A-6-118 is amended to read:

78A-6-118. Period of effect for a judgment, decree, or order by a juvenile court.

2920 (1) A judgment, order, or decree of the juvenile court [does not operate after the minor
2921 becomes 21 years of age] is no longer in effect after a minor is 21 years old, except [for]:

2922 [¶] (1) orders]

2923 (a) for an order of commitment to the Utah State Developmental Center or to the
2924 custody of the Division of Substance Abuse and Mental Health;

2925 [¶] (2) adoption orders]

2926 (b) for an adoption under Subsection 78A-6-103(1); [and]

2927 [¶] (3) orders]

2928 (c) for an order permanently terminating the rights of a parent, guardian, or custodian[;
2929 and permanent orders];

2930 (d) for a permanent order of custody and [guardianships:] guardianship; and

2931 (e) as provided in Subsection (2).

2932 (2) If the juvenile court enters a judgment or order for a minor for whom the court has
2933 extended continuing jurisdiction over the minor's case until the minor is 25 years old under
2934 Section 78A-6-703.4, the juvenile court's judgment or order is no longer in effect after the
2935 minor is 25 years old.

2936 Section 47. Section 78A-6-120 is amended to read:

**78A-6-120. Continuing jurisdiction of juvenile court -- Period of and termination
2937 of jurisdiction -- Notice of discharge from custody of local mental health authority or**

2940 Utah State Developmental Center -- Transfer of continuing jurisdiction to other district.

2941 [¶(1) Jurisdiction of a minor obtained by the court through adjudication under Section
2942 78A-6-117 continues for purposes of this chapter until the minor becomes 21 years of age,
2943 unless terminated earlier in accordance with Sections 62A-7-404 and 78A-6-117.]

2944 (1) Except as provided in Subsection (2), if the court retains jurisdiction over a minor's
2945 case under Section 78A-6-117, the court's jurisdiction over the minor's case continues until:

2946 (a) the minor is 21 years old; or

2947 (b) if the court extends jurisdiction over the minor's case until the minor is 25 years old
2948 under Section 78A-6-703.4, the minor is 25 years old.

2949 (2) (a) The [continuing jurisdiction of the court] court's continuing jurisdiction under
2950 Subsection (1) terminates:

2951 (i) upon order of the court;

2952 (ii) upon commitment to a secure facility;

2953 (iii) upon commencement of proceedings in adult cases under Section 78A-6-1001; or

2954 (iv) in accordance with Sections 62A-7-404 and 78A-6-117.

2955 (b) The continuing jurisdiction of the court over a minor's case is not terminated:

2956 (i) by marriage[:]; or

2957 (ii) when a minor commits an offense under municipal, state, or federal law under the
2958 jurisdiction of another court, and the minor is at least 18 years old at the time of the offense.

2959 (c) Notwithstanding Subsection (2)(a)(ii), the court retains jurisdiction to make and
2960 enforce orders related to restitution until the Youth Parole Authority discharges the [youth
2961 offender] minor.

2962 (3) When a minor has been committed by the court to the physical custody of a local
2963 mental health authority or [its] the local mental health authority's designee or to the Utah State
2964 Developmental Center, the local mental health authority or [its] the local mental health
2965 authority's designee or the superintendent of the Utah State Developmental Center shall give
2966 the court written notice of [its] the intention to discharge, release, or parole the minor not fewer
2967 than five days before the discharge, release, or parole.

2968 (4) (a) [Jurisdiction over a minor] The court may transfer a case of a minor who is on
2969 probation or under protective supervision, or of a minor who is otherwise under the continuing
2970 jurisdiction of the court, [may be transferred by the court to the] to a court of another district, if

2971 the receiving court consents, or upon direction of the chair of the Board of Juvenile Court
2972 Judges.

2973 (b) The receiving court has the same powers with respect to the minor that [it] the court
2974 would have if the proceedings originated in that court.

2975 [~~(5) On and after July 1, 2018, a minor adjudicated under Section 78A-6-117 and who
2976 underwent a validated risk and needs assessment under Subsection 78A-6-117(1)(c)]~~

2977 (5) A minor shall undergo a validated risk and needs assessment within seven days of
2978 the day on which an order terminating jurisdiction is issued[: if:

2979 (a) the minor is adjudicated under Section 78A-6-117; and

2980 (b) the minor underwent a validated risk and needs assessment under Subsection
2981 78A-6-117(1)(d).

2982 Section 48. Section **78A-6-306** is amended to read:

2983 **78A-6-306. Shelter hearing.**

2984 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays
2985 after any one or all of the following occur:

2986 (a) removal of the child from the child's home by the division;

2987 (b) placement of the child in the protective custody of the division;

2988 (c) emergency placement under Subsection **62A-4a-202.1(4);**

2989 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
2990 at the request of the division; or

2991 (e) a "Motion for Expedited Placement in Temporary Custody" is filed under
2992 Subsection **78A-6-106(4).**

2993 (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the
2994 division shall issue a notice that contains all of the following:

2995 (a) the name and address of the person to whom the notice is directed;

2996 (b) the date, time, and place of the shelter hearing;

2997 (c) the name of the child on whose behalf a petition is being brought;

2998 (d) a concise statement regarding:

2999 (i) the reasons for removal or other action of the division under Subsection (1); and

3000 (ii) the allegations and code sections under which the proceeding has been instituted;

3001 (e) a statement that the parent or guardian to whom notice is given, and the child, are

3002 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is
3003 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be
3004 provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

3005 (f) a statement that the parent or guardian is liable for the cost of support of the child in
3006 the protective custody, temporary custody, and custody of the division, and the cost for legal
3007 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial
3008 ability of the parent or guardian.

3009 (3) The notice described in Subsection (2) shall be personally served as soon as
3010 possible, but no later than one business day after removal of the child from the child's home, or
3011 the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection
3012 [78A-6-106](#)(4), on:

3013 (a) the appropriate guardian ad litem; and
3014 (b) both parents and any guardian of the child, unless the parents or guardians cannot
3015 be located.

3016 (4) The following persons shall be present at the shelter hearing:
3017 (a) the child, unless it would be detrimental for the child;
3018 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
3019 fail to appear in response to the notice;
3020 (c) counsel for the parents, if one is requested;
3021 (d) the child's guardian ad litem;
3022 (e) the caseworker from the division who is assigned to the case; and
3023 (f) the attorney from the attorney general's office who is representing the division.

3024 (5) (a) At the shelter hearing, the court shall:
3025 (i) provide an opportunity to provide relevant testimony to:
3026 (A) the child's parent or guardian, if present; and
3027 (B) any other person having relevant knowledge; and
3028 (ii) subject to Section [78A-6-305](#), provide an opportunity for the child to testify.
3029 (b) The court:
3030 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
3031 Procedure;
3032 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,

3033 the requesting party, or their counsel; and

3034 (iii) may in its discretion limit testimony and evidence to only that which goes to the
3035 issues of removal and the child's need for continued protection.

3036 (6) If the child is in the protective custody of the division, the division shall report to
3037 the court:

3038 (a) the reason why the child was removed from the parent's or guardian's custody;

3039 (b) any services provided to the child and the child's family in an effort to prevent
3040 removal;

3041 (c) the need, if any, for continued shelter;

3042 (d) the available services that could facilitate the return of the child to the custody of
3043 the child's parent or guardian; and

3044 (e) subject to Subsections [78A-6-307](#)(18)(c) through (e), whether any relatives of the
3045 child or friends of the child's parents may be able and willing to accept temporary placement of
3046 the child.

3047 (7) The court shall consider all relevant evidence provided by persons or entities
3048 authorized to present relevant evidence pursuant to this section.

3049 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good
3050 cause shown, the court may grant no more than one continuance, not to exceed five judicial
3051 days.

3052 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for
3053 a continuance under Subsection (8)(a).

3054 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice
3055 described in Subsection (2) within the time described in Subsection (3), the court may grant the
3056 request of a parent or guardian for a continuance, not to exceed five judicial days.

3057 (9) (a) If the child is in the protective custody of the division, the court shall order that
3058 the child be returned to the custody of the parent or guardian unless it finds, by a
3059 preponderance of the evidence, consistent with the protections and requirements provided in
3060 Subsection [62A-4a-201](#)(1), that any one of the following exists:

3061 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
3062 safety of the child and the child's physical health or safety may not be protected without
3063 removing the child from the custody of the child's parent;

3064 (ii) (A) the child is suffering emotional damage that results in a serious impairment in
3065 the child's growth, development, behavior, or psychological functioning;

3066 (B) the parent or guardian is unwilling or unable to make reasonable changes that
3067 would sufficiently prevent future damage; and

3068 (C) there are no reasonable means available by which the child's emotional health may
3069 be protected without removing the child from the custody of the child's parent or guardian;

3070 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
3071 not removed from the custody of the child's parent or guardian;

3072 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
3073 household has been, or is considered to be at substantial risk of being, physically abused,
3074 sexually abused, or sexually exploited by a:

3075 (A) parent or guardian;

3076 (B) member of the parent's household or the guardian's household; or

3077 (C) person known to the parent or guardian;

3078 (v) the parent or guardian is unwilling to have physical custody of the child;

3079 (vi) the child is without any provision for the child's support;

3080 (vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe
3081 and appropriate care for the child;

3082 (viii) (A) a relative or other adult custodian with whom the child is left by the parent or
3083 guardian is unwilling or unable to provide care or support for the child;

3084 (B) the whereabouts of the parent or guardian are unknown; and

3085 (C) reasonable efforts to locate the parent or guardian are unsuccessful;

3086 (ix) subject to Subsections 78A-6-105[(39)](40)(b) and 78A-6-117(2) and Section
3087 78A-6-301.5, the child is in immediate need of medical care;

3088 (x) (A) the physical environment or the fact that the child is left unattended beyond a
3089 reasonable period of time poses a threat to the child's health or safety; and

3090 (B) the parent or guardian is unwilling or unable to make reasonable changes that
3091 would remove the threat;

3092 (xi) (A) the child or a minor residing in the same household has been neglected; and

3093 (B) the parent or guardian is unwilling or unable to make reasonable changes that
3094 would prevent the neglect;

3095 (xii) the parent, guardian, or an adult residing in the same household as the parent or
3096 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act,
3097 and any clandestine laboratory operation was located in the residence or on the property where
3098 the child resided;

3099 (xiii) (A) the child's welfare is substantially endangered; and
3100 (B) the parent or guardian is unwilling or unable to make reasonable changes that
3101 would remove the danger; or

3102 (xiv) the child's natural parent:

3103 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
3104 child;

3105 (B) is identified by a law enforcement agency as the primary suspect in an investigation
3106 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

3107 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
3108 recklessly causing the death of another parent of the child.

3109 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
3110 established if:

3111 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
3112 involving the parent; and

3113 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

3114 (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly
3115 allowed the child to be in the physical care of a person after the parent received actual notice
3116 that the person physically abused, sexually abused, or sexually exploited the child, that fact
3117 constitutes prima facie evidence that there is a substantial risk that the child will be physically
3118 abused, sexually abused, or sexually exploited.

3119 (10) (a) (i) The court shall also make a determination on the record as to whether
3120 reasonable efforts were made to prevent or eliminate the need for removal of the child from the
3121 child's home and whether there are available services that would prevent the need for continued
3122 removal.

3123 (ii) If the court finds that the child can be safely returned to the custody of the child's
3124 parent or guardian through the provision of those services, the court shall place the child with
3125 the child's parent or guardian and order that those services be provided by the division.

3126 (b) In making the determination described in Subsection (10)(a), and in ordering and
3127 providing services, the child's health, safety, and welfare shall be the paramount concern, in
3128 accordance with federal law.

