

JUVENILE JUSTICE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

▶ provides that certain offenses are not subject to the time periods for termination and parole supervision for juvenile offenders;

▶ requires that a minor who is under the jurisdiction of the district court for an offense be held in a juvenile detention facility;

▶ requires a minor who is committed to prison by the district court be provisionally housed with the Division of Juvenile Justice Services until the minor is 21 years old;

▶ amends definitions relating to minors who are adjudicated for certain kidnap or sexual offenses; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **62A-7-404.5**, as enacted by Laws of Utah 2020, Chapter 214
- 29 **77-41-102**, as last amended by Laws of Utah 2020, Chapter 108
- 30 **78A-6-703.2**, as enacted by Laws of Utah 2020, Chapter 214
- 31 **78A-6-703.5**, as enacted by Laws of Utah 2020, Chapter 214
- 32 **78A-6-703.6**, as enacted by Laws of Utah 2020, Chapter 214
- 33 **78A-6-705**, as last amended by Laws of Utah 2020, Chapter 214

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

36 Section 1. Section **62A-7-404.5** is amended to read:

37 **62A-7-404.5. Review and termination of commitment.**

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

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

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

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

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

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

56 (e) The authority shall:

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

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

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

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

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

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

70 (iii) restitution has not been completed.

71 (d) The authority shall determine whether a juvenile offender has completed a program
72 under Subsection (2)(c) by considering the recommendations of the licensed service provider,
73 the juvenile offender's consistent attendance record, and the juvenile offender's completion of
74 the goals of the necessary treatment program.

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

77 (f) The authority shall:

78 (i) record the grounds for extension of the presumptive length of parole and the length
79 of the extension; and

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

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

83 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to a secure
84 facility for [~~a felony violation of~~]:

85 (a) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;

86 (b) Section [76-5-202](#), aggravated murder or attempted aggravated murder;

87 (c) Section [76-5-203](#), murder or attempted murder;

88 (d) Section [76-5-205](#), manslaughter;

89 (e) Section [75-5-206](#), negligent homicide;

90 (f) Section 76-5-207, automobile homicide;

91 (g) Section 76-5-207.5, automobile homicide involving handheld wireless
 92 communication device;

93 (h) Section 76-5-208, child abuse homicide;

94 (i) Section 76-5-209, homicide by assault;

95 ~~[(d)]~~ (j) Section 76-5-302, aggravated kidnapping;

96 ~~[(e)]~~ (k) Section 76-5-405, aggravated sexual assault;

97 ~~[(f)]~~ (l) a felony violation of Section 76-6-103, aggravated arson;

98 ~~[(g)]~~ (m) Section 76-6-203, aggravated burglary;

99 ~~[(h)]~~ (n) Section 76-6-302, aggravated robbery;

100 ~~[(i)]~~ (o) Section 76-10-508.1, felony discharge of a firearm;

101 ~~[(j) an offense other than an offense listed in Subsections (4)(a) through (i) involving~~
 102 ~~the use of a dangerous weapon:]~~

103 ~~[(i) if the offense would be a felony had an adult committed the offense; and]~~

104 ~~[(ii) the juvenile offender has been previously adjudicated or convicted of an offense~~
 105 ~~involving the use of a dangerous weapon that would have been a felony had an adult committed~~
 106 ~~the offense; or]~~

107 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)
 108 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

109 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
 110 involving the use of a dangerous weapon; or

111 ~~[(k)]~~ (q) an offense other than an offense listed in Subsections (4)(a) through [(j)] (p)
 112 and the [minor] juvenile offender has been previously committed to the custody of the Division
 113 of Juvenile Justice Services for secure confinement.

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

117 (i) until the juvenile offender is:

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

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

120 (ii) under an agreement by the division and the juvenile offender that the program has

121 certain conditions.

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

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

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

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

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

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

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

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

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

140 Section 2. Section **77-41-102** is amended to read:

141 **77-41-102. Definitions.**

142 As used in this chapter:

143 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public
144 Safety established in section [53-10-201](#).

145 (2) "Business day" means a day on which state offices are open for regular business.

146 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal
147 Identification showing that the offender has met the requirements of Section [77-41-112](#).

148 (4) "Department" means the Department of Corrections.

149 (5) "Division" means the Division of Juvenile Justice Services.

