

HB0299S02 compared with HB0299S01

~~text~~ shows text that was in HB0299S01 but was deleted in HB0299S02.

text shows text that was not in HB0299S01 but was inserted into HB0299S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative V. Lowry Snow proposes the following substitute bill:

JUVENILE JUSTICE CHANGES

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: ~~_____~~ Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to teen substance abuse programs;
- ▶ amends and clarifies the jurisdiction of the district court, juvenile court, and justice court over certain offenses;
- ▶ amends definitions related to juvenile justice;
- ▶ amends the responsibilities of the Division of Juvenile Justice Services to address an initial medical screening or assessment of a child in detention;
- ▶ requires a minor to be advised of the minor's rights in detention;
- ▶ clarifies bail in relation to minors;

HB0299S02 compared with HB0299S01

- ▶ requires a minor to be advised of the minor's rights in a delinquency proceeding;
- ▶ address the placement of a child or the appointment of a guardian for a child if a delinquency petition is filed;
- ▶ amends provisions related to restitution ordered by the juvenile court for minors;
- ▶ clarifies the suspension of a disposition for a minor committed to the Division of Juvenile Justice Services;
- ▶ amends provisions relating to the juvenile court's continuing jurisdiction over an adjudicated minor;
- ▶ clarifies the extension of supervision over a minor who has not completed compensatory or community service hours;
- ▶ addresses the continuing jurisdiction of the juvenile court over a minor's case when a minor has not paid restitution in full;
- ▶ requires an individual in a secure care facility to be advised of certain rights; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

62A-15-202, as last amended by Laws of Utah 2008, Chapter 3

62A-15-204, as last amended by Laws of Utah 2021, Chapter 262

78A-5-101, as renumbered and amended by Laws of Utah 2008, Chapter 3

78A-5-102, as last amended by Laws of Utah 2021, Chapter 262

78A-6-103, as last amended by Laws of Utah 2021, Chapter 261

78A-6-103.5, as enacted by Laws of Utah 2021, Chapter 261

78A-6-120, as last amended by Laws of Utah 2021, Chapter 261

78A-7-106, as last amended by Laws of Utah 2021, Chapter 262

80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

80-5-201, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-5-302, as renumbered and amended by Laws of Utah 2021, Chapter 261

HB0299S02 compared with HB0299S01

80-6-102, as enacted by Laws of Utah 2021, Chapter 261

80-6-205, as enacted by Laws of Utah 2021, Chapter 261

80-6-206, as enacted by Laws of Utah 2021, Chapter 261 and last amended by
Coordination Clause, Laws of Utah 2021, Chapter 261

80-6-207, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-302, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-303, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-501, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

80-6-502, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

80-6-504, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

80-6-505, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

80-6-603, as enacted by Laws of Utah 2021, Chapter 261

80-6-606, as enacted by Laws of Utah 2021, Chapter 261

80-6-709, as enacted by Laws of Utah 2021, Chapter 261

80-6-710, as enacted by Laws of Utah 2021, Chapter 261

80-6-711, as enacted by Laws of Utah 2021, Chapter 261

80-6-712, as enacted by Laws of Utah 2021, Chapter 261

80-6-802, as renumbered and amended by Laws of Utah 2021, Chapter 261

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

ENACTS:

78A-5-102.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

80-6-206, as enacted by Laws of Utah 2021, Chapter 261 and last amended by
Coordination Clause, Laws of Utah 2021, Chapter 261

~~80-6-709, as enacted by Laws of Utah 2021, Chapter 261~~

~~80-6-712, as enacted by Laws of Utah 2021, Chapter 261~~

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

Section 1. Section **62A-15-202** is amended to read:

62A-15-202. Definitions.

As used in this part:

HB0299S02 compared with HB0299S01

(1) "Juvenile substance abuse offender" means any ~~[juvenile found to come within the provisions of Section 78A-6-103 for a drug or alcohol related offense, as designated by the Board of Juvenile Court Judges]~~ minor who has committed a drug or alcohol related offense under the jurisdiction of the juvenile court in accordance with Section 78A-6-103.

(2) "Local substance abuse authority" means a county legislative body designated to provide substance abuse services in accordance with Section 17-43-201.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

~~[(3)]~~ (4) "Teen substance abuse school" means any school established by the local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an educational, interpersonal, skill-building experience for juvenile substance abuse offenders and their parents or legal guardians.

Section 2. Section **62A-15-204** is amended to read:

62A-15-204. Court order to attend substance abuse school -- Assessments.

(1) In addition to any other disposition ordered by the juvenile court under Section ~~[80-3-405 or]~~ 80-6-701, the court may order ~~[a juvenile and his parents or legal guardians]:~~

(a) a minor and the minor's parent or legal guardian to attend a teen substance abuse school~~[, and order]; and~~

(b) payment of an assessment in addition to any other fine imposed.

(2) All assessments collected shall be forwarded to the county treasurer of the county where the ~~[juvenile]~~ minor resides, to be used exclusively for the operation of a teen substance abuse program.

Section 3. Section **78A-5-101** is amended to read:

78A-5-101. State District Court Administrative System -- Definitions.

(1) As used in this chapter:

(a) "Court system" means the State District Court Administrative System.

(b) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

~~[(1)]~~ (2) (a) The district court is a trial court of general jurisdiction.

(b) A district court shall be located in the county seat of each county.

~~[(2)]~~ (3) (a) There is established a State District Court Administrative System.

(b) The Judicial Council shall administer the operation of the court system.

HB0299S02 compared with HB0299S01

~~[(3) In this chapter, "court system" means the State District Court Administrative System.]~~

~~[(4) A district court shall be located in the county seat of each county.]~~

Section 4. Section **78A-5-102** is amended to read:

78A-5-102. Jurisdiction of the district court -- Appeals.

~~[(1) As used in this section:]~~

~~[(a) "Qualifying offense" means an offense described in Subsection 80-6-502(1)(b).]~~

~~[(b) "Separate offense" means any offense that is not a qualifying offense.]~~

~~[(c) "Single criminal episode" means the same as that term is defined in Section 76-1-401.]~~

~~[(2)]~~ (1) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

~~[(3)]~~ (2) A district court judge may issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees.