3129 (11) Where the division's first contact with the family occurred during an emergency
3130 situation in which the child could not safely remain at home, the court shall make a finding that
3131 any lack of preplacement preventive efforts was appropriate.

3132 (12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe
3133 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
3134 "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home,
3135 return a child to the child's home, provide reunification services, or attempt to rehabilitate the
3136 offending parent or parents.

3137 (13) The court may not order continued removal of a child solely on the basis of
3138 educational neglect as defined in Section [78A-6-105](#), truancy, or failure to comply with a court
3139 order to attend school.

3140 (14) (a) Whenever a court orders continued removal of a child under this section, the
3141 court shall state the facts on which that decision is based.

3142 (b) If no continued removal is ordered and the child is returned home, the court shall
3143 state the facts on which that decision is based.

3144 (15) If the court finds that continued removal and temporary custody are necessary for
3145 the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal
3146 regardless of:

3147 (a) any error in the initial removal of the child;
3148 (b) the failure of a party to comply with notice provisions; or
3149 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
3150 and Family Services.

3151 Section 49. Section [78A-6-312](#) is amended to read:

3152 **78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.**

3153 (1) The court may:
3154 (a) make any of the dispositions described in Section [78A-6-117](#);
3155 (b) place the minor in the custody or guardianship of any:
3156 (i) individual; or

3157 (ii) public or private entity or agency; or
3158 (c) order:
3159 (i) protective supervision;
3160 (ii) family preservation;
3161 (iii) subject to Subsections (12)(b), ~~78A-6-105~~(~~39~~)(40), and ~~78A-6-117~~(2) and
3162 Section ~~78A-6-301.5~~, medical or mental health treatment;
3163 (iv) sibling visitation; or
3164 (v) other services.

3165 (2) Whenever the court orders continued removal at the dispositional hearing, and that
3166 the minor remain in the custody of the division, the court shall first:

3167 (a) establish a primary permanency plan for the minor; and
3168 (b) determine whether, in view of the primary permanency plan, reunification services
3169 are appropriate for the minor and the minor's family, pursuant to Subsections (21) through (23).

3170 (3) Subject to Subsections (6) and (7), if the court determines that reunification
3171 services are appropriate for the minor and the minor's family, the court shall provide for
3172 reasonable parent-time with the parent or parents from whose custody the minor was removed,
3173 unless parent-time is not in the best interest of the minor.

3174 (4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe
3175 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
3176 "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to
3177 attempt to rehabilitate the offending parent or parents.

3178 (5) In all cases, the minor's health, safety, and welfare shall be the court's paramount
3179 concern in determining whether reasonable efforts to reunify should be made.

3180 (6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless
3181 the court makes a finding that it is necessary to deny parent-time in order to:

3182 (a) protect the physical safety of the minor;
3183 (b) protect the life of the minor; or
3184 (c) prevent the minor from being traumatized by contact with the parent due to the
3185 minor's fear of the parent in light of the nature of the alleged abuse or neglect.

3186 (7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a
3187 parent's failure to:

3188 (a) prove that the parent has not used legal or illegal substances; or
3189 (b) comply with an aspect of the child and family plan that is ordered by the court.
3190 (8) (a) In addition to the primary permanency plan, the court shall establish a
3191 concurrent permanency plan that shall include:
3192 (i) a representative list of the conditions under which the primary permanency plan will
3193 be abandoned in favor of the concurrent permanency plan; and
3194 (ii) an explanation of the effect of abandoning or modifying the primary permanency
3195 plan.
3196 (b) In determining the primary permanency plan and concurrent permanency plan, the
3197 court shall consider:
3198 (i) the preference for kinship placement over nonkinship placement;
3199 (ii) the potential for a guardianship placement if the parent-child relationship is legally
3200 terminated and no appropriate adoption placement is available; and
3201 (iii) the use of an individualized permanency plan, only as a last resort.
3202 (9) A permanency hearing shall be conducted in accordance with Subsection
3203 [78A-6-314](#)(1)(b) within 30 days after the day on which the dispositional hearing ends if
3204 something other than reunification is initially established as a minor's primary permanency
3205 plan.
3206 (10) (a) The court may amend a minor's primary permanency plan before the
3207 establishment of a final permanency plan under Section [78A-6-314](#).
3208 (b) The court is not limited to the terms of the concurrent permanency plan in the event
3209 that the primary permanency plan is abandoned.
3210 (c) If, at any time, the court determines that reunification is no longer a minor's primary
3211 permanency plan, the court shall conduct a permanency hearing in accordance with Section
3212 [78A-6-314](#) on or before the earlier of:
3213 (i) 30 days after the day on which the court makes the determination described in this
3214 Subsection (10)(c); or
3215 (ii) the day on which the provision of reunification services, described in Section
3216 [78A-6-314](#), ends.
3217 (11) (a) If the court determines that reunification services are appropriate, the court
3218 shall order that the division make reasonable efforts to provide services to the minor and the

3219 minor's parent for the purpose of facilitating reunification of the family, for a specified period
3220 of time.

3221 (b) In providing the services described in Subsection (11)(a), the minor's health, safety,
3222 and welfare shall be the division's paramount concern, and the court shall so order.

3223 (12) (a) The court shall:

3224 (i) determine whether the services offered or provided by the division under the child
3225 and family plan constitute "reasonable efforts" on the part of the division;

3226 (ii) determine and define the responsibilities of the parent under the child and family
3227 plan in accordance with Subsection [62A-4a-205](#)(6)(e); and

3228 (iii) identify verbally on the record, or in a written document provided to the parties,
3229 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future
3230 determination regarding the provision of reasonable efforts, in accordance with state and
3231 federal law.

3232 (b) If the parent is in a substance use disorder treatment program, other than a certified
3233 drug court program:

3234 (i) the court may order the parent to submit to supplementary drug or alcohol testing in
3235 addition to the testing recommended by the parent's substance use disorder program based on a
3236 finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

3237 (ii) the court may order the parent to provide the results of drug or alcohol testing
3238 recommended by the substance use disorder program to the court or division.

3239 (13) (a) The time period for reunification services may not exceed 12 months from the
3240 date that the minor was initially removed from the minor's home, unless the time period is
3241 extended under Subsection [78A-6-314](#)(7).

3242 (b) Nothing in this section may be construed to entitle any parent to an entire 12
3243 months of reunification services.

3244 (14) (a) If reunification services are ordered, the court may terminate those services at
3245 any time.

3246 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined
3247 to be inconsistent with the final permanency plan for the minor established pursuant to Section
3248 [78A-6-314](#), then measures shall be taken, in a timely manner, to:

3249 (i) place the minor in accordance with the permanency plan; and

3250 (ii) complete whatever steps are necessary to finalize the permanent placement of the
3251 minor.

3252 (15) Any physical custody of the minor by the parent or a relative during the period
3253 described in Subsections (11) through (14) does not interrupt the running of the period.

3254 (16) (a) If reunification services are ordered, a permanency hearing shall be conducted
3255 by the court in accordance with Section [78A-6-314](#) at the expiration of the time period for
3256 reunification services.

3257 (b) The permanency hearing shall be held no later than 12 months after the original
3258 removal of the minor.

3259 (c) If reunification services are not ordered, a permanency hearing shall be conducted
3260 within 30 days, in accordance with Section [78A-6-314](#).

3261 (17) With regard to a minor in the custody of the division whose parent or parents are
3262 ordered to receive reunification services but who have abandoned that minor for a period of six
3263 months from the date that reunification services were ordered:

3264 (a) the court shall terminate reunification services; and
3265 (b) the division shall petition the court for termination of parental rights.

3266 (18) When a court conducts a permanency hearing for a minor under Section
3267 [78A-6-314](#), the court shall attempt to keep the minor's sibling group together if keeping the
3268 sibling group together is:

3269 (a) practicable; and
3270 (b) in accordance with the best interest of the minor.

3271 (19) When a child is under the custody of the division and has been separated from a
3272 sibling due to foster care or adoptive placement, a court may order sibling visitation, subject to
3273 the division obtaining consent from the sibling's legal guardian, according to the court's
3274 determination of the best interests of the child for whom the hearing is held.

3275 (20) (a) Because of the state's interest in and responsibility to protect and provide
3276 permanency for minors who are abused, neglected, or dependent, the Legislature finds that a
3277 parent's interest in receiving reunification services is limited.

3278 (b) The court may determine that:
3279 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate,
3280 based on the individual circumstances; and

3281 (ii) reunification services should not be provided.

3282 (c) In determining "reasonable efforts" to be made with respect to a minor, and in
3283 making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount
3284 concern.

3285 (21) There is a presumption that reunification services should not be provided to a
3286 parent if the court finds, by clear and convincing evidence, that any of the following
3287 circumstances exist:

3288 (a) the whereabouts of the parents are unknown, based upon a verified affidavit
3289 indicating that a reasonably diligent search has failed to locate the parent;

3290 (b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such
3291 magnitude that it renders the parent incapable of utilizing reunification services;

3292 (c) the minor was previously adjudicated as an abused child due to physical abuse,
3293 sexual abuse, or sexual exploitation, and following the adjudication the minor:

3294 (i) was removed from the custody of the minor's parent;

3295 (ii) was subsequently returned to the custody of the parent; and

3296 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual
3297 exploitation;

3298 (d) the parent:

3299 (i) caused the death of another minor through abuse or neglect;

3300 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

3301 (A) murder or manslaughter of a child; or

3302 (B) child abuse homicide;

3303 (iii) committed sexual abuse against the child;

3304 (iv) is a registered sex offender or required to register as a sex offender; or

3305 (v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the
3306 child;

3307 (B) is identified by a law enforcement agency as the primary suspect in an investigation
3308 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

3309 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
3310 recklessly causing the death of another parent of the child;

3311 (e) the minor suffered severe abuse by the parent or by any person known by the

3312 parent, if the parent knew or reasonably should have known that the person was abusing the
3313 minor;

3314 (f) the minor is adjudicated an abused child as a result of severe abuse by the parent,
3315 and the court finds that it would not benefit the minor to pursue reunification services with the
3316 offending parent;

3317 (g) the parent's rights are terminated with regard to any other minor;

3318 (h) the minor was removed from the minor's home on at least two previous occasions
3319 and reunification services were offered or provided to the family at those times;

3320 (i) the parent has abandoned the minor for a period of six months or longer;

3321 (j) the parent permitted the child to reside, on a permanent or temporary basis, at a
3322 location where the parent knew or should have known that a clandestine laboratory operation
3323 was located;

3324 (k) except as provided in Subsection (22)(b), with respect to a parent who is the child's
3325 birth mother, the child has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was
3326 exposed to an illegal or prescription drug that was abused by the child's mother while the child
3327 was in utero, if the child was taken into division custody for that reason, unless the mother
3328 agrees to enroll in, is currently enrolled in, or has recently and successfully completed a
3329 substance use disorder treatment program approved by the department; or

3330 (l) any other circumstance that the court determines should preclude reunification
3331 efforts or services.

3332 (22) (a) The finding under Subsection (21)(b) shall be based on competent evidence
3333 from at least two medical or mental health professionals, who are not associates, establishing
3334 that, even with the provision of services, the parent is not likely to be capable of adequately
3335 caring for the minor within 12 months after the day on which the court finding is made.

3336 (b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under
3337 the circumstances of the case, that the substance use disorder treatment described in Subsection
3338 (21)(k) is not warranted.

3339 (23) In determining whether reunification services are appropriate, the court shall take
3340 into consideration:

3341 (a) failure of the parent to respond to previous services or comply with a previous child
3342 and family plan;

3343 (b) the fact that the minor was abused while the parent was under the influence of
3344 drugs or alcohol;
3345 (c) any history of violent behavior directed at the child or an immediate family
3346 member;
3347 (d) whether a parent continues to live with an individual who abused the minor;
3348 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;
3349 (f) testimony by a competent professional that the parent's behavior is unlikely to be
3350 successful; and
3351 (g) whether the parent has expressed an interest in reunification with the minor.