150 (6) "Employed" or "carries on a vocation" includes employment that is full time or part
151 time, whether financially compensated, volunteered, or for the purpose of government or

152 educational benefit.

153 (7) "Indian Country" means:

154 (a) all land within the limits of any Indian reservation under the jurisdiction of the
155 United States government, regardless of the issuance of any patent, and includes rights-of-way
156 running through the reservation;

157 (b) all dependent Indian communities within the borders of the United States whether
158 within the original or subsequently acquired territory, and whether or not within the limits of a
159 state; and

160 (c) all Indian allotments, including the Indian allotments to which the Indian titles have
161 not been extinguished, including rights-of-way running through the allotments.

162 (8) "Jurisdiction" means any state, Indian Country, United States Territory, or any
163 property under the jurisdiction of the United States military, Canada, the United Kingdom,
164 Australia, or New Zealand.

165 (9) "Kidnap offender" means any individual other than a natural parent of the victim
166 who:

167 (a) has been convicted in this state of a violation of:

168 (i) Subsection 76-5-301(1)(c) or (d), kidnapping;

169 (ii) Section 76-5-301.1, child kidnapping;

170 (iii) Section 76-5-302, aggravated kidnapping;

171 (iv) Section 76-5-308, human trafficking for labor and human smuggling;

172 (v) Section 76-5-308, human smuggling, when the individual smuggled is under 18
173 years [~~of age~~] old;

174 (vi) Section 76-5-308.5, human trafficking of a child for labor;

175 (vii) Section 76-5-310, aggravated human trafficking and aggravated human
176 smuggling, on or after May 10, 2011;

177 (viii) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

178 (ix) attempting, soliciting, or conspiring to commit any felony offense listed in
179 Subsections (9)(a)(i) through (iii);

180 (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to
181 commit a crime in another jurisdiction, including any state, federal, or military court that is
182 substantially equivalent to the offenses listed in Subsection (9)(a) and who is:

183 (i) a Utah resident; or

184 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of
185 10 or more days, regardless of whether or not the offender intends to permanently reside in this
186 state;

187 (c) (i) is required to register as a kidnap offender in any other jurisdiction of original
188 conviction, who is required to register as a kidnap offender by any state, federal, or military
189 court, or who would be required to register as a kidnap offender if residing in the jurisdiction of
190 the conviction regardless of the date of the conviction or any previous registration
191 requirements; and

192 (ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of
193 whether or not the offender intends to permanently reside in this state;

194 (d) is a nonresident regularly employed or working in this state, or who is a student in
195 this state, and was convicted of one or more offenses listed in Subsection (9), or any
196 substantially equivalent offense in another jurisdiction, or as a result of the conviction, is
197 required to register in the individual's state of residence;

198 (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of
199 one or more offenses listed in Subsection (9); or

200 (f) is adjudicated delinquent based on one or more offenses listed in Subsection (9)(a)
201 and who has been committed to the division for secure confinement for that offense and;

202 (i) the individual remains in the division's custody [30 days prior] until 30 days before
203 [to] the individual's 21st birthday[-]; or

204 (ii) if the juvenile court extended the juvenile court's jurisdiction over the minor under
205 Section 78A-6-703.4, the individual remains in the division's custody until 30 days before the
206 individual's 25th birthday.

207 (10) "Natural parent" means a minor's biological or adoptive parent, and includes the
208 minor's noncustodial parent.

209 (11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender
210 as defined in Subsection (17).

211 (12) "Online identifier" or "Internet identifier":

212 (a) means any electronic mail, chat, instant messenger, social networking, or similar
213 name used for Internet communication; and

214 (b) does not include date of birth, social security number, PIN number, or Internet
215 passwords.

216 (13) "Primary residence" means the location where the offender regularly resides, even
217 if the offender intends to move to another location or return to another location at any future
218 date.

219 (14) "Register" means to comply with the requirements of this chapter and
220 administrative rules of the department made under this chapter.

221 (15) "Registration website" means the Sex and Kidnap Offender Notification and
222 Registration website described in Section 77-41-110 and the information on the website.

223 (16) "Secondary residence" means any real property that the offender owns or has a
224 financial interest in, or any location where, in any 12-month period, the offender stays
225 overnight a total of 10 or more nights when not staying at the offender's primary residence.