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

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

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

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

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

(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in ~~[its]~~ the district court's review of agency adjudicative proceedings; and

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

~~[(9)]~~ (8) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over~~[-(a)]~~ a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

HB0299S02 compared with HB0299S01

~~[(†)]~~ (a) there is no justice court with territorial jurisdiction;

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

~~[(†††)]~~ (c) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older~~[; or]~~.

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

~~[(10)(a) Notwithstanding Subsection 78A-7-106(2), the district court has exclusive jurisdiction over any separate offense:]~~

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

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

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

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

~~[(11)]~~ (9) If a district court has jurisdiction in accordance with Subsection ~~[(6); (9)(a)(i), or (9)(a)(ii)]~~ (5), (8)(a), or (8)(b), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

~~[(12) The district court has subject matter jurisdiction over an offense for which the juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the offense to the district court in accordance with Section 80-6-504.]~~

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

Section 5. Section **78A-5-102.5** is enacted to read:

78A-5-102.5. Jurisdiction of the district court over an offense committed by a

HB0299S02 compared with HB0299S01

minor -- Exclusive jurisdiction of the district court -- Transfer to juvenile court.

(1) As used in this section:

(a) "Minor" means:

(i) an individual who is under 18 years old;

(ii) an individual who was under 18 years old at the time of the offense and is under 21 years old at the time of all court proceedings; or

(iii) an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense;

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

(C) who committed the felony offense and any separate offense on school property where the individual was enrolled when school was in session or during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(b) "Qualifying offense" means:

(i) an offense described in Section 80-6-502 or 80-6-503; or

(ii) a felony offense if the felony offense is committed:

(A) by an individual who was 18 years old at the time of the offense and enrolled in high school; and

(B) on school property where the individual was enrolled when school was in session or during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

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

(2) The district court has original jurisdiction over an offense of aggravated murder, as described in Section 76-5-202, or murder, as described in Section 76-5-203, that is committed by an individual who is 16 or 17 years old at the time of the offense.

(3) The district court has subject matter jurisdiction over any offense for which the juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the offense to the district court in accordance with Section 80-6-504.

(4) Notwithstanding Sections 78A-6-103, 78A-6-103.5, and 78A-7-106, the district court has exclusive jurisdiction over any separate offense:

(a) committed by a minor; and

(b) arising from a single criminal episode containing a qualifying offense for which the district court has original jurisdiction.

HB0299S02 compared with HB0299S01

(5) ~~The~~ Except as provided in Subsections (6) and (7), if the district court ~~is not divested of~~ has jurisdiction over a qualifying offense or a separate offense ~~listed in the criminal information~~ committed by a minor, the district court is not divested of jurisdiction over the offense when the minor is allowed to enter a plea to, or is found guilty of, a separate offense ~~other than~~ that is not the qualifying offense or separate offense listed in the ~~same~~ criminal information.

(6) If a minor is charged with a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal after a trial:

(a) the jurisdiction of the district court over any separate offense is terminated; and

(b) the district court shall transfer the separate offense to the juvenile court for disposition in accordance with Title 80, Chapter 6, Part 7, Adjudication and Disposition.

(7) If a minor is charged with a qualifying offense and the qualifying offense results in a dismissal before a trial:

(a) the jurisdiction of the district court over any separate offense is terminated; and

(b) the district court shall transfer the separate offense to the juvenile court for adjudication and disposition in accordance with Title 80, Chapter 6, Part 7, Adjudication and Disposition.

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

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by [~~Subsections 78A-5-102(9), 78A-5-102(10), and 78A-7-106(2)~~] Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

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

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

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

(ii) who was under 18 years old at the time the offense was committed[-]; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

HB0299S02 compared with HB0299S01

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

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

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

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

(a) a child who is an abused child, neglected child, or dependent child;

(b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(c) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(e) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(f) the treatment or commitment of a minor who has an intellectual disability;

(g) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(i) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

(j) the treatment or commitment of a child with a mental illness;

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

(l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

HB0299S02 compared with HB0299S01

(o) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of Juvenile Justice Services, the child has demonstrated that the child:

(i) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(ii) has run away from home; and

(p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court.

(3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection (2)(p).

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(7) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 7. Section **78A-6-103.5** is amended to read:

78A-6-103.5. Exclusive jurisdiction of the juvenile court -- Transfer from district court.

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

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

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

(ii) the court has original jurisdiction; and

(b) committed by an individual who is under 21 years old at the time of all court proceedings, but committed before the individual was 18 years old, and that arises from a

HB0299S02 compared with HB0299S01

single criminal episode containing an offense for which:

- (i) a citation, petition, indictment, or criminal information is filed; and
- (ii) the court has original jurisdiction.

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

(a) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(b) an offense for operation in willful or wanton disregard for safety, as described in Section 73-18-12.

(3) If a juvenile court transfers jurisdiction of an offense to the district court under Section 80-6-504, the exclusive jurisdiction of the juvenile court over that offense is terminated.

~~[(4)(a) As used in this Subsection (4):]~~

~~[(i) "Qualifying offense" means an offense described in Sections 80-6-502 and 80-6-503.]~~

~~[(ii) "Separate offense" means any offense that is not a qualifying offense.]~~

~~[(b) The juvenile court:]~~

~~[(i) regains exclusive jurisdiction over any separate offense described in Subsection (1) if:]~~

~~[(A) the individual who is alleged to have committed the separate offense is bound over to the district court for a qualifying offense under Section 80-6-504; and]~~

~~[(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal; and]~~

~~[(ii) gains exclusive jurisdiction over any separate offense described in Subsection (1) if:]~~

~~[(A) the individual who is alleged to have committed the separate offense is charged for a qualifying offense under Section 80-6-502 in the district court; and]~~

~~[(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal in the district court.]~~

(4) Upon entry of an order transferring an offense to the juvenile court in accordance

HB0299S02 compared with HB0299S01

with Subsection 78A-5-102.5(6) or (7), the juvenile court gains or regains jurisdiction over any offense for which the juvenile court has original or exclusive jurisdiction.