3352 (24) (a) If reunification services are not ordered pursuant to Subsections (20) through
3353 (22), and the whereabouts of a parent become known within six months after the day on which
3354 the out-of-home placement of the minor is made, the court may order the division to provide
3355 reunification services.

3356 (b) The time limits described in Subsections (2) through (18) are not tolled by the
3357 parent's absence.

3358 (25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable
3359 services unless the court determines that those services would be detrimental to the minor.

3360 (b) In making the determination described in Subsection (25)(a), the court shall
3361 consider:
3362 (i) the age of the minor;
3363 (ii) the degree of parent-child bonding;
3364 (iii) the length of the sentence;
3365 (iv) the nature of the treatment;
3366 (v) the nature of the crime or illness;
3367 (vi) the degree of detriment to the minor if services are not offered;
3368 (vii) for a minor 10 years old or older, the minor's attitude toward the implementation
3369 of family reunification services; and
3370 (viii) any other appropriate factors.
3371 (c) Reunification services for an incarcerated parent are subject to the time limitations
3372 imposed in Subsections (2) through (18).
3373 (d) Reunification services for an institutionalized parent are subject to the time

3374 limitations imposed in Subsections (2) through (18), unless the court determines that continued
3375 reunification services would be in the minor's best interest.

3376 (26) If, pursuant to Subsections (21)(b) through (l), the court does not order
3377 reunification services, a permanency hearing shall be conducted within 30 days, in accordance
3378 with Section [78A-6-314](#).

3379 Section 50. Section **78A-6-601** is amended to read:

3380 **78A-6-601. Criminal proceedings involving minors -- Transfer to juvenile court --
3381 Exception.**

3382 ~~[(1) If, during the pendency of a criminal or quasi-criminal proceeding in another court,
3383 including a preliminary hearing, it is determined that the person charged is under 21 years of
3384 age and was less than 18 years of age at the time of committing the alleged offense, that court
3385 shall transfer the case to the juvenile court, together with all the papers, documents, and
3386 transcripts of any testimony except as provided in Sections [78A-6-701](#), [78A-6-702](#), and
3387 [78A-6-703](#).]~~

3388 (1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or
3389 justice court determines that an individual being charged is under 21 years old and was younger
3390 than 18 years old at the time of committing the alleged offense, the district or justice court shall
3391 transfer the case to the juvenile court with all the papers, documents, and transcripts of any
3392 testimony.

3393 (b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense
3394 that is:

3395 (A) filed in the district court in accordance with Section [78A-6-703.2](#); or

3396 (B) transferred to the district court in accordance with Section [78A-6-703.5](#).

3397 (ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an
3398 offense for which the justice court has original jurisdiction under Subsection [78A-7-106\(2\)](#).

3399 (2) The district court or justice court making the transfer shall:

3400 (a) order the [person] individual to be taken immediately to the juvenile court or to a
3401 place of detention designated by the juvenile court[-]; or [shall]

3402 (b) release [him] the individual to the custody of [his] the individual's parent or
3403 guardian or other person legally responsible for [him] the individual, to be brought before the
3404 juvenile court at a time designated by [it] the juvenile court.

3405 (3) The juvenile court shall then proceed as provided in this chapter.

3406 Section 51. Section **78A-6-602** is amended to read:

3407 **78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial adjustments -- Formal
3408 referral -- Citation -- Failure to appear.**

3409 (1) A proceeding in a minor's case is commenced by petition, except as provided in
3410 [Sections ~~78A-6-701, 78A-6-702, and 78A-6-703~~] Section 78A-6-703.3.

3411 (2) (a) A peace officer or a public official of the state, a county, city, or town charged
3412 with the enforcement of the laws of the state or local jurisdiction shall file a formal referral
3413 with the juvenile court within 10 days of a minor's arrest. If the arrested minor is taken to a
3414 detention facility, the formal referral shall be filed with the juvenile court within [72 hours;
3415 ~~excluding weekends and holidays~~] 24 hours. A formal referral under Section ~~53G-8-211~~ may
3416 not be filed with the juvenile court on an offense unless the offense is subject to referral under
3417 Section ~~53G-8-211~~.

3418 (b) (i) When the court is informed by a peace officer or other person that a minor is or
3419 appears to be within the court's jurisdiction, the probation department shall make a preliminary
3420 inquiry to determine whether the minor is eligible to enter into a written consent agreement
3421 with the probation department and, if the minor is a child, the minor's parent, guardian, or
3422 custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2).

3423 (ii) Except as provided in Subsection (2)(k), the court's probation department shall
3424 offer a nonjudicial adjustment if the minor:

3425 (A) is referred with a misdemeanor, infraction, or status offense;

3426 (B) has no more than two prior adjudications; and

3427 (C) has no more than three prior unsuccessful nonjudicial adjustment attempts.

3428 (iii) For purposes of this Subsection (2)(b), an adjudication or nonjudicial adjustment
3429 means an action based on a single episode of conduct that is closely related in time and is
3430 incident to an attempt or an accomplishment of a single objective.

3431 (c) (i) Within seven days of receiving a referral that appears to be eligible for a
3432 nonjudicial adjustment pursuant to Subsection (2)(b), the probation department shall provide
3433 an initial notice to reasonably identifiable and locatable victims of the offense contained in the
3434 referral.

3435 (ii) The victim shall be responsible to provide to the division upon request:

3436 (A) invoices, bills, receipts, and other evidence of injury, loss of earnings, and
3437 out-of-pocket loss;

3438 (B) documentation and evidence of compensation or reimbursement from insurance
3439 companies or agencies of Utah, any other state, or federal government received as a direct
3440 result of the crime for injury, loss of earnings, or out-of-pocket loss; and

3441 (C) proof of identification, including home and work address and telephone numbers.

3442 (iii) The inability, failure, or refusal of the victim to provide all or part of the requested
3443 information shall result in the probation department determining restitution based on the best
3444 information available.

3445 (d) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a
3446 validated risk and needs assessment and may request that the prosecutor review the referral
3447 pursuant to Subsection (2)(h) to determine whether to dismiss the referral or file a petition
3448 instead of offering a nonjudicial adjustment if:

3449 (A) the results of the assessment indicate the youth is high risk; or

3450 (B) the results of the assessment indicate the youth is moderate risk and the referral is
3451 for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or
3452 Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

3453 (ii) Except as provided in Subsection (2)(k), the court's probation department may offer
3454 a nonjudicial adjustment to any other minor who does not meet the criteria provided in
3455 Subsection (2)(b).

3456 (iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an
3457 admission of guilt.

3458 (iv) A minor may not be denied an offer of nonjudicial adjustment due to an inability to
3459 pay a financial penalty under Subsection (2)(e).

3460 (v) Efforts to effect a nonjudicial adjustment may not extend for a period of more than
3461 90 days without leave of a judge of the court, who may extend the period for an additional 90
3462 days.

3463 (vi) A prosecutor prosecuting attorney may not file a petition against a minor unless:

3464 (A) the minor does not qualify for nonjudicial adjustment under Subsection (2)(b) or
3465 (d)(ii);

3466 (B) the minor declines nonjudicial adjustment;

3467 (C) the minor fails to substantially comply with the conditions agreed upon as part of
3468 the nonjudicial adjustment;

3469 (D) the minor fails to respond to the probation department's inquiry regarding
3470 eligibility for or an offer of a nonjudicial adjustment after being provided with notice for
3471 preliminary inquiry; or

3472 (E) the [prosecutor] prosecuting attorney is acting under Subsection (2)(k).

3473 (e) The nonjudicial adjustment of a case may include the following conditions agreed
3474 upon as part of the nonjudicial closure:

3475 (i) payment of a financial penalty of not more than \$250 to the juvenile court subject to
3476 the terms established under Subsection (2)(f);

3477 (ii) payment of victim restitution;

3478 (iii) satisfactory completion of community or compensatory service;

3479 (iv) referral to an appropriate provider for counseling or treatment;

3480 (v) attendance at substance use disorder programs or counseling programs;

3481 (vi) compliance with specified restrictions on activities and associations;

3482 (vii) victim-offender mediation, if requested by the victim; and

3483 (viii) other reasonable actions that are in the interest of the child or minor, the
3484 community, and the victim.

3485 (f) A fee, fine, or restitution included in a nonjudicial [closure] adjustment in
3486 accordance with Subsection (2)(e) shall be based upon the ability of the minor's family to pay
3487 as determined by a statewide sliding scale developed as provided in Section 63M-7-208 on and
3488 after July 1, 2018.

3489 (g) If a [prosecutor] prosecuting attorney learns of a referral involving an offense
3490 identified in Subsection (2)(k), if a minor fails to substantially comply with the conditions
3491 agreed upon as part of the nonjudicial [closure] adjustment, or if a minor is not offered or
3492 declines a nonjudicial adjustment pursuant to Subsection (2)(b), (2)(d)(ii), or (2)(d)(vi), the
3493 [prosecutor] prosecuting attorney shall review the case and take one of the following actions:

3494 (i) dismiss the case;

3495 (ii) refer the case back to the probation department for a new attempt at nonjudicial
3496 adjustment; or

3497 (iii) subject to Subsection (2)(i), file a petition with the court.

3498 (h) Notwithstanding Subsection (2)(g), a petition may only be filed upon reasonable
3499 belief that:

3500 (i) the charges are supported by probable cause;
3501 (ii) admissible evidence will be sufficient to support adjudication beyond a reasonable
3502 doubt; and
3503 (iii) the decision to charge is in the interests of justice.

3504 (i) Failure to pay a fine or fee may not serve as a basis for filing of a petition under
3505 Subsection (2)(g)(iii) if the minor has substantially complied with the other conditions agreed
3506 upon in accordance with Subsection (2)(e) or those imposed through any other court diversion
3507 program.

3508 (j) Notwithstanding Subsection (2)(i), a violation of Section 76-10-105 that is subject
3509 to the jurisdiction of the juvenile court may include a fine or penalty and participation in a
3510 court-approved tobacco education program, which may include a participation fee.

3511 (k) Notwithstanding the other provisions of this section, the probation department shall
3512 request that a [prosecutor] prosecuting attorney review a referral in accordance with Subsection
3513 (2)(g) if:

3514 (i) the referral involves a violation of:
3515 (A) Section 41-6a-502, driving under the influence;
3516 (B) Section 76-5-112, reckless endangerment creating a substantial risk of death or
3517 serious bodily injury;
3518 (C) Section 76-5-206, negligent homicide;
3519 (D) Section 76-9-702.1, sexual battery;
3520 (E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled
3521 shotgun on or about school premises; or
3522 (F) Section 76-10-509, possession of dangerous weapon by minor, but only if the
3523 dangerous weapon is a firearm; or

3524 (ii) the minor has a current suspended order for custody under Subsection
3525 78A-6-117(5)(a).

3526 (l) If the [prosecutor] prosecuting attorney files a petition in court, the court may refer
3527 the case to the probation department for another offer of nonjudicial adjustment.

3528 (m) If a minor violates Section 41-6a-502, regardless of whether a [prosecutor]

3529 prosecuting attorney reviews a referral under Subsection (2)(k)(i)(A), the minor shall be subject
3530 to a drug and alcohol screening and participate in an assessment, if found appropriate by the
3531 screening, and if warranted, follow the recommendations of the assessment.

3532 [~~(3)~~ Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor
3533 14 years of age or older, the county attorney, district attorney, or attorney general may
3534 commence an action by filing a criminal information and a motion requesting the juvenile court
3535 to waive its jurisdiction and certify the minor to the district court.]