226 (17) "Sex offender" means any individual:

227 (a) convicted in this state of:

228 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

229 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10,
230 2011;

231 (iii) Section 76-5-308, human trafficking for sexual exploitation;

232 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

233 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

234 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

235 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in
236 Subsection 76-5-401(3)(b) or (c);

237 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
238 76-5-401.1(3);

239 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

240 (x) Section 76-5-402, rape;

241 (xi) Section 76-5-402.1, rape of a child;

242 (xii) Section 76-5-402.2, object rape;

243 (xiii) Section 76-5-402.3, object rape of a child;

244 (xiv) a felony violation of Section 76-5-403, forcible sodomy;

- 245 (xv) Section 76-5-403.1, sodomy on a child;
- 246 (xvi) Section 76-5-404, forcible sexual abuse;
- 247 (xvii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a
248 child;
- 249 (xviii) Section 76-5-405, aggravated sexual assault;
- 250 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
251 younger than 18 years ~~of age~~ old, if the offense is committed on or after May 10, 2011;
- 252 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 253 (xxi) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 254 (xxii) Section 76-7-102, incest;
- 255 (xxiii) Section 76-9-702, lewdness, if the individual has been convicted of the offense
256 four or more times;
- 257 (xxiv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
258 offense four or more times;
- 259 (xxv) any combination of convictions of Section 76-9-702, lewdness, and of Section
260 76-9-702.1, sexual battery, that total four or more convictions;
- 261 (xxvi) Section 76-9-702.5, lewdness involving a child;
- 262 (xxvii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 263 (xxviii) Section 76-10-1306, aggravated exploitation of prostitution; or
- 264 (xxix) attempting, soliciting, or conspiring to commit any felony offense listed in this
265 Subsection (17)(a);
- 266 (b) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to
267 commit a crime in another jurisdiction, including any state, federal, or military court that is
268 substantially equivalent to the offenses listed in Subsection (17)(a) and who is:
- 269 (i) a Utah resident; or
- 270 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of
271 10 or more days, regardless of whether the offender intends to permanently reside in this state;
- 272 (c) (i) who is required to register as a sex offender in any other jurisdiction of original
273 conviction, who is required to register as a sex offender by any state, federal, or military court,
274 or who would be required to register as a sex offender if residing in the jurisdiction of the
275 original conviction regardless of the date of the conviction or any previous registration

276 requirements; and

277 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,
278 regardless of whether or not the offender intends to permanently reside in this state;

279 (d) who is a nonresident regularly employed or working in this state or who is a student
280 in this state and was convicted of one or more offenses listed in Subsection (17)(a), or any
281 substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required
282 to register in the individual's jurisdiction of residence;

283 (e) who is found not guilty by reason of insanity in this state, or in any other
284 jurisdiction of one or more offenses listed in Subsection (17)(a); or

285 (f) who is adjudicated delinquent based on one or more offenses listed in Subsection
286 (17)(a) and who has been committed to the division for secure confinement for that offense
287 and:

288 (i) the individual remains in the division's custody [30 days prior to] until 30 days
289 before the individual's 21st birthday[-]; or

290 (ii) if the juvenile court extended the juvenile court's jurisdiction over the minor under
291 Section 78A-6-703.4, the individual remains in the division's custody until 30 days before the
292 individual's 25th birthday.

293 (18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,
294 Driving Under the Influence and Reckless Driving.

295 (19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in
296 any jurisdiction.

297 Section 3. Section **78A-6-703.2** is amended to read:

298 **78A-6-703.2. Criminal information for a minor in district court.**

299 (1) If a prosecuting attorney charges a minor with aggravated murder under Section
300 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal
301 information in the district court if the minor was the principal actor in an offense and the
302 information alleges:

303 (a) the minor was 16 or 17 years old at the time of the offense; and

304 (b) the offense for which the minor is being charged is:

305 (i) Section 76-5-202, aggravated murder; or

306 (ii) Section 76-5-203, murder.

307 (2) If the prosecuting attorney files a criminal information in the district court in
308 accordance with Subsection (1), the district court shall try the minor as an adult, except:

309 (a) the minor is not subject to a sentence of death in accordance with Subsection
310 ~~76-3-206~~(2)(b); and

311 (b) the minor is not subject to a sentence of life without parole in accordance with
312 Subsection ~~76-3-206~~(2)(b) or ~~76-3-207.5~~(3) or Section ~~76-3-209~~.