(5) After a district court transfers an offense to the juvenile court under Subsection 78A-5-102.5(6) or (7), the juvenile court shall:

(a) proceed upon the criminal information as if the criminal information were a petition under Section 80-6-305; and

(b) if the minor was convicted of the transferred offense, enter the conviction as an adjudication and proceed with disposition in accordance with Title 80, Chapter 6, Part 7, Adjudication and Disposition.

(6) For purposes of this section and Section 78A-5-102.5, an offense transferred to the juvenile court from the district court under Subsection 78A-5-102.5(6) or (7) is an adjudication and not a conviction.

Section 8. Section **78A-6-120** is amended to read:

78A-6-120. Continuing jurisdiction of juvenile court -- Period of and termination of jurisdiction.

(1) Except as provided in Subsection (2), if the juvenile court obtains jurisdiction [of] over a minor's case, the juvenile court's jurisdiction over the minor's case continues until:

(a) the minor is 21 years old; or

(b) if the juvenile court extends jurisdiction over the minor's case under Section 80-6-605, the minor is 25 years old.

(2) (a) [~~The~~] Except as provided in Subsection (2)(c), the juvenile court's continuing jurisdiction under Subsection (1) terminates:

(i) upon order of the court;

(ii) upon an order for secure care under Section 80-6-705; or

(iii) in accordance with Section 80-6-712.

(b) The continuing jurisdiction of the juvenile court over a minor's case is not terminated:

(i) by marriage; or

(ii) when a minor commits an offense under municipal, state, or federal law that is under the jurisdiction of another court.

(c) [~~Notwithstanding Subsection (2)(a)(ii);~~] If a minor is ordered to secure care under

HB0299S02 compared with HB0299S01

Section 80-6-705, the juvenile court retains jurisdiction to make and enforce orders related to restitution until the Youth Parole Authority discharges the minor under Section 80-6-807.

Section 9. Section **78A-7-106** is amended to read:

78A-7-106. Jurisdiction.

(1) (a) [~~Except as otherwise provided by Subsection 78A-5-102(8)~~] Except for an offense for which the district court has original jurisdiction under Subsection 78A-5-102(8) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(ii) class B and C misdemeanor and infraction violations of:

(A) Title 23, Wildlife Resources Code of Utah;

(B) Title 41, Chapter 1a, Motor Vehicle Act;

(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(E) Title 41, Chapter 22, Off-Highway Vehicles;

(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(H) Title 73, Chapter 18b, Water Safety; and

(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(2) Except for an offense for which [~~the juvenile court or~~] the district court has exclusive jurisdiction under [~~Subsection 78A-5-102(10) or~~] Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's

HB0299S02 compared with HB0299S01

territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23, Wildlife Resources Code of Utah;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-Highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

~~(3)~~ (b) An offense is committed within the territorial jurisdiction of a justice court if:

~~(a)~~ (i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

~~(b)~~ (ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

~~(c)~~ (iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

~~(d)~~ (iv) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

~~(e)~~ (v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

HB0299S02 compared with HB0299S01

~~[(f)]~~ (vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

~~[(+)]~~ (A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

~~[(ii)-(A)]~~ (B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; ~~[and]~~

~~[(B) as used in Subsection (3)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;]~~

~~[(iii)]~~ (C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

~~[(+)]~~ (D) the offense is committed on or near the boundary of the court's jurisdiction;

~~[(g)]~~ (vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

~~[(h)]~~ (viii) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

Section 10. Section **80-1-102** is amended to read:

80-1-102. Juvenile code definitions.

As used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

HB0299S02 compared with HB0299S01

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

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

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

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

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

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

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

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

HB0299S02 compared with HB0299S01

(9) "Child placement agency" means:

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

(b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.

(10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(11) "Commit" or "committed" means, unless specified otherwise:

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

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

(13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(14) "Correctional facility" means:

(a) a county jail; or

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

(15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(16) "Department" means the Department of Human Services created in Section 62A-1-102.

(17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

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

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before

HB0299S02 compared with HB0299S01

adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(21) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

- (a) consult with counsel with a reasonable degree of rational understanding; and
- (b) have a rational as well as factual understanding of the proceedings.

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

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

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

- (a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and
- (b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

(26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(28) "Formal probation" means a minor is:

- (a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and
- (b) subject to return to the juvenile court in accordance with Section 80-6-607.

(29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

- (a) marriage;
- (b) enlistment in the armed forces;

HB0299S02 compared with HB0299S01

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

(34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

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

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section

HB0299S02 compared with HB0299S01

78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

- (i) monitored by a juvenile probation officer; and
- (ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

- (a) a serious youth offender; or
- (b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(45) "Legal custody" means a relationship embodying:

- (a) the right to physical custody of the minor;
- (b) the right and duty to protect, train, and discipline the minor;
- (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(46) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

- (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders

HB0299S02 compared with HB0299S01

published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(47) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; [or]

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the [~~continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.~~] jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii) (A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(50) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary

HB0299S02 compared with HB0299S01

subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

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

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

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

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

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

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(52) "Neglected child" means a child who has been subjected to neglect.

(53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

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

(54) "Not competent to proceed" means that a minor, due to a mental illness,

HB0299S02 compared with HB0299S01

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

- (a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or
- (b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

(56) "Physical abuse" means abuse that results in physical injury or damage to a child.

(57) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(58) "Prosecuting attorney" means:

- (a) the attorney general and any assistant attorney general;
- (b) any district attorney or deputy district attorney;
- (c) any county attorney or assistant county attorney; and
- (d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

- (a) the day on which the shelter hearing is held under Section 80-3-301; or
- (b) the day on which the child is returned home.