3536 [~~(4)~~ (a) In cases of violations of wildlife laws, boating laws, class B and class C
3537 misdemeanors, other infractions or misdemeanors as designated by general order of the Board
3538 of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the
3539 juvenile court, a petition is not required and the issuance of a citation as provided in Section
3540 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry in
3541 accordance with Subsection (2)(b)(i) is required.]

3542 [~~(b)~~ Any failure to comply with the time deadline on a formal referral may not be the
3543 basis of dismissing the formal referral.]

3544 Section 52. Section 78A-6-603 is amended to read:

3545 **78A-6-603. Citation procedure -- Citation -- Offenses -- Time limits -- Failure to**
3546 **appear.**

3547 (1) As used in this section, "citation" means an abbreviated referral [and is sufficient to
3548 invoke the jurisdiction of the court in lieu of a petition].

3549 (2) A petition is not required to commence a proceeding against a minor for an
3550 adjudication of an alleged offense if a citation is issued for an offense for which the court has
3551 jurisdiction over and the offense listed in the citation is for:

3552 (a) a violation of a wildlife law;

3553 (b) a violation of a boating law;

3554 (c) a class B or C misdemeanor or an infraction other than a misdemeanor or
3555 infraction:

3556 (i) for a traffic violation; or

3557 (ii) designated as a citable offense by general order of the Board of Juvenile Court
3558 Judges;

3559 (d) a class B misdemeanor or infraction for a traffic violation where the individual is

3560 15 years old or younger at the time the offense was alleged to have occurred;

3561 (e) an infraction or misdemeanor designated as a citable offense by a general order of

3562 the Board of Juvenile Court Judges; or

3563 (f) a violation of Subsection 76-10-105(2).

3564 [~~(2)~~] (3) A citation shall be submitted to the court within five days of issuance.

3565 [~~(3)~~] (4) A copy of the citation shall contain:

3566 (a) the name and address of the juvenile court before which the minor may be required
3567 to appear;

3568 (b) the name of the minor cited;

3569 (c) the statute or local ordinance that is alleged to have been violated;

3570 (d) a brief description of the offense charged;

3571 (e) the date, time, and location at which the offense is alleged to have occurred;

3572 (f) the date the citation was issued;

3573 (g) the name and badge or identification number of the peace officer or public official
3574 who issued the citation;

3575 (h) the name of the arresting person if an arrest was made by a private party and the
3576 citation was issued in lieu of taking the arrested minor into custody as provided in Section
3577 78A-6-112;

3578 (i) the date and time when the minor is to appear, or a statement that the minor and
3579 parent or legal guardian are to appear when notified by the juvenile court; and

3580 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to
3581 appear at the juvenile court as designated on the citation.

3582 [~~(4)~~] (5) A copy of the citation shall contain space for the following information to be
3583 entered if known:

3584 (a) the minor's address;

3585 (b) the minor's date of birth;

3586 (c) the name and address of the child's custodial parent or legal guardian, if different
3587 from the child; and

3588 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that
3589 this information shall be removed from the documents the minor receives.

3590 [~~(5)~~] (6) A citation received by the court beyond the time designated in Subsection

3591 [~~(2)~~](3) shall include a written explanation for the delay.

3592 [~~(6)~~ In accordance with Section ~~53G-8-211~~, the following offenses may be sent to the
3593 juvenile court as a citation:]

3594 [~~(a)~~ violations of wildlife laws;]

3595 [~~(b)~~ violations of boating laws;]

3596 [~~(c)~~ violations of curfew laws;]

3597 [~~(d)~~ any class B misdemeanor or less traffic violations where the person is under the
3598 age of 16;]

3599 [~~(e)~~ any class B or class C misdemeanor or infraction;]

3600 [~~(f)~~ any other infraction or misdemeanor as designated by general order of the Board of
3601 Juvenile Court Judges; and]

3602 [~~(g)~~ violations of Section ~~76-10-105~~ subject to the jurisdiction of the juvenile court.]

3603 (7) A minor offense, as defined [~~under~~] in Section ~~78A-6-1202~~, alleged to have been
3604 committed by an enrolled child on school property or related to school attendance, may only be
3605 sent to the [prosecutor] prosecuting attorney or the [juvenile] court in accordance with Section
3606 ~~53G-8-211~~.

3607 (8) An inquiry shall be conducted:

3608 (a) by the prosecutor to determine upon reasonable belief that:

3609 (i) the charges are supported by probable cause;

3610 (ii) admissible evidence will be sufficient to support adjudication beyond a reasonable
3611 doubt; and

3612 (iii) the decision to charge is in the interests of justice; and

3613 (b) if appropriate, by the court under Section ~~78A-6-117~~.

3614 [~~(9)~~ Subsection ~~(5)~~ may not apply to a runaway child.]

3615 [~~(10)~~] (9) (a) A minor receiving a citation described in this section shall appear at the
3616 juvenile court designated in the citation on the time and date specified in the citation or when
3617 notified by the juvenile court.

3618 (b) A citation may not require a minor to appear sooner than five days following [~~its~~]
3619 the citation's issuance.

3620 [~~(11)~~] (10) A minor who receives a citation and willfully fails to appear before the
3621 juvenile court pursuant to a citation may be found in contempt of court. The court may proceed

3622 against the minor as provided in Section 78A-6-1101.

3623 [¶12] (11) When a citation is issued under this section, bail may be posted and
3624 forfeited under Section 78A-6-113 with the consent of:

3625 (a) the court; and

3626 (b) if the minor is a child, the parent or legal guardian of the child cited.

3627 Section 53. Section 78A-6-703.1 is enacted to read:

3628 **78A-6-703.1. Definitions.**

3629 As used in this part:

3630 (1) "Qualifying offense" means an offense described in Subsection 78A-6-703.3(1) or
3631 (2)(b).

3632 (2) "Separate offense" means any offense that is not a qualifying offense.

3633 Section 54. Section 78A-6-703.2 is enacted to read:

3634 **78A-6-703.2. Criminal information for a minor in district court.**

3635 (1) If a prosecuting attorney charges a minor with aggravated murder under Section
3636 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal
3637 information in the district court if the minor was the principal actor in an offense and the
3638 information alleges:

3639 (a) the minor was 16 or 17 years old at the time of the offense; and

3640 (b) the offense for which the minor is being charged is:

3641 (i) Section 76-5-202, aggravated murder; or

3642 (ii) Section 76-5-203, murder.

3643 (2) If the prosecuting attorney files a criminal information in the district court in
3644 accordance with Subsection (1), the district court shall try the minor as an adult, except:

3645 (a) the minor is not subject to a sentence of death in accordance with Subsection
3646 76-3-206(2)(b); and

3647 (b) the minor is not subject to a sentence of life without parole in accordance with
3648 Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

3649 (3) Except for a minor who is subject to the authority of the Board of Pardons and
3650 Parole, a minor shall be held in a juvenile detention facility until the district court determines
3651 where the minor will be held until the time of trial:

3652 (a) the minor is 16 or 17 years old; and

3653 (b) the minor is arrested for aggravated murder or murder.

3654 (4) In considering where a minor will be detained until the time of trial, the district
3655 court shall consider:

3656 (a) the age of the minor;

3657 (b) the nature, seriousness, and circumstances of the alleged offense;

3658 (c) the minor's history of prior criminal acts;

3659 (d) whether detention in a juvenile detention facility will adequately serve the need for
3660 community protection pending the outcome of any criminal proceedings;

3661 (e) the relative ability of the facility to meet the needs of the minor and protect the
3662 public;

3663 (f) the physical maturity of the minor;

3664 (g) the current mental state of the minor as evidenced by relevant mental health or a
3665 psychological assessment or screening that is made available to the court; and

3666 (h) any other factors that the court considers relevant.

3667 (5) A minor ordered to a juvenile detention facility under Subsection (4) shall remain
3668 in the facility:

3669 (a) until released by the district court; or

3670 (b) if convicted, until sentencing.

3671 (6) If a minor is held in a juvenile detention facility under Subsection (4), the court
3672 shall:

3673 (a) advise the minor of the right to bail; and

3674 (b) set initial bail in accordance with Title 77, Chapter 20, Bail.

3675 (7) If the minor ordered to a juvenile detention facility under Subsection (4) attains the
3676 age of 18 years, the minor shall be transferred within 30 days to an adult jail until:

3677 (a) released by the district court judge; or

3678 (b) if convicted, sentencing.

3679 (8) If minor is ordered to a juvenile detention facility under Subsection (4) and the
3680 minor's conduct or condition endangers the safety or welfare of others in the juvenile detention
3681 facility may, the court may find that the minor shall be detained in another place of
3682 confinement considered appropriate by the court, including a jail or an adult facility for pretrial
3683 confinement.

3684 (9) If a minor is charged for aggravated murder or murder in the district court under
3685 this section, and all charges for aggravated murder or murder result in an acquittal, a finding of
3686 not guilty, or a dismissal:

3687 (a) the juvenile court gains jurisdiction over all other offenses committed by the minor;
3688 and

3689 (b) the Division of Juvenile Justice Services gains jurisdiction over the minor.

3690 Section 55. Section 78A-6-703.3 is enacted to read:

3691 **78A-6-703.3. Criminal information for a minor in juvenile court.**

3692 Notwithstanding Section 78A-6-602, if a prosecuting attorney charges a minor with a
3693 felony, the prosecuting attorney may file a criminal information in the court if the minor was a
3694 principal actor in an offense and the information alleges:

3695 (1) (a) the minor was 16 or 17 years old at the time of the offense; and

3696 (b) the offense for which the minor is being charged is a felony violation of:

3697 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

3698 (ii) Section 76-5-202, attempted aggravated murder;

3699 (iii) Section 76-5-203, attempted murder;

3700 (iv) Section 76-5-302, aggravated kidnapping;

3701 (v) Section 76-5-405, aggravated sexual assault;

3702 (vi) Section 76-6-103, aggravated arson;

3703 (vii) Section 76-6-203, aggravated burglary;

3704 (viii) Section 76-6-302, aggravated robbery;

3705 (ix) Section 76-10-508.1, felony discharge of a firearm; or

3706 (x) an offense other than an offense listed in Subsections (1)(b)(i) through (ix)

3707 involving the use of a dangerous weapon:

3708 (A) if the offense would be a felony had an adult committed the offense; and

3709 (B) the minor has been previously adjudicated or convicted of an offense involving the
3710 use of a dangerous weapon that would have been a felony if committed by an adult; or

3711 (2) (a) the minor was 14 or 15 years old at the time of the offense; and

3712 (b) the offense for which the minor is being charged is a felony violation of:

3713 (i) Section 76-5-202, aggravated murder or attempted aggravated murder; or

3714 (ii) Section 76-5-203, murder or attempted murder.

3715 Section 56. Section **78A-6-703.4** is enacted to read:

3716 **78A-6-703.4. Extension of juvenile court jurisdiction -- Procedure.**

3717 (1) At the time that a prosecuting attorney charges a minor who is 14 years old or older
3718 with a felony, either party may file a motion to extend the juvenile court's continuing
3719 jurisdiction over the minor's case until the minor is 25 years old if:

3720 (a) the minor was the principal actor in the offense; and

3721 (b) the petition or criminal information alleges a felony violation of:

3722 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

3723 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

3724 (iii) Section 76-5-203, murder or attempted murder;

3725 (iv) Section 76-5-302, aggravated kidnapping;

3726 (v) Section 76-5-405, aggravated sexual assault;

3727 (vi) Section 76-6-103, aggravated arson;

3728 (vii) Section 76-6-203, aggravated burglary;

3729 (viii) Section 76-6-302, aggravated robbery;

3730 (ix) Section 76-10-508.1, felony discharge of a firearm;

3731 (x) (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix)

3732 involving the use of a dangerous weapon that would be a felony if committed by an adult; and

3733 (B) the minor has been previously adjudicated or convicted of an offense involving the

3734 use of a dangerous weapon that would have been a felony if committed by an adult.

