

JUVENILE SENTENCING AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Karen Mayne

Cosponsors: Mike Winder

V. Lowry Snow

LONG TITLE

General Description:

This bill addresses the sentencing of individuals who are committed to the custody of the Division of Juvenile Justice Services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses the termination of certain juvenile dispositions when a defendant is convicted and sentenced by the court;
- ▶ allows a court to order a sentence to run consecutively or concurrently to certain juvenile dispositions;
- ▶ provides factors for the court to consider when determining whether a defendant's sentence runs concurrently or consecutively to certain juvenile dispositions;
- ▶ requires clarification by the court if the court fails to determine whether a sentence runs concurrently or consecutively to certain juvenile dispositions;
- ▶ if a court determines that a sentence for imprisonment in a secure correctional facility or a county jail runs concurrently to a juvenile disposition for secure confinement in a secure facility, requires a defendant to remain in the secure facility until the Youth Parole Authority terminates the juvenile disposition;
- ▶ upon termination of a defendant's juvenile disposition for secure confinement in a

29 secure facility, requires the Division of Juvenile Justice Services to notify and facilitate the
30 transfer or release of the defendant;

31 ▶ requires the court and the Division of Juvenile Justice Services to notify the Board
32 of Pardons and Parole when the defendant is sentenced to imprisonment in a secure
33 correctional facility; and

34 ▶ provides that the Board of Pardons and Parole has authority for certain purposes
35 over a defendant whose sentence for imprisonment in a secure correctional facility
36 runs concurrently with a juvenile disposition for secure confinement in a secure
37 facility.

38 **Money Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 ENACTS:

44 **76-3-401.5**, Utah Code Annotated 1953



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

47 Section 1. Section **76-3-401.5** is enacted to read:

48 **76-3-401.5. Concurrent or consecutive sentence with a juvenile disposition.**

49 (1) As used in this section:

50 (a) "Authority" means the Youth Parole Authority created in Section [62A-7-501](#).

51 (b) "Board" means the Board of Pardons and Parole created in Section [77-27-2](#).

52 (c) "Division" means the Division of Juvenile Justice Services created in Section
53 [62A-7-102](#).

54 (d) (i) "Juvenile disposition" means an order for commitment to the custody of the
55 division under Subsection [78A-6-117\(2\)\(c\)](#).

56 (ii) "Juvenile disposition" includes an order for commitment to the custody of the

57 division for secure confinement in a secure facility under Subsection 78A-6-117(2)(e).

58 (e) "Secure correctional facility" means the same as that term is defined in Section
59 64-13-1.

60 (f) "Secure facility" means the same as that term is defined in Section 78A-6-105.

61 (2) If a defendant who is 18 years old or older is serving a juvenile disposition, a court
62 may not terminate the juvenile disposition for the defendant when:

63 (a) the defendant is convicted of an offense; and

64 (b) the court imposes a sentence under Section 76-3-201 for the offense.

65 (3) (a) If a defendant who is 18 years old or older is convicted and sentenced for an
66 offense and the defendant is serving a juvenile disposition at the time of sentencing, the court
67 shall determine whether the sentence is to run concurrently or consecutively to the juvenile
68 disposition.

69 (b) The court shall state on the record and in the order of judgment and commitment
70 whether the sentence imposed is to run concurrently or consecutively with the juvenile
71 disposition.

72 (c) In determining whether a sentence is to run concurrently or consecutively with a
73 juvenile disposition, the court shall consider:

74 (i) the gravity and circumstances of the offense for which the defendant is convicted;

75 (ii) the number of victims; and

76 (iii) the history, character, and rehabilitative needs of the defendant.

77 (d) If an order of judgment and commitment does not clearly state whether the sentence
78 is to run consecutively or concurrently with the juvenile disposition, the division shall request
79 clarification from the court.

80 (e) Upon receipt of the request under Subsection (3)(d), the court shall enter a clarified
81 order of judgment and commitment stating whether the sentence is to run concurrently or
82 consecutively to the juvenile disposition.

83 (4) If a court orders a sentence for imprisonment to run concurrently with a juvenile
84 disposition for secure confinement in a secure facility under Subsection 78A-6-117(2)(e), the

85 defendant shall serve the sentence in the secure facility until the juvenile disposition is
86 terminated by the authority in accordance with Section 62A-7-404.5.

87 (5) If a court orders a sentence for imprisonment in a county jail to run concurrently
88 with a juvenile disposition for secure confinement in a secure facility under Subsection
89 78A-6-117(2)(e) and the disposition is terminated before the defendant's sentence for
90 imprisonment in the county jail is terminated, the division shall:

91 (a) notify the county jail at least 14 days before the day on which the defendant's
92 disposition is terminated or the defendant is released from the secure facility; and

93 (b) facilitate the transfer or release of the defendant in accordance with the order of
94 judgment and commitment imposed by the court.

95 (6) (a) If a court orders a sentence for imprisonment in a secure correctional facility to
96 run concurrently with a juvenile disposition for secure confinement in a secure facility under
97 Subsection 78A-6-117(2)(e):

98 (i) the board has authority over the defendant for purposes of ordering parole, pardon,
99 commutation, termination of sentence, remission of fines or forfeitures, restitution, and any
100 other authority granted by law; and

101 (ii) the court and the division shall immediately notify the board that the defendant will
102 remain in a secure facility as described in Subsection (4) for the board to schedule a hearing for
103 the defendant in accordance with board procedures.

104 (b) If a court orders a sentence for imprisonment in a secure correctional facility to run
105 concurrently with a juvenile disposition for secure confinement in a secure facility under
106 Subsection 78A-6-117(2)(e) and the juvenile disposition is terminated before the defendant's
107 sentence is terminated, the division shall:

108 (i) notify the board and the Department of Corrections at least 14 days before the day
109 on which the defendant's disposition is terminated or the defendant is released from the secure
110 facility; and

111 (ii) facilitate a release or transfer of the defendant in accordance with the order of
112 judgment and commitment imposed by the court.