(60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

- (a) the minor is permitted to remain in the minor's home; and
- (b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(61) (a) "Related condition" means a condition that:

- (i) is found to be closely related to intellectual disability;
- (ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

HB0299S02 compared with HB0299S01

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(62) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

HB0299S02 compared with HB0299S01

(67) "Serious youth offender" means an individual who:

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

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

(68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

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

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

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

HB0299S02 compared with HB0299S01

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

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

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

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(71) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

(74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(75) "Status offense" means an offense that would not be an offense but for the age of the offender.

(76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(78) "Supported" means the same as that term is defined in Section 62A-4a-101.

(79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

HB0299S02 compared with HB0299S01

(80) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

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

(b) poses a threat to the safety or well-being of the child, the child's family, or others;

or

(c) results in the situations described in Subsections (82)(a) and (b).

(83) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement;

and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(87) "Without merit" means the same as that term is defined in Section 62A-4a-101.

(88) "Youth offender" means an individual who is:

HB0299S02 compared with HB0299S01

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

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 11. Section **80-5-201** is amended to read:

80-5-201. Division responsibilities.

(1) The division is responsible for all minors committed to the division by juvenile courts under Sections 80-6-703 and 80-6-705.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all minors committed to the division;

(b) establish and maintain all detention and secure care facilities and set minimum standards for all detention and secure care facilities;

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

(d) establish observation and assessment programs necessary to serve minors in a nonresidential setting under Subsection 80-6-706(1);

(e) place minors committed to the division under Section 80-6-703 in the most appropriate program for supervision and treatment;

(f) employ staff necessary to:

(i) supervise and control minors committed to the division for secure care or placement in the community;

(ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and

(iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;

(g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;

(h) establish and operate work programs for minors committed to the division by the juvenile court that:

(i) are not residential;

HB0299S02 compared with HB0299S01

(ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and

(iv) provide counseling to minors;

(i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;

(j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;

(k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;

(l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;

(m) register an individual with the Department of Corrections who:

(i) is adjudicated for an offense listed in Subsection 77-41-102(17)(a) or 77-43-102(2);

(ii) is committed to the division for secure care; and

(iii) (A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or

(B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and

(n) ensure that a program delivered to a minor under this section is an evidence-based program in accordance with Section 63M-7-208.

(3) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:

(i) locate and apprehend minors who have absconded from division custody;

(ii) transport minors taken into custody in accordance with division policy;

(iii) investigate cases; and

(iv) carry out other duties as assigned by the division.

(b) A special function officer may be:

(i) employed through a contract with the Department of Public Safety, or any law

HB0299S02 compared with HB0299S01

enforcement agency certified by the Peace Officer Standards and Training Division; or

(ii) directly hired by the division.

(4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend the minor, or to initiate action with a local law enforcement agency for assistance.

(5) The division may proceed with an initial medical screening or assessment of a child admitted to a detention facility to ensure the safety of the child and others in the detention facility if the division makes a good faith effort to obtain consent for the screening or assessment from the child's parent or guardian.

Section 12. Section **80-5-302** is amended to read:

80-5-302. Juvenile Justice Reinvestment Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Juvenile Justice Reinvestment Restricted Account."

(2) The account shall be funded by savings calculated from General Fund appropriations by the Division of Finance as described in Subsection (3).

(3) At the end of the fiscal year, the Division of Finance shall:

(a) use the formula established in Subsection 80-5-202(1)(c) to calculate the savings from General Fund appropriations; and

(b) lapse the calculated savings into the account.

(4) Upon appropriation by the Legislature, the department may expend funds from the account:

(a) for the statewide expansion of nonresidential community-based programs, including:

(i) receiving centers;

(ii) mobile crisis outreach teams;

(iii) youth courts under Title 80, Chapter 6, Part 9, Youth Court; and

(iv) victim-offender mediation under Section 80-6-304 and Subsection 80-6-710~~(7)~~(6);

(b) for nonresidential evidence-based programs and practices in cognitive, behavioral, and family therapy;

HB0299S02 compared with HB0299S01

(c) to implement:

(i) nonresidential diagnostic assessment; and

(ii) nonresidential early intervention programs, including family strengthening programs, family wraparound services, and truancy interventions; or

(d) for infrastructure in nonresidential evidence-based juvenile justice programs, including staffing and transportation.

Section 13. Section **80-6-102** is amended to read:

80-6-102. Definitions.

As used in this chapter:

(1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(2) "Authority" means the Youth Parole Authority created in Section 80-5-701.

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

(4) "Compensatory service" means service or unpaid work performed by a minor in lieu of the payment of a fine, fee, or restitution.

(5) "Control" means the same as that term is defined in Section 80-5-102.

(6) "Detention hearing" means a proceeding under Section 80-6-207 to determine whether a minor should remain in detention.

(7) "Detention guidelines" means standards, established by the division in accordance with Subsection 80-5-202(1)(a), for the admission of a minor to detention.

(8) "Discharge" means a written order of the authority that removes a juvenile offender from the authority's jurisdiction.

(9) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(10) "Family-based setting" means a home that is licensed to allow a minor to reside at the home, including a foster home, proctor care, or residential care by a professional parent.

~~(10)~~ (11) "Formal referral" means a written report from a peace officer, or other person, informing the juvenile court that:

(a) an offense committed by a minor is, or appears to be, within the juvenile court's jurisdiction; and

HB0299S02 compared with HB0299S01

(b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting attorney.

~~[(11)]~~ (12) "Material loss" means an uninsured:

- (a) property loss;
- (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;
- (c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or
- (d) medical expense.

~~[(12)]~~ (13) "Referral" means a formal referral, a referral to the juvenile court under Section 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under Section 80-6-302.

~~[(13)]~~ (14) "Rescission" means a written order of the authority that rescinds a date for parole.

~~[(14)]~~ (15) "Restitution" means money or services that the juvenile court, or a juvenile probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to a victim for the minor's wrongful act or conduct.

~~[(15)]~~ (16) "Revocation" means a written order of the authority that, after a hearing and determination under Section 80-6-806:

- (a) terminates supervision of a juvenile offender's parole; and
- (b) directs a juvenile offender to return to secure care.