3735 (2) (a) Notwithstanding Subsection (1), either party may file a motion to extend the

3736 court's continuing jurisdiction after a determination by the court that the minor will not be

3737 bound over to the district court under Section 78A-6-703.5.

3738 (3) The court shall make a determination on a motion under Subsection (1) or (2) at the

3739 time of disposition.

3740 (4) The court shall extend the continuing jurisdiction over the minor's case until the

3741 minor is 25 years old if the court finds, by a preponderance of the evidence, that extending

3742 continuing jurisdiction is in the best interest of the minor and the public.

3743 (5) In considering whether it is in the best interest of the minor and the public for the

3744 court to extend jurisdiction over the minor's case until the minor is 25 years old, the court shall

3745 consider and base the court's decision on:

3746 (a) whether the protection of the community requires an extension of jurisdiction
3747 beyond the age of 21;

3748 (b) the extent to which the minor's actions in the offense were committed in an
3749 aggressive, violent, premeditated, or willful manner;

3750 (c) the minor's mental, physical, educational, trauma, and social history; and

3751 (d) the criminal record and previous history of the minor.

3752 (6) The amount of weight that each factor in Subsection (5) is given is in the court's
3753 discretion.

3754 (7) (a) The court may consider written reports and other materials relating to the
3755 minor's mental, physical, educational, trauma, and social history.

3756 (b) Upon request by the minor, the minor's parent, guardian, or other interested party,
3757 the court shall require the person preparing the report or other material to appear and be subject
3758 to both direct and cross-examination.

3759 (8) A minor may testify under oath, call witnesses, cross-examine witnesses, and
3760 present evidence on the factors described in Subsection (5).

3761 Section 57. Section **78A-6-703.5** is enacted to read:

3762 **78A-6-703.5. Preliminary hearing.**

3763 (1) If a prosecuting attorney files a criminal information in accordance with Section
3764 **78A-6-703.3**, the court shall conduct a preliminary hearing to determine whether a minor
3765 should be bound over to the district court for a qualifying offense.

3766 (2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have
3767 the burden of establishing:

3768 (a) probable cause to believe that a qualifying offense was committed and the minor
3769 committed that offense; and

3770 (b) by a preponderance of the evidence, that it is contrary to the best interests of the
3771 minor and the public for the juvenile court to retain jurisdiction over the offense.

3772 (3) In making a determination under Subsection (2)(b), the court shall consider and
3773 make findings on:

3774 (a) the seriousness of the qualifying offense and whether the protection of the
3775 community requires that the minor is detained beyond the amount of time allowed under
3776 Subsection **78A-6-117**(2)(h), or beyond the age of continuing jurisdiction that the court may

3777 exercise under Section [78A-6-703.4](#);

3778 (b) the extent to which the minor's actions in the qualifying offense were committed in
3779 an aggressive, violent, premeditated, or willful manner;

3780 (c) the minor's mental, physical, educational, trauma, and social history;

3781 (d) the criminal record or history of the minor; and

3782 (e) the likelihood of the minor's rehabilitation by the use of services and facilities that
3783 are available to the court.

3784 (4) The amount of weight that each factor in Subsection (3) is given is in the court's
3785 discretion.

3786 (5) (a) The court may consider any written report or other material that relates to the
3787 minor's mental, physical, educational, trauma, and social history.

3788 (b) Upon request by the minor, the minor's parent, guardian, or other interested party,
3789 the court shall require the person preparing the report, or other material, under Subsection
3790 (5)(a) to appear and be subject to direct and cross-examination.

3791 (6) At the preliminary hearing under Subsection (1), a minor may testify under oath,
3792 call witnesses, cross-examine witnesses, and present evidence on the factors described in
3793 Subsection (3).

3794 (7) (a) A proceeding before the court related to a charge filed under this part shall be
3795 conducted in conformity with the Utah Rules of Juvenile Procedure.

3796 (b) Title 78B, Chapter 22, Indigent Defense Act, and Section [78A-6-115](#) are applicable
3797 to the preliminary hearing under this section.

3798 (8) If the court finds that the prosecuting attorney has met the burden of proof under
3799 Subsection (2), the court shall bind the minor over to the district court to be held for trial.

3800 (9) (a) If the court finds that a qualifying offense has been committed by a minor, but
3801 the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the court
3802 shall:

3803 (i) proceed upon the criminal information as if the information were a petition under
3804 Section [78A-6-602](#);

3805 (ii) release or detain the minor in accordance with Section [78A-6-113](#); and

3806 (iii) proceed with an adjudication for the minor in accordance with this chapter.

3807 (b) If the court finds that the prosecuting attorney has not met the burden under

3808 Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a
3809 motion to extend the court's continuing jurisdiction over the minor's case until the minor is 25
3810 years old in accordance with Section 78A-6-703.4.

3811 (10) (a) A prosecuting attorney may charge a minor with a separate offense in the same
3812 criminal information as the qualifying offense if the qualifying offense and separate offense
3813 arise from a single criminal episode.

3814 (b) If the prosecuting attorney charges a minor with a separate offense as described in
3815 Subsection (10)(a):

3816 (i) the prosecuting attorney shall have the burden of establishing probable cause to
3817 believe that the separate offense was committed and the minor committed the separate offense;
3818 and

3819 (ii) if the prosecuting attorney establishes probable cause for the separate offense under
3820 Subsection (10)(b)(i) and the court binds the minor over to the district court for the qualifying
3821 offense, the court shall also bind the minor over for the separate offense to the district court.

3822 (11) If a grand jury indicts a minor for a qualifying offense:

3823 (a) the prosecuting attorney does not need to establish probable cause under Subsection
3824 (2)(a) for the qualifying offense and any separate offense included in the indictment; and
3825 (b) the court shall proceed with determining whether the minor should be bound over
3826 to the district court for the qualifying offense and any separate offense included in the
3827 indictment in accordance with Subsections (2)(b) and (3).

3828 (12) If a minor is bound over to the district court, the court shall:

3829 (a) issue a criminal warrant of arrest;
3830 (b) advise the minor of the right to bail; and
3831 (c) set initial bail in accordance with Title 77, Chapter 20, Bail.

3832 (13) (a) At the time that a minor is bound over to the district court, the court shall make
3833 an initial determination on where the minor is held until the time of trial.

3834 (b) In determining where a minor is held until the time of trial, the court shall consider:
3835 (i) the age of the minor;
3836 (ii) the minor's history of prior criminal acts;
3837 (iii) whether detention in a juvenile detention facility will adequately serve the need for
3838 community protection pending the outcome of any criminal proceedings;

3839 (iv) the relative ability of the facility to meet the needs of the minor and protect the
3840 public;

3841 (v) the physical maturity of the minor;

3842 (vi) the current mental state of the minor as evidenced by relevant mental health or
3843 psychological assessments or screenings that are made available to the court; and

3844 (vii) any other factors that the court considers relevant.

3845 (14) If the court orders a minor to be detained in a juvenile detention facility under
3846 Subsection (13), the minor shall remain in the facility:

3847 (a) until released by a district court; or

3848 (b) if convicted, until sentencing.

3849 (15) If the court orders the minor to be detained in a juvenile detention facility under
3850 Subsection (13) and the minor attains the age of 18 while detained at the facility, the minor
3851 shall be transferred within 30 days to an adult jail to remain:

3852 (a) until released by the district court; or

3853 (b) if convicted, until sentencing.

3854 (16) Except as provided in Subsection (17) and Section 78A-6-705, if a minor is bound
3855 over to the district court under this section, the jurisdiction of the Division of Juvenile Justice
3856 Services and the juvenile court over the minor is terminated for the qualifying offense and any
3857 other separate offense for which the minor is bound over.

3858 (17) If a minor is bound over to the district court for a qualifying offense and the
3859 qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:

3860 (a) the juvenile court regains jurisdiction over any separate offense committed by the
3861 minor; and

3862 (b) the Division of Juvenile Justice Services regains jurisdiction over the minor.

3863 Section 58. Section 78A-6-703.6 is enacted to read:

3864 **78A-6-703.6. Criminal proceedings for a minor bound over to district court.**

3865 (1) If the juvenile court binds a minor over to the district court in accordance with
3866 Section 78A-6-703.5, the prosecuting attorney shall try the minor as if the minor is an adult in
3867 the district court except:

3868 (a) the minor is not subject to a sentence of death in accordance with Subsection
3869 76-3-206(2)(b); and

3870 (b) the minor is not subject to a sentence of life without parole in accordance with
3871 Subsections [76-3-206](#)(2)(b) and [76-3-207.5](#)(3) and Section [76-3-209](#).
3872 (2) A minor who is bound over to the district court to answer as an adult is not entitled
3873 to a preliminary hearing in the district court.
3874 (3) (a) If a minor is bound over to the district court by the juvenile court, the district
3875 court may reconsider the juvenile court's decision under Subsection [78A-6-703.5](#)(13) as to
3876 where the minor is being held until trial.
3877 (b) If the district court reconsiders the juvenile court's decision as to where the minor is
3878 held, the district court shall consider and make findings on:
3879 (i) the age of the minor;
3880 (ii) the minor's history of prior criminal acts;
3881 (iii) whether detention in a juvenile detention facility will adequately serve the need for
3882 community protection pending the outcome of any criminal proceedings;
3883 (iv) the relative ability of the facility to meet the needs of the minor and protect the
3884 public;
3885 (v) the physical maturity of the minor;
3886 (vi) the current mental state of the minor as evidenced by relevant mental health or
3887 psychological assessments or screenings that are made available to the court; and
3888 (vii) any other factors the court considers relevant.
3889 (4) A minor who is ordered to a juvenile detention facility under Subsection (3) shall
3890 remain in the facility:
3891 (a) until released by a district court; or
3892 (b) if convicted, until sentencing.
3893 (5) If the district court orders the minor to be detained in a juvenile detention facility
3894 under Subsection (3) and the minor attains the age of 18 while detained at the facility, the
3895 minor shall be transferred within 30 days to an adult jail to remain:
3896 (a) until released by the district court; or
3897 (b) if convicted, until sentencing.
3898 (6) If a minor is bound over to the district court and detained in a juvenile detention
3899 facility, the district court may order the minor be detained in another place of confinement that
3900 is considered appropriate by the district court, including a jail or other place of pretrial

3901 confinement for adults if the minor's conduct or condition endangers the safety and welfare of
3902 others in the facility.

3903 (7) If the district court obtains jurisdiction over a minor under Section 78A-6-703.5,
3904 the district court is not divested of jurisdiction for a qualifying offense or a separate offense
3905 listed in the criminal information when the minor is allowed to enter a plea to, or is found
3906 guilty of, another offense in the same criminal information.

3907 Section 59. Section **78A-6-704** is amended to read:

78A-6-704. Appeals from bind over proceedings.

3909 (1) A minor may, as a matter of right, appeal from [:(a)] an order of the juvenile court
3910 binding the minor over to the district court [as a serious youth offender pursuant to Section
3911 78A-6-702; or (b) an order of the juvenile court, after certification proceedings pursuant to
3912 Section 78A-6-703, directing that the minor be held for criminal proceedings in the district
3913 court.] under Section 78A-6-703.5.

3914 (2) The [prosecution] prosecuting attorney may, as a matter of right, appeal [from: (a)]
3915 an order of the juvenile court that a minor charged [as a serious youth offender pursuant to
3916 Section 78A-6-702 be held for trial] in accordance with Section 78A-6-703.3 will be
3917 adjudicated in the juvenile court[, or].