313 (3) (a) Except for a minor who is subject to the authority of the Board of Pardons and
314 Parole, a minor shall be held in a juvenile detention facility [~~until the district court determines~~
315 ~~where the minor will be held until the time of trial if:~~].

316 [~~(a) the minor is 16 or 17 years old; and~~]

317 [~~(b) the minor is arrested for aggravated murder or murder.~~]

318 [~~(4) In considering where a minor will be detained until the time of trial, the district~~
319 ~~court shall consider:~~]

320 [~~(a) the age of the minor;~~]

321 [~~(b) the nature, seriousness, and circumstances of the alleged offense;~~]

322 [~~(c) the minor's history of prior criminal acts;~~]

323 [~~(d) whether detention in a juvenile detention facility will adequately serve the need for~~
324 ~~community protection pending the outcome of any criminal proceedings;~~]

325 [~~(e) the relative ability of the facility to meet the needs of the minor and protect the~~
326 ~~public;~~]

327 [~~(f) the physical maturity of the minor;~~]

328 [~~(g) the current mental state of the minor as evidenced by relevant mental health or a~~
329 ~~psychological assessment or screening that is made available to the court; and~~]

330 [~~(h) any other factors that the court considers relevant.~~]

331 [~~(5)~~] (b) A minor [~~ordered to a juvenile detention facility under Subsection (4)~~] shall
332 remain in the facility:

333 [~~(a)~~] (i) until released by the district court; or

334 [~~(b)~~] (ii) if convicted, until sentencing.

335 [~~(6)~~] (4) If a minor is held in a juvenile detention facility under Subsection [~~(4)~~] (3), the
336 court shall:

337 (a) advise the minor of the right to bail; and

338 (b) set initial bail in accordance with Title 77, Chapter 20, Bail.

339 [~~(7)~~] (5) If the minor [~~ordered to~~] held in a juvenile detention facility under Subsection
340 [~~(4)~~] (3) attains the age of [~~+18 years~~] 21, the minor shall be transferred within 30 days to an
341 adult jail until:

- 342 (a) released by the district court judge; or
- 343 (b) if convicted, sentencing.

344 [~~(8)~~] (6) If a minor is [~~ordered to~~] held in a juvenile detention facility under Subsection
345 [~~(4)~~] (3) and the minor's conduct or condition endangers the safety or welfare of others in the
346 juvenile detention facility, the court may find that the minor shall be detained in another place
347 of confinement considered appropriate by the court, including a jail or an adult facility for
348 pretrial confinement.

349 [~~(9)~~] (7) If a minor is charged for aggravated murder or murder in the district court
350 under this section, and all charges for aggravated murder or murder result in an acquittal, a
351 finding of not guilty, or a dismissal:

- 352 (a) the juvenile court gains jurisdiction over all other offenses committed by the minor;
- 353 and
- 354 (b) the Division of Juvenile Justice Services gains jurisdiction over the minor.

355 Section 4. Section **78A-6-703.5** is amended to read:

356 **78A-6-703.5. Preliminary hearing.**

357 (1) If a prosecuting attorney files a criminal information in accordance with Section
358 **78A-6-703.3**, the court shall conduct a preliminary hearing to determine whether a minor
359 should be bound over to the district court for a qualifying offense.

360 (2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have
361 the burden of establishing:

- 362 (a) probable cause to believe that a qualifying offense was committed and the minor
363 committed that offense; and
- 364 (b) by a preponderance of the evidence, that it is contrary to the best interests of the
365 minor and the public for the juvenile court to retain jurisdiction over the offense.

366 (3) In making a determination under Subsection (2)(b), the court shall consider and
367 make findings on:

- 368 (a) the seriousness of the qualifying offense and whether the protection of the

369 community requires that the minor is detained beyond the amount of time allowed under
370 Subsection 78A-6-117(2)(h), or beyond the age of continuing jurisdiction that the court may
371 exercise under Section 78A-6-703.4;

372 (b) the extent to which the minor's actions in the qualifying offense were committed in
373 an aggressive, violent, premeditated, or willful manner;

374 (c) the minor's mental, physical, educational, trauma, and social history;

375 (d) the criminal record or history of the minor; and

376 (e) the likelihood of the minor's rehabilitation by the use of services and facilities that
377 are available to the court.