~~[(16)]~~ (17) "Temporary custody" means the control and responsibility of a minor, before an adjudication under Section 80-6-701, until the minor is released to a parent, guardian, responsible adult, or to an appropriate agency.

~~[(17)]~~ (18) "Termination" means a written order of the authority that terminates a juvenile offender from parole.

~~[(18)]~~ (19) (a) "Victim" means a person that the juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct.

(b) "Victim" includes:

(i) any person directly harmed by the minor's wrongful act or conduct in the course of the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and

HB0299S02 compared with HB0299S01

(ii) the Utah Office for Victims of Crime.

~~[(19)]~~ (20) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

~~[(20)]~~ (21) "Work program" means the same as that term is defined in Section 80-5-102.

~~[(21)]~~ (22) "Youth services" means the same as that term is defined in Section 80-5-102.

Section 14. Section **80-6-205** is amended to read:

80-6-205. Admission to detention -- Alternative to detention -- Rights of a minor in detention.

(1) If a minor is taken to a detention facility under Section 80-6-203, a designated staff member of the detention facility shall immediately review the form and determine, based on the results of the detention risk assessment tool and Subsection (2), whether to:

- (a) admit the minor to secure detention;
- (b) admit the minor to home detention;
- (c) place the minor in another alternative to detention; or
- (d) if the minor is a child, return the minor home upon a written promise by the minor's

parent, guardian, or custodian to bring the minor to the juvenile court at a time set or without restriction.

(2) A minor may not be admitted to detention unless:

- (a) the minor is detainable based on the detention guidelines; or
- (b) the minor has been brought to detention in accordance with:
 - (i) a court order;
 - (ii) a warrant in accordance with Section 80-6-202; or
 - (iii) a division warrant in accordance with Section 80-6-806.

(3) If the designated staff member determines to admit a minor to home detention, the staff member shall notify the juvenile court of that determination.

(4) Even if a minor is eligible for secure detention, a peace officer or other person who takes a minor to a detention facility, or the designated staff member of the detention facility, may release a minor to a less restrictive alternative than secure detention.

(5) (a) If a minor taken to a detention facility does not qualify for admission under

HB0299S02 compared with HB0299S01

detention guidelines or this section, a designated staff member of the detention facility shall arrange an appropriate alternative, including admitting a minor to a juvenile receiving center or a shelter facility.

(b) (i) Except as otherwise provided by this section, a minor may not be placed or kept in secure detention while court proceedings are pending.

(ii) A child may not be placed or kept in a shelter facility while court proceedings are pending, unless the child is in protective custody in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(6) If a minor is taken into temporary custody and admitted to a secure detention, or another alternative to detention, a designated staff member of the detention facility shall:

(a) immediately notify the minor's parent, guardian, or custodian; and

(b) promptly notify the juvenile court of the placement.

(7) If a minor is admitted to secure detention, or another alternative to detention, outside the county of the minor's residence and a juvenile court determines, in a detention hearing, that secure detention, or an alternative to detention, of the minor shall continue, the juvenile court shall direct the sheriff of the county of the minor's residence to transport the minor to secure detention or another alternative to detention in that county.

(8) (a) Subject to Subsection (8)(b), a minor admitted to detention has a right to:

(i) phone the minor's parent, guardian, or attorney immediately after the minor is admitted to detention; and

(ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.

(b) The division may:

(i) establish a schedule for which a minor in detention may visit or phone a person described in Subsection (8)(a);

(ii) allow a minor in detention to visit or call persons described in Subsection (8)(a) in special circumstances;

(iii) limit the number and length of calls and visits for a minor in detention to persons described in Subsection (8)(a) on account of scheduling, facility, or personnel constraints; or

(iv) limit the minor's rights under Subsection (8)(a) if a compelling reason exists to limit the minor's rights.

HB0299S02 compared with HB0299S01

(c) A minor admitted to detention shall be immediately advised of the minor's rights described in this Subsection (8).

Section 15. Section **80-6-206** is amended to read:

80-6-206. Interview of a child -- Presence of a parent, legal guardian, or other adult -- Interview of individual in detention or secure care facility.

(1) As used in this section:

(a) (i) "Friendly adult" means an adult:

(A) that has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and

(B) who is not hostile or adverse to the child's interest.

(ii) "Friendly adult" does not include a parent or guardian of the child.

(b) (i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.

(ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.

(2) If a child is in custody and subject to interrogation for an offense, the child has the right:

(a) to have the child's parent or guardian present during an interrogation of the child; or

(b) to have a friendly adult present during an interrogation of the child if:

(i) there is reason to believe that the child's parent or guardian has abused or threatened the child; or

(ii) the child's parent's or guardian's interest is adverse to the child's interest, including that the parent or guardian is a victim or a codefendant of the offense alleged to have been committed by the child.

(3) If a child is in custody and subject to interrogation of an offense, the child may not be interrogated unless:

(a) the child has been advised of the child's constitutional rights and the child's right to have a parent or guardian, or a friendly adult if applicable under Subsection (2)(b), present during the interrogation;

(b) the child has waived the child's constitutional rights;

(c) except as provided in Subsection (4), the child's parent or guardian, or the friendly

HB0299S02 compared with HB0299S01

adult if applicable under Subsection (2)(b), was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated; and

(d) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Section 62A-4a-415.

(4) A child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver under Subsection (3) or to give permission to the interrogation of the child if:

(a) the child is emancipated as described in Section 80-7-105;

(b) the child has misrepresented the child's age as being 18 years old or older and a peace officer has relied on that misrepresentation in good faith; or

(c) a peace officer or a law enforcement agency:

(i) has made reasonable efforts to contact the child's parent or legal guardian, or a friendly adult if applicable under Subsection (2)(b); and

(ii) has been unable to make contact within one hour after the time in which the child is in custody.