3918 [(b) a refusal by the juvenile court, after certification proceedings pursuant to Section
3919 78A-6-703, to order that a minor be held for criminal proceedings in the district court.]

3920 Section 60. Section **78A-6-705** is amended to read:

78A-6-705. Youth prison commitment.

3922 (1) (a) Before sentencing a minor, who [is under the jurisdiction of the district court
3923 under Section 78A-6-701, 78A-6-702, or 78A-6-703] was bound over to the district court
3924 under Section 78A-6-703.5 to be tried as an adult, to prison the district court shall request a
3925 report from the Division of Juvenile Justice Services regarding the potential risk to other
3926 [juveniles] minors if the minor were to be committed to the custody of the [division] Division
3927 of Juvenile Justice Services.

3928 (b) The [division] Division of Juvenile Justice Services shall submit the requested
3929 report to the district court as part of the pre-sentence report or as a separate report.

3930 (2) If, after receiving the report described in Subsection (1), the district court
3931 determines that probation is not appropriate and commitment to prison is an appropriate

3932 sentence, the district court shall order the minor committed to prison and the minor shall be
3933 provisionally housed in a secure facility operated by the Division of Juvenile Justice Services
3934 until the minor reaches 18 years [of age] old, unless released earlier from incarceration by the
3935 Board of Pardons and Parole.

3936 (3) The district court may order the minor committed directly to the custody of the
3937 Department of Corrections if the court finds that:

3938 (a) the minor would present an unreasonable risk to others while in the [division's]
3939 custody of the Division of Juvenile Justice Services;

3940 (b) the minor has previously been committed to a prison for adult offenders; or

3941 (c) housing the minor in a secure facility operated by the Division of Juvenile Justice
3942 Services would be contrary to the interests of justice.

3943 (4) (a) The Division of Juvenile Justice Services shall adopt procedures by rule,
3944 [pursuant to] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
3945 regarding the transfer of a minor provisionally housed in a division facility under Subsection
3946 (2) to the custody of the Department of Corrections.

3947 (b) If, in accordance with [those rules] the rules adopted under Subsection (4)(a), the
3948 [division] Division of Juvenile Justice Services determines that housing the minor in a division
3949 facility presents an unreasonable risk to others or that it is not in the best interest of the minor,
3950 [it] the Division of Juvenile Justice Services shall transfer the physical custody of the minor to
3951 the Department of Corrections.

3952 (5) (a) When a minor is committed to prison but ordered by a district court to be
3953 housed in a Division of Juvenile Justice Services facility under this section, the district court
3954 and the [division] Division of Juvenile Justice Services shall immediately notify the Board of
3955 Pardons and Parole so that the minor may be scheduled for a hearing according to board
3956 procedures.

3957 (b) If a minor who is provisionally housed in a [division] Division of Juvenile Justice
3958 Services facility under this section has not been paroled or otherwise released from
3959 incarceration by the time the minor reaches 18 years [of age, the division] old, the Division of
3960 Juvenile Justice Services shall as soon as reasonably possible, but not later than when the
3961 minor reaches 18 years and 6 months [of age] old, transfer the minor to the physical custody of
3962 the Department of Corrections.

3963 (6) Upon the commitment of a minor to the custody of the Division of Juvenile Justice
3964 Services or the Department of Corrections under this section, the Board of Pardons and Parole
3965 has authority over the minor for purposes of parole, pardon, commutation, termination of
3966 sentence, remission of fines or forfeitures, orders of restitution, and all other purposes
3967 authorized by law.

3968 (7) The Youth Parole Authority may hold hearings, receive reports, or otherwise keep
3969 informed of the progress of a minor in the custody of the Division of Juvenile Justice Services
3970 under this section and may forward to the Board of Pardons and Parole any information or
3971 recommendations concerning the minor.

3972 (8) Commitment of a minor under this section is a prison commitment for all
3973 sentencing purposes.

3974 Section 61. Section **78A-6-1107** is amended to read:

3975 **78A-6-1107. Transfer of continuing jurisdiction to other district.**

3976 (1) [Jurisdiction over] If a minor is on probation or under protective supervision, or [~~of~~
3977 ~~a minor who is otherwise~~] under the continuing jurisdiction of the court, [~~may be transferred by~~
3978 ~~the court~~] the court may transfer the minor's case to [the] a court of another district, if the
3979 receiving court consents, or upon direction of the chair of the Board of Juvenile Court Judges.

3980 (2) The receiving court has the same powers with respect to the minor that it would
3981 have if the proceedings originated in that court.

3982 Section 62. Section **78A-6-1108** is amended to read:

3983 **78A-6-1108. New hearings authorized -- Grounds and procedure.**

3984 (1) A parent, guardian, [~~or~~] custodian, or attorney of [~~any~~] a child adjudicated under
3985 this chapter, [or any] a minor who is at least 18 years old, or an adult affected by a decree in a
3986 proceeding under this chapter[;] may at any time petition the court for a new hearing on the
3987 ground that new evidence [which] has been discovered that:

3988 (a) was not known [~~and~~];

3989 (b) could not with due diligence have been made available at the original hearing; and
3990 [which]

3991 (c) might affect the decree[~~, has been discovered~~].

3992 (2) If it appears to the court that there is new evidence [which] that might affect [~~its~~]
3993 the court's decree, [it] the court shall order a new hearing, enter a decree, and make any

3994 disposition of the case warranted by all the facts and circumstances and the best interests of the
3995 minor.

3996 (3) This section does not apply to a minor's case handled under [the provisions of
3997 Section 78A-6-702] Part 7, Transfer of Jurisdiction.

3998 Section 63. Section **78A-7-106** is amended to read:

3999 **78A-7-106. Jurisdiction.**

4000 (1) ~~[Justice courts have]~~ Except as otherwise provided by Subsection 78A-5-102(8), a
4001 justice court has original jurisdiction over class B and C misdemeanors, violation of
4002 ordinances, and infractions committed within [their] the justice court's territorial jurisdiction by
4003 [a person] an individual who is 18 years [of age] old or older.

4004 (2) ~~[Except those offenses over which the juvenile court has exclusive jurisdiction,~~
4005 ~~justice courts have]~~ Except for an offense for which the juvenile court or the district court has
4006 exclusive jurisdiction under Subsection 78A-5-102(10) or 78A-6-103(3), a justice court has
4007 original jurisdiction over the following offenses committed within [their] the justice court's
4008 territorial jurisdiction by [a person] an individual who is 16 or 17 years [of age] old:

4009 (a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver
4010 Licensing Act; and

4011 (b) class B and C misdemeanor and infraction violations of:

4012 (i) Title 23, Wildlife Resources Code of Utah;

4013 (ii) Title 41, Chapter 1a, Motor Vehicle Act;

4014 (iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving
4015 Under the Influence and Reckless Driving;

4016 (iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and
4017 Operators Act;

4018 (v) Title 41, Chapter 22, Off-Highway Vehicles;

4019 (vi) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

4020 (vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

4021 (viii) Title 73, Chapter 18b, Water Safety; and

4022 (ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and
4023 Operators Act.

4024 (3) As used in this section, "the court's jurisdiction" means the territorial jurisdiction

4025 of a justice court.]

4026 [¶] (3) An offense is committed within the territorial jurisdiction of a justice court if:

4027 (a) conduct constituting an element of the offense or a result constituting an element of
4028 the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is
4029 itself unlawful;

4030 (b) either [a person] an individual committing an offense or a victim of an offense is
4031 located within the court's jurisdiction at the time the offense is committed;

4032 (c) either a cause of injury occurs within the court's jurisdiction or the injury occurs
4033 within the court's jurisdiction;

4034 (d) [a person] an individual commits any act constituting an element of an inchoate
4035 offense within the court's jurisdiction, including an agreement in a conspiracy;

4036 (e) [a person] an individual solicits, aids, or abets, or attempts to solicit, aid, or abet
4037 another [person] individual in the planning or commission of an offense within the court's
4038 jurisdiction;

4039 (f) the investigation of the offense does not readily indicate in which court's
4040 jurisdiction the offense occurred, and:

4041 (i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft
4042 passing within the court's jurisdiction;

4043 (ii) (A) the offense is committed on or in any body of water bordering on or within this
4044 state if the territorial limits of the justice court are adjacent to the body of water; and

4045 (B) as used in Subsection [¶] (3)(f)(ii)(A), "body of water" includes any stream, river,
4046 lake, or reservoir, whether natural or man-made;

4047 (iii) [a person] an individual who commits theft exercises control over the affected
4048 property within the court's jurisdiction; or

4049 (iv) the offense is committed on or near the boundary of the court's jurisdiction;

4050 (g) the offense consists of an unlawful communication that was initiated or received
4051 within the court's jurisdiction; or

4052 (h) jurisdiction is otherwise specifically provided by law.

4053 [¶] (4) If in a criminal case the defendant is 16 or 17 years old, a justice court
4054 judge may transfer [a criminal matter in which the defendant is a child] the case to the juvenile
4055 court for further proceedings if the justice court judge determines and the juvenile court

4056 concurs that the best interests of the [minor] defendant would be served by the continuing
4057 jurisdiction of the juvenile court[~~, subject to Section 78A-6-602~~].

4058 [¶6] (5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter
4059 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial
4060 jurisdiction of the justice court.

4061 Section 64. Section **78B-6-105** is amended to read:

4062 **78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction
4063 over nonresidents -- Time for filing.**

4064 (1) Adoption proceedings shall be commenced by filing a petition with the clerk of the
4065 district court either:

- 4066 (a) in the district where the prospective adoptive parent resides;
4067 (b) if the prospective adoptive parent is not a resident of this state, in the district where:
4068 (i) the adoptee was born;
4069 (ii) the adoptee resides on the day on which the petition is filed; or
4070 (iii) a parent of the proposed adoptee resides on the day on which the petition is filed;

4071 or

- 4072 (c) with the juvenile court as provided in Subsection **78A-6-103**[¶1](2).

4073 (2) All orders, decrees, agreements, and notices in the proceedings shall be filed with
4074 the clerk of the court where the adoption proceedings were commenced under Subsection (1).

4075 (3) A petition for adoption:

- 4076 (a) may be filed before the birth of a child;
4077 (b) may be filed before or after the adoptee is placed in the home of the petitioner for
4078 the purpose of adoption; and

4079 (c) shall be filed no later than 30 days after the day on which the adoptee is placed in
4080 the home of the petitioners for the purpose of adoption, unless:

- 4081 (i) the time for filing has been extended by the court; or
4082 (ii) the adoption is arranged by a child-placing agency in which case the agency may
4083 extend the filing time.

4084 (4) (a) If a person whose consent for the adoption is required under Section **78B-6-120**
4085 or **78B-6-121** cannot be found within the state, the fact of the minor's presence within the state
4086 shall confer jurisdiction on the court in proceedings under this chapter as to such absent person,

4087 provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

4088 (b) The notice may not include the name of:

4089 (i) a prospective adoptive parent; or

4090 (ii) an unmarried mother without her consent.

4091 (5) Service of notice as provided in Subsection (6) shall vest the court with jurisdiction
4092 over the person served in the same manner and to the same extent as if the person served was
4093 served personally within the state.

4094 (6) In the case of service outside the state, service completed not less than five days
4095 before the time set in the notice for appearance of the person served shall be sufficient to confer
4096 jurisdiction.

4097 (7) Computation of periods of time not otherwise set forth in this section shall be made
4098 in accordance with the Utah Rules of Civil Procedure.

