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**JUVENILE SENTENCING AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Craig Hall**

Senate Sponsor: Karen Mayne

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**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 secure facility, requires the Division of Juvenile Justice Services to notify and



28 facilitate the transfer or release of the defendant;

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

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

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 ENACTS:

42 [76-3-401.5](#), Utah Code Annotated 1953



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

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

46 **76-3-401.5. Concurrent or consecutive sentence with a juvenile disposition.**

47 (1) As used in this section:

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

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

50 (c) "Division" means the Division of Juvenile Justice Services created in Section  
51 [62A-7-102](#).

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

54 (ii) "Juvenile disposition" includes an order for commitment to the custody of the  
55 division for secure confinement in a secure facility under Subsection [78A-6-117\(2\)\(e\)](#).

56 (e) "Secure correctional facility" means the same as that term is defined in Section  
57 [64-13-1](#).

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

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

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

62 (b) the court imposes a sentence under Section [76-3-201](#) for the offense.

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

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

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

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

73 (ii) the number of victims; and

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

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

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

81 (4) If a court orders a sentence for imprisonment to run concurrently with a juvenile  
82 disposition for secure confinement in a secure facility under Subsection [78A-6-117\(2\)\(e\)](#), the  
83 defendant shall serve the sentence in the secure facility until the juvenile disposition is  
84 terminated by the authority in accordance with Section [62A-7-404.5](#).

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

89 (a) notify the county jail at least 14 days before the day on which the defendant's

90 disposition is terminated or the defendant is released from the secure facility; and

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

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

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

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

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

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

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