378 (4) The amount of weight that each factor in Subsection (3) is given is in the court's
379 discretion.

380 (5) (a) The court may consider any written report or other material that relates to the
381 minor's mental, physical, educational, trauma, and social history.

382 (b) Upon request by the minor, the minor's parent, guardian, or other interested party,
383 the court shall require the person preparing the report, or other material, under Subsection
384 (5)(a) to appear and be subject to direct and cross-examination.

385 (6) At the preliminary hearing under Subsection (1), a minor may testify under oath,
386 call witnesses, cross-examine witnesses, and present evidence on the factors described in
387 Subsection (3).

388 (7) (a) A proceeding before the court related to a charge filed under this part shall be
389 conducted in conformity with the Utah Rules of Juvenile Procedure.

390 (b) Title 78B, Chapter 22, Indigent Defense Act, and Section 78A-6-115 are applicable
391 to the preliminary hearing under this section.

392 (8) If the court finds that the prosecuting attorney has met the burden of proof under
393 Subsection (2), the court shall bind the minor over to the district court to be held for trial.

394 (9) (a) If the court finds that a qualifying offense has been committed by a minor, but
395 the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the court
396 shall:

397 (i) proceed upon the criminal information as if the information were a petition under
398 Section 78A-6-602.5;

399 (ii) release or detain the minor in accordance with Section 78A-6-113; and

400 (iii) proceed with an adjudication for the minor in accordance with this chapter.

401 (b) If the court finds that the prosecuting attorney has not met the burden under
402 Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a
403 motion to extend the court's continuing jurisdiction over the minor's case until the minor is 25
404 years old in accordance with Section 78A-6-703.4.

405 (10) (a) A prosecuting attorney may charge a minor with a separate offense in the same
406 criminal information as the qualifying offense if the qualifying offense and separate offense
407 arise from a single criminal episode.

408 (b) If the prosecuting attorney charges a minor with a separate offense as described in
409 Subsection (10)(a):

410 (i) the prosecuting attorney shall have the burden of establishing probable cause to
411 believe that the separate offense was committed and the minor committed the separate offense;
412 and

413 (ii) if the prosecuting attorney establishes probable cause for the separate offense under
414 Subsection (10)(b)(i) and the court binds the minor over to the district court for the qualifying
415 offense, the court shall also bind the minor over for the separate offense to the district court.

416 (11) If a grand jury indicts a minor for a qualifying offense:

417 (a) the prosecuting attorney does not need to establish probable cause under Subsection
418 (2)(a) for the qualifying offense and any separate offense included in the indictment; and

419 (b) the court shall proceed with determining whether the minor should be bound over
420 to the district court for the qualifying offense and any separate offense included in the
421 indictment in accordance with Subsections (2)(b) and (3).

422 (12) If a minor is bound over to the district court, the court shall:

423 (a) issue a criminal warrant of arrest for the minor to be held in a juvenile detention
424 facility;

425 (b) advise the minor of the right to bail; and

426 (c) set initial bail in accordance with Title 77, Chapter 20, Bail.

427 ~~[(13) (a) At the time that a minor is bound over to the district court, the court shall~~
428 ~~make an initial determination on where the minor is held until the time of trial.]~~

429 ~~[(b) In determining where a minor is held until the time of trial, the court shall~~
430 ~~consider:]~~