4099 **Section 65. Repealer.**

4100 This bill repeals:

4101 **Section 78A-6-701, Jurisdiction of district court.**

4102 **Section 78A-6-702, Serious youth offender -- Procedure.**

4103 **Section 78A-6-703, Certification hearings -- Juvenile court to hold preliminary
4104 hearing -- Factors considered by juvenile court for waiver of jurisdiction to district court.**

4105 **Section 66. Effective date.**

4106 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

4107 (2) The actions affecting Section 76-10-105 (Effective 07/01/20) take effect on July 1,
4108 2020.

4109 **Section 67. Coordinating H.B. 384 with H.B. 262 -- Substantive and technical
4110 amendments -- Omitting substantive changes.**

4111 If this H.B. 384 and H.B. 262, Juvenile Delinquency Amendments, both pass and
4112 become law, it is the intent of the Legislature that the Office of Legislative Research and
4113 General Counsel shall prepare the Utah Code database for publication as follows:

4114 (1) by amending Subsection 76-10-105(2) (Superseded 07/01/20) to read:

4115 "(2) Any person under the age of 18 who buys or attempts to buy, accepts, or has in the
4116 person's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is subject
4117 to [the jurisdiction of the juvenile court and subject to Section 78A-6-602] a citation under

4118 Section 78A-6-603, unless the violation is committed on school property under Section
4119 53G-8-211. If a violation under this section is adjudicated under Section 78A-6-117, the minor
4120 may be subject to the following:

4121 (a) a fine or penalty, in accordance with Section 78A-6-117; and
4122 (b) participation in a court-approved tobacco education program, which may include a
4123 participation fee.";

4124 (2) by amending Subsection 76-10-105(2) (Effective 07/01/20) to read:

4125 "(2) (a) An individual under the age of 18 who buys or attempts to buy, accepts, or has
4126 in the individual's possession any cigar, cigarette, electronic cigarette, or tobacco in any form is
4127 subject to [the jurisdiction of the juvenile court and subject to Section 78A-6-602] a citation
4128 under Section 78A-6-603, unless the violation is committed on school property under Section
4129 53G-8-211.

4130 (b) If a violation under this section is adjudicated under Section 78A-6-117, the minor
4131 may be subject to the following:

4132 [(a)] (i) a fine or penalty, in accordance with Section 78A-6-117; and
4133 [(b)] (ii) participation in a court-approved tobacco education program, which may
4134 include a participation fee.";

4135 (3) by making the amendments to Section 78A-6-105 in this bill supersede the
4136 amendments to Section 78A-6-105 in H.B. 262;

4137 (4) by making the amendments to Section 78A-6-116 in this bill supersede the
4138 amendments to Section 78A-6-116 in H.B. 262;

4139 (5) by amending Section 78A-6-601 to read:

4140 **"78A-6-601. Criminal proceedings involving minors -- Transfer to juvenile court**
4141 **-- Exceptions.**

4142 [(1) If, during the pendency of a criminal or quasi-criminal proceeding in another court,
4143 including a preliminary hearing, it is determined that the person charged is under 21 years of
4144 age and was less than 18 years of age at the time of committing the alleged offense, that court
4145 shall transfer the case to the juvenile court, together with all the papers, documents, and
4146 transcripts of any testimony except as provided in Sections 78A-6-701, 78A-6-702, and
4147 78A-6-703.]

4148 (1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or

4149 justice court determines that an individual being charged is under 21 years old and was younger
4150 than 18 years old at the time of committing the alleged offense, the district court or justice
4151 court shall transfer the case to the juvenile court with all the papers, documents, and transcripts
4152 of any testimony.

4153 (b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense
4154 that is:

4155 (A) filed in the district court in accordance with Section 78A-6-703.2; or

4156 (B) transferred to the district court in accordance with Section 78A-6-703.5.

4157 (ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an
4158 offense for which the justice court has original jurisdiction under Subsection 78A-7-106(2).

4159 (2) (a) [The] Except as provided in Subsection (2)(b), the district court or justice court
4160 making the transfer shall:

4161 (i) order the [person] individual to be taken immediately to the juvenile court or to a
4162 place of detention designated by the juvenile court[; or shall]; or

4163 (ii) release [him] the individual to the custody of [his] the individual's parent or
4164 guardian, or other person legally responsible for [him] the individual, to be brought before the
4165 juvenile court at a time designated by [it] the juvenile court. [The]

4166 (b) If the alleged offense under Subsection (1) occurred before the individual was 12
4167 years old:

4168 (i) the district court or justice court making the transfer shall release the individual to
4169 the custody of the individual's parent or guardian, or other person legally responsible for the
4170 individual;

4171 (ii) the juvenile court shall treat the transfer as a referral under Subsection
4172 78A-6-602(3); and

4173 (iii) the juvenile court's probation department shall make a preliminary inquiry to
4174 determine whether the individual is eligible for a nonjudicial adjustment in accordance with
4175 Section 78A-6-602.

4176 (c) If the case is transferred to the juvenile court under this section, the juvenile court
4177 shall [then proceed as provided in] proceed in accordance with this chapter.

4178 (3) A district court or justice court does not have to transfer a case under Subsection
4179 (1) if the district court or justice court would have had jurisdiction over the case at the time the

4180 individual committed the offense in accordance with Subsections 78A-6-102(9) and
4181 78A-7-106(2).";

4182 (6) by amending Section 78A-6-602 to read:

4183 **"78A-6-602. Referrals -- Nonjudicial adjustments.**

4184 [(1) A proceeding in a minor's case is commenced by petition, except as provided in
4185 Sections 78A-6-701, 78A-6-702, and 78A-6-703.]

4186 (1) As used in this section, "referral" means a formal referral, a referral to the court
4187 under Section 53G-8-211 or Subsection 78A-6-601(2)(b), or a citation issued to a minor for
4188 which the court receives notice under Section 78A-6-603.

4189 (2) (a) A peace officer, or a public official of the state, a county, city, or town charged
4190 with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral
4191 with the [juvenile] court within 10 days of a minor's arrest.

4192 (b) If the arrested minor is taken to a detention facility, [the formal referral shall be
4193 filed] the peace officer, or public official, shall file the formal referral with the [juvenile] court
4194 within [72 hours, excluding weekends and holidays. A formal referral under Section
4195 53G-8-211 may not be filed with the juvenile court on an offense unless the offense is subject
4196 to referral under Section 53G-8-211.] 24 hours.

4197 [(b) (i) When the court is informed by a peace officer or other person that a minor is or
4198 appears to be within the court's jurisdiction, the probation department shall make a preliminary
4199 inquiry to determine whether the minor is eligible to enter into a written consent agreement
4200 with the probation department and, if the minor is a child, the minor's parent, guardian, or
4201 custodian for the nonjudicial adjustment of the case pursuant to this Subsection (2).]

4202 (c) A peace officer, public official, school district, or school may only make a referral
4203 to the court under Section 53G-8-211 for an offense that is subject to referral under Section
4204 53G-8-211.

4205 (3) If the court receives a referral for a minor who is, or appears to be, within the
4206 court's jurisdiction, the court's probation department shall make a preliminary inquiry in
4207 accordance with Subsections (5), (6), and (7) to determine whether the minor is eligible to enter
4208 into a nonjudicial adjustment.

4209 (4) If a minor is referred to the court for multiple offenses arising from a single
4210 criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the

4211 court's probation department shall offer the minor one nonjudicial adjustment for all offenses
4212 arising from the single criminal episode.

4213 (5) (a) The court's probation department may:
4214 (i) conduct a validated risk and needs assessment; and
4215 (ii) request that a prosecuting attorney review a referral in accordance with Subsection
4216 (11) if:
4217 (A) the results of the validated risk and needs assessment indicate the minor is high
4218 risk; or
4219 (B) the results of the validated risk and needs assessment indicate the minor is
4220 moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5,
4221 Offenses Against the Person, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

4222 (b) If a minor violates Section 41-6a-502, the minor shall:
4223 (i) undergo a drug and alcohol screening;
4224 (ii) if found appropriate by the screening, participate in an assessment; and
4225 (iii) if warranted by the screening and assessment, follow the recommendations of the
4226 assessment.

4227 (6) Except as provided in Subsection (7)(b), the probation department shall request that
4228 a prosecuting attorney review a referral in accordance with Subsection (11) if:

4229 (a) the referral involves:
4230 (i) a felony offense; or
4231 (ii) a violation of:
4232 (A) Section 41-6a-502, driving under the influence;
4233 (B) Section 76-5-112, reckless endangerment creating a substantial risk of death or
4234 serious bodily injury;
4235 (C) Section 76-5-206, negligent homicide;
4236 (D) Section 76-9-702.1, sexual battery;
4237 (E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled
4238 shotgun on or about school premises; or
4239 (F) Section 76-10-509, possession of dangerous weapon by minor, but only if the
4240 dangerous weapon is a firearm;
4241 (b) the minor has a current suspended order for custody under Subsection

4242 78A-6-117(5)(a); or

4243 (c) the referral involves an offense alleged to have occurred before an individual was
4244 12 years old and the offense is a felony violation of:

- 4245 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 4246 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 4247 (iii) Section 76-5-203, murder or attempted murder;
- 4248 (iv) Section 76-5-302, aggravated kidnapping;
- 4249 (v) Section 76-5-405, aggravated sexual assault;
- 4250 (vi) Section 76-6-103, aggravated arson;
- 4251 (vii) Section 76-6-203, aggravated burglary;
- 4252 (viii) Section 76-6-302, aggravated robbery; or
- 4253 (ix) Section 76-10-508.1, felony discharge of a firearm.

4254 [~~(ii)~~] (7) (a) Except as provided in [Subsection (2)(k)] Subsections (5) and (6), the
4255 court's probation department shall offer a nonjudicial adjustment to a minor if the minor:

4256 [~~(A)~~] (i) is referred [~~with afor an offense that is~~ a misdemeanor, infraction, or status

4257 offense;

4258 [~~(B)~~] (ii) has no more than two prior adjudications; and

4259 [~~(C)~~] (iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.

4260 (b) If the court receives a referral for an offense that is alleged to have occurred before
4261 an individual was 12 years old, the court's probation department shall offer a nonjudicial
4262 adjustment to the individual, unless the referral includes an offense described in Subsection
4263 (6)(c).

4264 (c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment
4265 under this Subsection (7), the court's probation department shall treat all offenses arising out of
4266 a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial
4267 adjustment.

4268 (ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under
4269 this Subsection (7), the court's probation department shall treat all offenses arising out of a
4270 single criminal episode that resulted in one or more prior adjudications as a single adjudication.

4271 [~~(iii) For purposes of this Subsection (2)(b), an adjudication or nonjudicial adjustment~~
4272 means an action based on a single episode of conduct that is closely related in time and is

4273 incident to an attempt or an accomplishment of a single objective.]

4274 [(c) (i) Within seven days of receiving a referral that appears to be eligible for a
4275 nonjudicial adjustment pursuant to Subsection (2)(b), the probation department shall provide
4276 an initial notice to reasonably identifiable and locatable victims of the offense contained in the
4277 referral.]

4278 [(ii) The victim shall be responsible to provide to the division upon request:]

4279 [(A) invoices, bills, receipts, and other evidence of injury, loss of earnings, and
4280 out-of-pocket loss;]

4281 [(B) documentation and evidence of compensation or reimbursement from insurance
4282 companies or agencies of Utah, any other state, or federal government received as a direct
4283 result of the crime for injury, loss of earnings, or out-of-pocket loss; and]

4284 [(C) proof of identification, including home and work address and telephone numbers.]

4285 [(iii) The inability, failure, or refusal of the victim to provide all or part of the
4286 requested information shall result in the probation department determining restitution based on
4287 the best information available.]

