

JUVENILE JUSTICE SERVICES AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Daniel W. Thatcher

Cosponsors: Dan N. Johnson

Gay Lynn Bennion Marsha Judkins

LONG TITLE

General Description:

This bill addresses services provided by the Division of Juvenile Justice Services.

Highlighted Provisions:

This bill:

- ▶ provides the Division of Juvenile Justice Services with rulemaking authority to establish the qualifications and conditions of services provided by the Division of Juvenile Justice Services to minors terminated from the custody of the Division of Juvenile Justice Services;

- ▶ amends the requirements for services provided by the Division of Juvenile Justice Services after minors are terminated from the custody of the Division of Juvenile Justice Services; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-5-202, as enacted by Laws of Utah 2021, Chapter 261

29 **80-6-804**, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

30 ENACTS:

31 **80-6-809**, Utah Code Annotated 1953

32

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

34 Section 1. Section **80-5-202** is amended to read:

35 **80-5-202. Division rulemaking authority.**

36 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
37 division shall make rules to:

38 (a) [~~establishing~~] establish standards for the admission of a minor to detention;

39 (b) [~~that~~] describe good behavior for which credit may be earned under Subsection
40 **80-6-704**(4); [~~and~~]

41 (c) [~~that~~] establish a formula, in consultation with the Office of the Legislative Fiscal
42 Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah,
43 Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders
44 with the division[~~;~~]; and

45 (d) establish the qualifications and conditions for services provided by the division
46 under Section **80-6-809**.

47 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
48 division may make rules:

49 (a) that govern the operation of prevention and early intervention programs, youth
50 service programs, juvenile receiving centers, and other programs described in Section
51 **80-5-401**; and

52 (b) that govern the operation of detention and secure care facilities.

53 (3) A rule made by the division under Subsection (1)(a):

54 (a) may not permit secure detention based solely on the existence of multiple status
55 offenses, misdemeanors, or infractions arising out of a single criminal episode; and

56 (b) shall prioritize use of home detention for a minor who might otherwise be held in

57 secure detention.

58 Section 2. Section **80-6-804** is amended to read:

59 **80-6-804. Review and termination of secure care -- Parole release.**

60 (1) If a juvenile offender is ordered to secure care under Section **80-6-705**, the juvenile
61 offender shall appear before the authority within 45 days after the day on which the juvenile
62 offender is ordered to secure care for review of a treatment plan and to establish parole release
63 guidelines.

64 (2) (a) If a juvenile offender is ordered to secure care under Section **80-6-705**, the
65 authority shall set a presumptive term of commitment for the juvenile offender from three to
66 six months, but the presumptive term may not exceed six months.

67 (b) The authority shall release the juvenile offender on parole at the end of the
68 presumptive term of commitment unless:

69 (i) termination would interrupt the completion of a treatment program determined to be
70 necessary by the results of a validated risk and needs assessment under Section **80-6-606**; or

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

72 (c) The authority shall determine whether a juvenile offender has completed a
73 treatment program under Subsection (2)(b)(i) by considering:

74 (i) the recommendations of the licensed service provider for the treatment program;

75 (ii) the juvenile offender's record in the treatment program; and

76 (iii) the juvenile offender's completion of the goals of the treatment program.

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

80 (e) The authority shall:

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

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

83 (f) Records under Subsection (2)(e) shall be tracked in the data system used by the
84 juvenile court and the division.

85 (3) (a) If a juvenile offender is committed to secure care, the authority shall set a
86 presumptive term of parole supervision, including aftercare services, from three to four months,
87 but the presumptive term may not exceed four months.

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

92 (c) The authority shall release a juvenile offender from parole and terminate the
93 authority's jurisdiction at the end of the presumptive term of parole, unless:

94 (i) termination would interrupt the completion of a treatment program that is
95 determined to be necessary by the results of a validated risk and needs assessment under
96 Section 80-6-606;

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

98 (iii) restitution has not been completed.

99 (d) The authority shall determine whether a juvenile offender has completed a
100 treatment program under Subsection (2)(c)(i) by considering:

101 (i) the recommendations of the licensed service provider;

102 (ii) the juvenile offender's record in the treatment program; and

103 (iii) the juvenile offender's completion of the goals of the treatment program.