~~[(5) (a) If a minor is admitted to a detention facility under Section 80-6-205, or the minor is committed to secure care or a correctional facility, and is subject to interrogation for an offense, the minor may not be interrogated unless:]~~

(5) (a) If an individual is admitted to a detention facility under Section 80-6-205, committed to a secure care facility under Section 80-6-705, or housed in a secure care facility under Section 80-6-507, and the individual is subject to interrogation for an offense, the individual may not be interrogated unless:

(i) the [minor] individual has had a meaningful opportunity to consult with the [minor's] individual's appointed or retained attorney;

(ii) the [minor] individual waives the [minor's] individual's constitutional rights after consultation with the [minor's] individual's appointed or retained attorney; and

(iii) the [minor's] individual's appointed or retained attorney is present for the interrogation.

(b) Subsection (5)(a) does not apply to a juvenile probation officer, or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating

HB0299S02 compared with HB0299S01

the [~~minor~~] individual on behalf of a peace officer or a law enforcement agency.

(6) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

Section 16. Section **80-6-207** is amended to read:

80-6-207. Detention hearings -- Period of detention -- Bail.

(1) (a) After admission of a child to a detention facility under Section 80-6-205 and immediate investigation by a juvenile probation officer, the juvenile court or the juvenile probation officer shall order the release of the child to the child's parent, guardian, or custodian if the juvenile court or the juvenile probation officer finds that the child can be safely returned to the parent's, the guardian's, or the custodian's care, upon written promise to bring the child to the juvenile court at a time set or without restriction.

(b) If a child's parent, guardian, or custodian fails to retrieve the child from a detention facility within 24 hours after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the detention facility in accordance with Section 78A-6-356.

(c) The detention facility shall determine the cost of care.

(d) Any money collected under this Subsection (1) shall be retained by the division to recover the cost of care for the time the child remains in the facility.

(2) (a) When a child is admitted to a detention facility, the child's parent, guardian, or custodian shall be informed by the individual in charge of the detention facility that the parent's, the guardian's, or the custodian's child has the right to a prompt hearing in a juvenile court to determine whether the child is to be further detained or released.

(b) If a minor is admitted to a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in a juvenile court to determine whether the minor is to be further detained or released.

(3) (a) The juvenile court may, at any time, order the release of the minor, from detention, regardless of whether a detention hearing is held or not.

(b) If a child is released, and the child remains in the detention facility, because the child's parents, guardian, or custodian fails to retrieve the child, the parent, guardian, or custodian shall be responsible for the cost of care as provided in Subsections (1)(b), (c), and (d) in accordance with Section 78A-6-356.

HB0299S02 compared with HB0299S01

(4) (a) As used in this Subsection (4), "arrest" means being apprehended, detained, taken into temporary custody under Section 80-6-201 or 80-6-202, held for investigation, or restrained by a peace officer or other person due to an accusation or suspicion that the minor committed an offense.

(b) A minor may not be held in a detention facility longer than 24 hours, unless a juvenile court determines that there is probable cause for the minor's arrest.

(5) (a) A detention hearing under this section shall be held by a juvenile court judge or commissioner.

(b) A juvenile court shall hold a detention hearing within 48 hours of the minor's admission to a detention facility, excluding weekends and holidays, to determine whether the minor should:

- (i) remain in detention in accordance with Subsection (8);
- (ii) be released to a parent or guardian; or
- (iii) be placed in any other party's custody as authorized by statute.

(6) The probable cause determination under Subsection (4) and the detention hearing under Subsection (5) may occur at the same time if the probable cause determination and the detention hearing occur within the time frame under Subsection (4).

(7) (a) A detention hearing may not be waived.

(b) Staff at the detention facility shall provide the juvenile court with all information received from the individual who brought the minor to the detention facility.

(8) (a) The juvenile court may only order a minor to be held in the detention facility or be placed in another appropriate facility, subject to further order of the court, if the court finds at a detention hearing that:

- (i) releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;
- (ii) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and
- (iii) the minor is eligible for detention under the detention guidelines and Section 80-6-205.

(b) The juvenile court may not vest custody of a minor admitted to detention in the Division of Child and Family Services, except as provided in Chapter 3, Abuse, Neglect, and

HB0299S02 compared with HB0299S01

Dependency Proceedings.

(9) (a) After a detention hearing has been held, only the juvenile court may release a minor from detention.

(b) If a minor remains in a detention facility, periodic reviews shall be held in accordance with the Utah Rules of Juvenile Procedure to ensure that continued detention of the minor is necessary.

(10) This section does not apply to a minor who is brought to a correctional facility in accordance with Section 80-6-502, 80-6-504, or 80-6-505.

~~[(11) Notwithstanding Title 77, Chapter 20, Bail, a minor in a detention facility does not have a right to bail, except that bail is allowed if:]~~

~~[(a) a minor is cited under Section 80-6-302;]~~

(11) Title 77, Chapter 20, Bail, does not apply to a minor, except for:

~~[(b)]~~ (a) a minor ~~[is]~~ charged in accordance with Section 80-6-502;

~~[(c)]~~ (b) a minor ~~[is]~~ bound over to the district court in accordance with Section 80-6-504; or

~~[(d)]~~ (c) a minor~~;~~ who need not be detained~~;~~ and lives outside this state~~;~~ ~~and~~.

~~[(e) a minor, who need not be detained, is held in contempt under Section 78A-6-353.]~~

Section 17. Section **80-6-302** is amended to read:

80-6-302. Citation -- Procedure -- Time limits -- Failure to appear.

(1) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the juvenile court has jurisdiction over and the offense listed in the citation is for:

(a) a violation of a wildlife law;

(b) a violation of a boating law;

(c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:

(i) for a traffic violation; or

(ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;

(d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;

HB0299S02 compared with HB0299S01

(e) an infraction or misdemeanor designated as a citable offense by a general order of the Board of Juvenile Court Judges; or

(f) a violation of Subsection 76-10-105(2).

(2) Except as provided in Subsection (6) and Section 80-6-301, a citation for an offense listed in Subsection (1) shall be submitted to the juvenile court within five days of issuance to a minor.