4288 [(d) (i) Notwithstanding Subsection (2)(b), the probation department may conduct a
4289 validated risk and needs assessment and may request that the prosecutor review the referral
4290 pursuant to Subsection (2)(h) to determine whether to dismiss the referral or file a petition
4291 instead of offering a nonjudicial adjustment if:]

4292 [(A) the results of the assessment indicate the youth is high risk; or]

4293 [(B) the results of the assessment indicate the youth is moderate risk and the referral is
4294 for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Person, or
4295 Title 76, Chapter 9, Part 7, Miscellaneous Provisions.]

4296 [(ii) (d) Except as provided in Subsection [(2)(k)] (6), the court's probation department
4297 may offer a nonjudicial adjustment to [any other] a minor who does not meet the criteria
4298 provided in Subsection [(2)(b)] (7)(a).

4299 [(iii) Acceptance of an offer of nonjudicial adjustment may not be predicated on an
4300 admission of guilt.]

4301 [(8) For a nonjudicial adjustment, the court's probation department may require a minor
4302 to:

4303 (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the

4304 terms established under Subsection (10)(c);
4305 (b) pay restitution to any victim;
4306 (c) complete community or compensatory service;
4307 (d) attend counseling or treatment with an appropriate provider;
4308 (e) attend substantive abuse treatment or counseling;
4309 (f) comply with specified restrictions on activities or associations;
4310 (g) attend victim-offender mediation if requested by the victim; and
4311 (h) comply with any other reasonable action that is in the interest of the minor, the
4312 community, or the victim.

4313 (9) (a) Within seven days of receiving a referral that appears to be eligible for a
4314 nonjudicial adjustment in accordance with Subsection (7), the court's probation department
4315 shall provide an initial notice to reasonably identifiable and locatable victims of the offense
4316 contained in the referral.

4317 (b) The victim shall be responsible to provide to the probation department upon
4318 request:

4319 (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and
4320 out-of-pocket loss;

4321 (ii) documentation and evidence of compensation or reimbursement from an insurance
4322 company or an agency of the state, any other state, or the federal government received as a
4323 direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

4324 (iii) proof of identification, including home and work address and telephone numbers.

4325 (c) The inability, failure, or refusal of the victim to provide all or part of the requested
4326 information shall result in the probation department determining restitution based on the best
4327 information available.

4328 (10) (a) The court's probation department may not predicate acceptance of an offer of a
4329 nonjudicial adjustment on an admission of guilt.

4330 [~~(iv)~~] (b) [A minor may not be denied] The court's probation department may not deny
4331 a minor an offer of nonjudicial adjustment due to [~~an~~] a minor's inability to pay a financial
4332 penalty under Subsection [~~(2)(e)~~] (8).

4333 (c) The court's probation department shall base a fee, fine, or the restitution for a
4334 nonjudicial adjustment under Subsection (8) upon the ability of the minor's family to pay as

4335 determined by a statewide sliding scale developed in accordance with Section 63M-7-208 on or
4336 after July 1, 2018.

4337 ~~[(v) Efforts to effect a]~~ (d) A nonjudicial adjustment may not extend for [a period of]
4338 more than 90 days [without leave of a judge of the court, who may extend the period], unless a
4339 juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

4340 (e) (i) Notwithstanding Subsection (10)(d), a juvenile court judge may extend a
4341 nonjudicial adjustment beyond the 180 days permitted under Subsection (10)(d) for a minor
4342 who is offered a nonjudicial adjustment under Subsection (7)(b) for a sexual offense under
4343 Title 76, Chapter 5, Part 4, Sexual Offenses, or is referred under Subsection (11)(b)(ii) for a
4344 sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed
4345 before the minor was 12 years old, if the judge determines that:

4346 (A) the nonjudicial adjustment requires specific treatment for the sexual offense;
4347 (B) the treatment cannot be completed within 180 days after the day on which the
4348 minor entered into the nonjudicial adjustment; and
4349 (C) the treatment is necessary based on a clinical assessment that is developmentally
4350 appropriate for the minor.

4351 (ii) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection
4352 (10)(e)(i), the judge may extend the nonjudicial adjustment until the minor completes the
4353 treatment under this Subsection (10)(e), but the judge may only grant each extension for 90
4354 days at a time.

4355 (f) If a minor violates Section 76-10-105, the minor may be required to pay a fine or
4356 penalty and participate in a court-approved tobacco education program with a participation fee.

4357 ~~[(vi) A prosecutor may not file a petition against a minor unless:]~~
4358 ~~[(A) the minor does not qualify for nonjudicial adjustment under Subsection (2)(b) or~~
~~(d)(ii);]~~
4360 ~~[(B) the minor declines nonjudicial adjustment;]~~
4361 ~~[(C) the minor fails to substantially comply with the conditions agreed upon as part of~~
~~the nonjudicial adjustment;]~~
4363 ~~[(D) the minor fails to respond to the probation department's inquiry regarding~~
4364 ~~eligibility for or an offer of a nonjudicial adjustment after being provided with notice for~~
4365 ~~preliminary inquiry; or]~~

4366 [E) the prosecutor is acting under Subsection (2)(k).]
4367 [e) The nonjudicial adjustment of a case may include the following conditions agreed
4368 upon as part of the nonjudicial closure:]
4369 [f) payment of a financial penalty of not more than \$250 to the juvenile court subject
4370 to the terms established under Subsection (2)(f);]
4371 [ii) payment of victim restitution;]
4372 [iii) satisfactory completion of community or compensatory service;]
4373 [iv) referral to an appropriate provider for counseling or treatment;]
4374 [v) attendance at substance use disorder programs or counseling programs;]
4375 [vi) compliance with specified restrictions on activities and associations;]
4376 [vii) victim-offender mediation, if requested by the victim; and]
4377 [viii) other reasonable actions that are in the interest of the child or minor, the
4378 community, and the victim.]

4379 [(f) A fee, fine, or restitution included in a nonjudicial closure in accordance with
4380 Subsection (2)(e) shall be based upon the ability of the minor's family to pay as determined by
4381 a statewide sliding scale developed as provided in Section 63M-7-208 on and after July 1,
4382 2018.]

4383 [(g)] (11) If a [prosecutor learns of a referral involving an offense identified in
4384 Subsection (2)(k), if] prosecuting attorney is requested to review a referral in accordance
4385 with Subsection (5) or (6), a minor fails to substantially comply with [the conditions] a
4386 condition agreed upon as part of the nonjudicial [closure] adjustment, or [if] a minor is not
4387 offered or declines a nonjudicial adjustment [pursuant to Subsection (2)(b), (2)(d)(ii), or
4388 (2)(d)(vi), the prosecutor shall review the case and take one of the following actions:] in
4389 accordance with Subsection (7), the prosecuting attorney shall:

4390 (a) review the case; and
4391 (b) (i) dismiss the case;
4392 (ii) refer the case back to the probation department for a new attempt at nonjudicial
4393 adjustment; or
4394 (iii) [subject to Subsection (2)(i)] except as provided in Subsections (12)(b), (13), and
4395 78A-6-602.5(2), file a petition with the court.
4396 [(h) Notwithstanding Subsection (2)(g), a petition may only be filed]

4397 (12) (a) A prosecuting attorney may file a petition only upon reasonable belief that:
4398 (i) the charges are supported by probable cause;
4399 (ii) admissible evidence will be sufficient to support adjudication beyond a reasonable
4400 doubt; and
4401 (iii) the decision to charge is in the interests of justice.
4402 [~~(f)~~ (b) Failure to pay a fine or fee may not serve as a basis for filing of a petition
4403 under Subsection [(2)(g)(iii)] (11)(b)(iii) if the minor has substantially complied with the other
4404 conditions agreed upon in accordance with Subsection [(2)(c) or those] (8) or conditions
4405 imposed through any other court diversion program.

4406 [~~(j)~~ Notwithstanding Subsection (2)(i), a violation of Section 76-10-105 that is subject
4407 to the jurisdiction of the juvenile court may include a fine or penalty and participation in a
4408 court-approved tobacco education program, which may include a participation fee.]

4409 [~~(k)~~ Notwithstanding the other provisions of this section, the probation department
4410 shall request that a prosecutor review a referral in accordance with Subsection (2)(g) if:]

4411 [~~(i)~~ the referral involves a violation of:]

4412 [~~(A)~~ Section 41-6a-502, driving under the influence;]

4413 [~~(B)~~ Section 76-5-112, reckless endangerment creating a substantial risk of death or
4414 serious bodily injury;]

4415 [~~(C)~~ Section 76-5-206, negligent homicide;]

4416 [~~(D)~~ Section 76-9-702.1, sexual battery;]

4417 [~~(E)~~ Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled
4418 shotgun on or about school premises, or]

4419 [~~(F)~~ Section 76-10-509, possession of dangerous weapon by minor, but only if the
4420 dangerous weapon is a firearm, or]

4421 [~~(ii)~~ the minor has a current suspended order for custody under Subsection
4422 78A-6-117(5)(a).]

4423 (13) A prosecuting attorney may not file a petition against a minor unless:
4424 (a) the prosecuting attorney has statutory authority to file the petition under Section
4425 78A-6-602.5; and
4426 (b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (7);
4427 (ii) the minor declines nonjudicial adjustment;

4428 (iii) the minor fails to substantially comply with the conditions agreed upon as part of
4429 the nonjudicial adjustment;

4430 (iv) the minor fails to respond to the probation department's inquiry regarding
4431 eligibility for or an offer of a nonjudicial adjustment after being provided with notice for
4432 preliminary inquiry; or

4433 (v) the prosecuting attorney is acting under Subsection (11).

4434 [¶] (14) If the [prosecutor] prosecuting attorney files a petition in court or a
4435 proceeding is commenced against a minor under Section 78A-6-603, the court may refer the
4436 case to the probation department for another offer of nonjudicial adjustment.

4437 [¶(m) If a minor violates Section 41-6a-502, regardless of whether a prosecutor reviews
4438 a referral under Subsection (2)(k)(i)(A), the minor shall be subject to a drug and alcohol
4439 screening and participate in an assessment, if found appropriate by the screening, and if
4440 warranted, follow the recommendations of the assessment.]

4441 [¶(3) Except as provided in Sections 78A-6-701 and 78A-6-702, in the case of a minor
4442 14 years of age or older, the county attorney, district attorney, or attorney general may
4443 commence an action by filing a criminal information and a motion requesting the juvenile court
4444 to waive its jurisdiction and certify the minor to the district court.]

4445 [¶(4) (a) In cases of violations of wildlife laws, boating laws, class B and class C
4446 misdemeanors, other infractions or misdemeanors as designated by general order of the Board
4447 of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction of the
4448 juvenile court, a petition is not required and the issuance of a citation as provided in Section
4449 78A-6-603 is sufficient to invoke the jurisdiction of the court. A preliminary inquiry in
4450 accordance with Subsection (2)(b)(i) is required.]

4451 [¶(b) Any failure to comply with the time deadline on a formal referral may not be the
4452 basis of dismissing the formal referral.]";

4453 (7) by deleting Subsection 78A-6-602.5(3) enacted by H.B. 262; and

4454 (8) by making the amendments to Section 78A-6-603 in H.B. 262 supersede the
4455 amendments to Section 78A-6-603 in this bill.

4456 **Section 68. Coordinating H.B. 384 with H.B. 291 -- Substantive and technical**
4457 **amendments.**

4458 If this H.B. 384 and H.B. 291, Human Trafficking Amendments, both pass and become

4459 law, it is the intent of the Legislature that the amendments to Section 76-10-1302 in H.B. 291
4460 supersede the amendments to Section 76-10-1302 in this bill when the Office of Legislative
4461 Research and General Counsel prepares the Utah Code database for publication.