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

106 (f) The authority shall:

107 (i) record the grounds for extension of the presumptive length of parole and the length
108 of the extension; and

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

110 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
111 juvenile court and the division.

112 (h) If a juvenile offender leaves parole supervision without authorization for more than

113 24 hours, the term of parole shall toll until the juvenile offender returns.

114 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure
115 care for:

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

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

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

119 (d) Section 76-5-205, manslaughter;

120 (e) Section 76-5-206, negligent homicide;

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

122 (g) Section 76-5-207.5, automobile homicide involving a handheld wireless
123 communication device;

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

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

126 (j) Section 76-5-302, aggravated kidnapping;

127 (k) Section 76-5-405, aggravated sexual assault;

128 (l) a felony violation of Section 76-6-103, aggravated arson;

129 (m) Section 76-6-203, aggravated burglary;

130 (n) Section 76-6-302, aggravated robbery;

131 (o) Section 76-10-508.1, felony discharge of a firearm;

132 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)

133 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

134 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
135 involving the use of a dangerous weapon, as defined in Section 76-1-601; or

136 (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the
137 juvenile offender has been previously committed to the division for secure care.

138 ~~[(5)(a) The division may continue to have responsibility over a juvenile offender, who
139 is discharged under this section from parole, to participate in a specific educational or
140 rehabilitative program.]~~

141 ~~[(i) until the juvenile offender is:]~~
142 ~~[(A) if the juvenile offender is a youth offender, 21 years old; or]~~
143 ~~[(B) if the juvenile offender is a serious youth offender, 25 years old; and]~~
144 ~~[(ii) under an agreement by the division and the juvenile offender that the program has~~
145 ~~certain conditions.]~~

146 ~~[(b) The division and the juvenile offender may terminate participation in a program~~
147 ~~under Subsection (5)(a) at any time.]~~

148 ~~[(c) The division shall offer an educational or rehabilitative program before a juvenile~~
149 ~~offender's discharge date in accordance with this section.]~~

150 ~~[(d) A juvenile offender may request the services described in this Subsection (5), even~~
151 ~~if the offender has been previously declined services or services were terminated for~~
152 ~~noncompliance.]~~

153 ~~[(e) Notwithstanding Subsection (5)(c), the division:]~~

154 ~~[(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the~~
155 ~~services described in this Subsection (5) for up to 365 days after the juvenile offender's~~
156 ~~effective date of discharge, even if the juvenile offender has previously declined services or~~
157 ~~services were terminated for noncompliance; and]~~

158 ~~[(ii) may reach an agreement with the juvenile offender to provide the services~~
159 ~~described in this Subsection (5) until the juvenile offender is:]~~

160 ~~[(A) if the juvenile offender is a youth offender, 21 years old; or]~~

161 ~~[(B) if the juvenile offender is a serious youth offender, 25 years old.]~~

162 ~~[(f) The division and the juvenile offender may terminate an agreement for services~~
163 ~~under this Subsection (5) at any time.]~~

164 Section 3. Section **80-6-809** is enacted to read:

165 **80-6-809. Division services after termination of custody of a minor.**

166 (1) If a minor is committed to the custody of the division under Section [80-6-703](#), the
167 division may continue to provide services to the minor, upon the minor's termination from
168 custody of the division, to allow the minor to participate in an educational, rehabilitative, or

169 support program until the minor is 25 years old under an agreement by the division and the
170 minor that the program has certain conditions.

171 (2) The division shall offer an educational, rehabilitative, or support program to a
172 minor before the minor's termination date.

173 (3) Even if a minor has been previously declined services or services were terminated
174 for noncompliance:

175 (a) a minor, who is terminated from custody, may request the services described in this
176 section; and

177 (b) notwithstanding Subsection (2), the division shall consider a request by a minor
178 under Subsection (3)(a).

179 (4) If a request is made under Subsection (3), the division may reach an agreement with
180 the minor to provide the services described in this section until the minor is 25 years old.

181 (5) The division, or the minor, may terminate an agreement for services under this
182 section at any time.