(3) A copy of the citation shall contain:

(a) the name and address of the juvenile court before which the minor may be required to appear;

(b) the name of the minor cited;

(c) the statute or local ordinance that the minor is alleged to have violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the minor into temporary custody as provided in Section 80-6-201;

(i) a statement that the minor and the minor's parent or guardian are to appear when notified by the juvenile court; and

(j) the signature of the minor and the minor's parent or guardian, if present, agreeing to appear at the juvenile court when notified by the court.

(4) A copy of the citation shall contain space for the following information to be entered if known:

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent or guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

HB0299S02 compared with HB0299S01

(5) A citation received by the juvenile court beyond the time designated in Subsection (2) shall include a written explanation for the delay.

(6) A minor offense, as defined in Section 80-6-901, alleged to have been committed by an enrolled child on school property or related to school attendance, may only be referred to the prosecuting attorney or the juvenile court in accordance with Section 53G-8-211.

(7) If a juvenile court receives a citation described in Subsection (1), a juvenile probation officer shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection 80-6-304(5).

(8) (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:

(i) the minor is not eligible for, or does not complete, a nonjudicial adjustment in accordance with Section 80-6-304; and

(ii) the prosecuting attorney conducts an inquiry under Subsection (9).

(b) Except as provided in Subsection 80-6-305(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.

(9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:

(a) the charge listed in the citation is supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at the juvenile court at a date and time established by the juvenile court.

(11) If a minor willfully fails to appear before the juvenile court for a proceeding under Subsection (8)(a), the juvenile court may:

(a) find the minor in contempt of court; and

(b) proceed against the minor as provided in Section 78A-6-353.

(12) If a proceeding is commenced under this section, ~~[bail may be posted and forfeited under Section 80-6-207]~~ the minor may remit a fine without a personal appearance before the

HB0299S02 compared with HB0299S01

juvenile court with the consent of:

- (a) the juvenile court; and
- (b) if the minor is a child, the parent or guardian of the child cited.

Section 18. Section **80-6-303** is amended to read:

80-6-303. Criminal proceedings involving minors -- Transfer to juvenile court --

Exception.

(1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that an individual being charged is under 21 years old and was younger than 18 years old at the time of committing the alleged offense, the district court or justice court shall transfer the case to the juvenile court with all the papers, documents, and transcripts of any testimony.

(b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:

- (A) filed in the district court in accordance with Section 80-6-502; or
- (B) transferred to the district court in accordance with Section 80-6-504.

(ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an offense for which the justice court has original jurisdiction under Subsection 78A-7-106(2).

(2) (a) Except as provided in Subsection (2)(b), the district court or justice court making the transfer shall:

(i) order the individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court; or

(ii) release the individual to the custody of the individual's parent or guardian or other person legally responsible for the individual, to be brought before the juvenile court at a time designated by the juvenile court.

(b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:

(i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the individual;

(ii) the juvenile court shall treat the transfer as a referral under Section 80-6-301; and

(iii) a juvenile probation officer shall make a preliminary inquiry to determine whether

HB0299S02 compared with HB0299S01

the individual is eligible for a nonjudicial adjustment in accordance with Section 80-6-304.

(c) If the case is transferred to the juvenile court under this section, the juvenile court shall then proceed in accordance with this chapter.

(3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with [~~Subsections 78A-5-102(9) and 78A-7-106(2)~~] Sections 78A-5-102 and 78A-7-106.

Section 19. Section **80-6-501** is amended to read:

80-6-501. Definitions.

As used in this part:

(1) "Minor" means:

(a) an individual:

(i) who is at least 18 years old and younger than 25 years old; and

(ii) whose case is under the [~~continuing~~] jurisdiction of the juvenile court; or

(b) an individual:

(i) who is younger than 21 years old;

(ii) who is charged with, or convicted of, an offense under Section 80-6-502 or 80-6-503; and

(iii) whose case is under the jurisdiction of the district court.

(2) "Qualifying offense" means an offense described in [~~Subsection 80-6-503(1) or (2)(b)~~] Section 80-6-503.

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

Section 20. Section **80-6-502** is amended to read:

80-6-502. Criminal information for a minor in district court.

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

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

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

(i) [~~Section 76-5-202,~~] aggravated murder, as described in Section 76-5-202; or

HB0299S02 compared with HB0299S01

(ii) ~~[Section 76-5-203,]~~ murder, as described in Section 76-5-203.

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

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

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

(3) (a) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor shall be held in a detention facility.

(b) A minor held in a detention facility under Subsection (3)(a) shall remain in the facility:

(i) until released by the district court; or

(ii) if convicted, until sentencing.

(4) (a) If a minor is held in a detention facility under Subsection (3)(a), the district court shall:

~~[(a)]~~ (i) advise the minor of the right to bail; and

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

(ii) issue a pretrial status order, as defined in Section 77-20-102, for the minor in accordance with Section 77-20-205.

(b) Except for Sections 77-20-202, 77-20-203, and 77-20-204, the provisions of Title 77, Chapter 20, Bail, shall apply to the release or detention of a minor being tried as an adult under this section.

(5) If a minor held in a detention facility under Subsection (3)(a) attains the age of 21 years old, the minor shall be transferred within 30 days to an adult jail until:

(a) released by the district court; or

(b) if convicted, sentencing.

(6) If a minor is held in a detention facility under Subsection (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the detention facility, the district court may find that the minor shall be detained in another place of confinement considered appropriate by the district court, including a jail or an adult facility for pretrial confinement.

HB0299S02 compared with HB0299S01

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

~~[(a) the juvenile court gains jurisdiction over all other offenses committed by the minor; and]~~

~~[(b) the division gains jurisdiction over the minor.]~~

Section 21. Section **80-6-504** is amended to read:

80-6-504. Preliminary hearing -- Grounds for transfer -- Detention of a minor bound over to the district court.

(1) If a prosecuting attorney files a criminal information in accordance with Section 80-6-503, the juvenile court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.

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

(a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and

(b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.