- 431 ~~[(i) the age of the minor;]~~
- 432 ~~[(ii) the minor's history of prior criminal acts;]~~
- 433 ~~[(iii) whether detention in a juvenile detention facility will adequately serve the need~~
- 434 ~~for community protection pending the outcome of any criminal proceedings;]~~
- 435 ~~[(iv) the relative ability of the facility to meet the needs of the minor and protect the~~
- 436 ~~public;]~~
- 437 ~~[(v) the physical maturity of the minor;]~~
- 438 ~~[(vi) the current mental state of the minor as evidenced by relevant mental health or~~
- 439 ~~psychological assessments or screenings that are made available to the court; and]~~
- 440 ~~[(vii) any other factors that the court considers relevant.]~~
- 441 ~~[(14) If the court orders a minor to be detained in a juvenile detention facility under~~
- 442 ~~Subsection (13), the minor shall remain in the facility:]~~
- 443 (13) If the court orders the minor to be detained:
- 444 (a) the minor shall be held in a juvenile detention facility, except that a minor who is
- 445 subject to the authority of the Board of Pardons and Parole may not be held in a juvenile
- 446 detention facility; and
- 447 (b) the minor shall remain in the juvenile detention facility:
- 448 ~~[(a)]~~ (i) until released by a district court; or
- 449 ~~[(b)]~~ (ii) if convicted, until sentencing.
- 450 ~~[(15)]~~ (14) If the court orders the minor to be detained in a juvenile detention facility
- 451 under Subsection (13) and the minor attains the age of ~~[18]~~ 21 while detained at the facility, the
- 452 minor shall be transferred within 30 days to an adult jail to remain:
- 453 (a) until released by the district court; or
- 454 (b) if convicted, until sentencing.
- 455 ~~[(16)]~~ (15) Except as provided in Subsection ~~[(17)]~~ (16) and Section [78A-6-705](#), if a
- 456 minor is bound over to the district court under this section, the jurisdiction of the Division of
- 457 Juvenile Justice Services and the juvenile court over the minor is terminated for the qualifying
- 458 offense and any other separate offense for which the minor is bound over.
- 459 ~~[(17)]~~ (16) If a minor is bound over to the district court for a qualifying offense and the
- 460 qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:
- 461 (a) the juvenile court regains jurisdiction over any separate offense committed by the

462 minor; and

463 (b) the Division of Juvenile Justice Services regains jurisdiction over the minor.

464 Section 5. Section **78A-6-703.6** is amended to read:

465 **78A-6-703.6. Criminal proceedings for a minor bound over to district court.**

466 (1) If the juvenile court binds a minor over to the district court in accordance with
467 Section **78A-6-703.5**, the prosecuting attorney shall try the minor as if the minor is an adult in
468 the district court except:

469 (a) the minor is not subject to a sentence of death in accordance with Subsection

470 **76-3-206(2)(b)**; and

471 (b) the minor is not subject to a sentence of life without parole in accordance with

472 Subsection **76-3-206(2)(b)** or **76-3-207.5(3)** or Section **76-3-209**.

473 (2) A minor who is bound over to the district court to answer as an adult is not entitled
474 to a preliminary hearing in the district court.

475 ~~[(3) (a) If a minor is bound over to the district court by the juvenile court, the district
476 court may reconsider the juvenile court's decision under Subsection **78A-6-703.5(13)** as to
477 where the minor is being held until trial.]~~

478 ~~[(b) If the district court reconsiders the juvenile court's decision as to where the minor
479 is held, the district court shall consider and make findings on:]~~

480 ~~[(i) the age of the minor;]~~

481 ~~[(ii) the minor's history of prior criminal acts;]~~

482 ~~[(iii) whether detention in a juvenile detention facility will adequately serve the need
483 for community protection pending the outcome of any criminal proceedings;]~~

484 ~~[(iv) the relative ability of the facility to meet the needs of the minor and protect the
485 public;]~~

486 ~~[(v) the physical maturity of the minor;]~~

487 ~~[(vi) the current mental state of the minor as evidenced by relevant mental health or
488 psychological assessments or screenings that are made available to the court; and]~~

489 ~~[(vii) any other factors the court considers relevant.]~~

490 ~~[(4) A minor who is ordered to a juvenile detention facility under Subsection (3) shall
491 remain in the facility:]~~

492 ~~[(a) until released by a district court; or]~~

493 ~~[(b) if convicted, until sentencing.]~~

494 ~~[(5) If the district court orders the minor to be detained in a juvenile detention facility~~
495 ~~under Subsection (3) and the minor attains the age of 18 while detained at the facility, the~~
496 ~~minor shall be transferred within 30 days to an adult jail to remain:]~~

497 ~~[(a) until released by the district court, or]~~

498 ~~[(b) if convicted, until sentencing.]~~

499 ~~[(6)]~~ (3) If a minor is bound over to the district court and detained in a juvenile
500 detention facility, the district court may order the minor be detained in another place of
501 confinement that is considered appropriate by the district court, including a jail or other place
502 of pretrial confinement for adults if the minor's conduct or condition endangers the safety and
503 welfare of others in the facility.

504 ~~[(7)]~~ (4) If the district court obtains jurisdiction over a minor under Section
505 78A-6-703.5, the district court is not divested of jurisdiction for a qualifying offense or a
506 separate offense listed in the criminal information when the minor is allowed to enter a plea to,
507 or is found guilty of, another offense in the same criminal information.

508 Section 6. Section 78A-6-705 is amended to read:

509 **78A-6-705. Youth prison commitment.**

510 ~~[(1)(a) Before sentencing a minor, who was bound over to the district court under~~
511 ~~Section 78A-6-703.5 to be tried as an adult, to prison the district court shall request a report~~
512 ~~from the Division of Juvenile Justice Services regarding the potential risk to other minors if the~~
513 ~~minor were to be committed to the custody of the Division of Juvenile Justice Services:]~~

514 ~~[(b) The Division of Juvenile Justice Services shall submit the requested report to the~~
515 ~~district court as part of the pre-sentence report or as a separate report.]~~

516 ~~[(2) If, after receiving the report described in Subsection (1);]~~ (1) When sentencing a
517 minor, if the district court determines that probation is not appropriate and commitment to
518 prison is an appropriate sentence, the district court shall order the minor committed to prison
519 and the minor shall be provisionally housed in a secure facility operated by the Division of
520 Juvenile Justice Services until the minor reaches ~~[18]~~ 21 years old, unless released earlier from
521 incarceration by the Board of Pardons and Parole.

522 ~~[(3) The district court may order the minor committed directly to the custody of the~~
523 ~~Department of Corrections if the court finds that:]~~

524 ~~[(a) the minor would present an unreasonable risk to others while in the custody of the~~
525 ~~Division of Juvenile Justice Services;]~~

526 ~~[(b) the minor has previously been committed to a prison for adult offenders; or]~~

527 ~~[(c) housing the minor in a secure facility operated by the Division of Juvenile Justice~~
528 ~~Services would be contrary to the interests of justice.]~~

529 [(4)] (2) (a) The Division of Juvenile Justice Services shall adopt procedures by rule, in
530 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the
531 transfer of a minor provisionally housed in a division facility under Subsection [(2)] (1) to the
532 physical custody of the Department of Corrections.

533 (b) If, in accordance with the rules adopted under Subsection [(4)] (2)(a), the Division
534 of Juvenile Justice Services determines that housing the minor in a division facility presents an
535 unreasonable risk to others or that it is not in the best interest of the minor, the Division of
536 Juvenile Justice Services shall transfer the physical custody of the minor to the Department of
537 Corrections.

538 [(5)] (3) (a) When a minor is committed to prison but [~~ordered by a district court to be~~]
539 provisionally housed in a Division of Juvenile Justice Services facility under this section, the
540 district court and the Division of Juvenile Justice Services shall immediately notify the Board
541 of Pardons and Parole so that the minor may be scheduled for a hearing according to board
542 procedures.

543 (b) If a minor who is provisionally housed in a Division of Juvenile Justice Services
544 facility under this section has not been paroled or otherwise released from incarceration by the
545 time the minor reaches [~~18~~] 21 years old, the Division of Juvenile Justice Services shall as soon
546 as reasonably possible, but not later than when the minor reaches [~~18~~] 21 years and 6 months
547 old, transfer the minor to the physical custody of the Department of Corrections.

548 [(6)] (4) Upon the commitment of a minor to the custody of the Division of Juvenile
549 Justice Services or the Department of Corrections under this section, the Board of Pardons and
550 Parole has authority over the minor for purposes of parole, pardon, commutation, termination
551 of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes
552 authorized by law.

553 [(7)] (5) The Youth Parole Authority [~~may~~] shall:

554 (a) hold hearings, receive reports, or otherwise keep informed of the progress of a

555 minor in the custody of the Division of Juvenile Justice Services under this section [~~and may~~];
556 and

557 (b) forward to the Board of Pardons and Parole any information or recommendations
558 concerning the minor.

559 [~~(8)~~] (6) Commitment of a minor under this section is a prison commitment for all
560 sentencing purposes.