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

(a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection 80-6-802(1), or beyond the age of continuing jurisdiction that the juvenile court may exercise under Section 80-6-605;

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

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

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

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

(4) The amount of weight that each factor in Subsection (3) is given is in the juvenile

HB0299S02 compared with HB0299S01

court's discretion.

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

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

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

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

(b) Sections 80-6-602, 80-6-603, and 80-6-604 are applicable to the preliminary hearing under this section.

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

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

(i) proceed upon the criminal information as if the information were a petition under Section 80-6-305;

(ii) release or detain the minor in accordance with Section 80-6-207; and

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

(b) If the juvenile court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 80-6-605.

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

(b) If the prosecuting attorney charges a minor with a separate offense as described in

HB0299S02 compared with HB0299S01

Subsection (10)(a):

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

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

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

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

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

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

~~(a)~~ (i) issue a criminal warrant of arrest for the minor to be held in a detention facility;

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

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

(iii) issue a pretrial status order, as defined in Section 77-20-102, for the minor in accordance with Section 77-20-205.

(b) Except for Sections 77-20-202, 77-20-203, and 77-20-204, the provisions of Title 77, Chapter 20, Bail, shall apply to the release or detention of a minor bound over to the district court by the juvenile court.

(13) If the juvenile court orders the minor to be detained until the time of trial:

(a) the minor shall be held in a detention facility, except that a minor who is subject to the authority of the Board of Pardons and Parole may not be held in a detention facility; and

(b) the minor shall remain in the detention facility:

(i) until released by a district court; or

(ii) if convicted, until sentencing.

(14) If a minor is held in a detention facility under Subsection (13) and the minor

HB0299S02 compared with HB0299S01

attains the age of 21 years old while detained at the detention facility, the minor shall be transferred within 30 days to an adult jail to remain:

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

~~[(15) Except as provided in Subsection (16) and Section 80-6-507, if a minor is bound over to the district court under this section, the jurisdiction of the division and the juvenile court over the minor is terminated for the qualifying offense and any other separate offense for which the minor is bound over.]~~

~~[(16) If a minor is bound over to the district court for a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:]~~

~~[(a) the juvenile court regains jurisdiction over any separate offense committed by the minor; and]~~

~~[(b) the division regains jurisdiction over the minor.]~~

Section 22. Section **80-6-505** is amended to read:

80-6-505. Criminal proceedings for a minor bound over to district court.

(1) If the juvenile court binds a minor over to the district court in accordance with Section 80-6-504, the prosecuting attorney shall try the minor as if the minor is an adult in the district court except:

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

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

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

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

~~[(4) If the district court obtains jurisdiction over a minor under Section 80-6-504, the district court is not divested of jurisdiction for a qualifying offense or a separate offense listed~~

HB0299S02 compared with HB0299S01

~~in the criminal information when the minor is allowed to enter a plea to, or is found guilty of, another offense in the same criminal information.]~~

Section 23. Section **80-6-603** is amended to read:

80-6-603. Rights of minors facing delinquency proceedings.

(1) If a minor is facing a delinquency proceeding under this chapter, the minor has the right to:

~~[(1)]~~ (a) appear in person in the proceeding for the petition or the criminal information;

~~[(2)]~~ (b) defend, in person or by counsel, against the allegations in the petition or the criminal information;

~~[(3)]~~ (c) receive a copy of the petition or the criminal information;

~~[(4)]~~ (d) testify on the minor's own behalf;

~~[(5)]~~ (e) confront the witnesses against the minor;

~~[(6)]~~ (f) secure the attendance of witnesses on the minor's behalf under Section 78A-6-351;

~~[(7)]~~ (g) be represented by counsel at all stages of the proceedings;

~~[(8)]~~ (h) be appointed an indigent defense service provider and be provided indigent defense services in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel;

~~[(9)]~~ (i) remain silent and be advised that anything the minor says can and will be used against the minor in any court proceedings; and

~~[(10)]~~ (j) appeal any adjudication under this chapter.

(2) A minor facing a delinquency proceeding shall be advised of the minor's rights described in Subsection (1).

Section 24. Section **80-6-606** is amended to read:

80-6-606. Validated risk and needs assessment -- Examination of minor or minor's parent or guardian -- Temporary custody or appointment of guardian.

(1) (a) If a minor is adjudicated for an offense under this chapter, the minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment.

(b) If a minor undergoes a risk screening or a validated risk and needs assessment, the results of the screening or assessment shall be used to inform the juvenile court's disposition and any case planning for the minor.

(c) If a minor undergoes a validated risk and needs assessment, the results of the

HB0299S02 compared with HB0299S01

assessment may not be shared with the juvenile court before the adjudication of the minor.

(2) If the juvenile court's continuing jurisdiction over a minor's case is terminated, the minor shall undergo a validated risk and needs assessment within seven days of the day on which an order terminating the juvenile court's continuing jurisdiction is issued if:

- (a) the minor is adjudicated under this chapter; and
- (b) the minor underwent a validated risk and needs assessment under Subsection (1).

(3) (a) If a petition under this chapter has been filed for a minor, a juvenile court may:

(i) order that the minor be examined by a physician, surgeon, psychiatrist, or psychologist; and

(ii) place the minor in a hospital or other facility for examination.

(b) After notice and a hearing set for the specific purpose, the juvenile court may order an examination of a minor's parent or guardian whose ability to care for a minor is at issue if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's physical, mental, or emotional condition may be a factor in causing the delinquency of the minor.

(c) An examination conducted in accordance with this Subsection (3) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.

(4) (a) Subject to Subsection (4)(b), if a petition under this chapter has been filed for a child, a juvenile court may:

(i) place the child in the temporary custody of a relative or other suitable individual if the child's parent or guardian consents to the placement;

(ii) appoint a guardian for the child if it appears a guardian is in the necessary interests of the child and the child's parent or guardian consents to the appointment; or

(iii) place the child in the temporary custody of a relative or other suitable individual under Subsection (4)(a)(i) or appoint a guardian for the child under Subsection (4)(a)(ii) without the consent of the child's parent or guardian if the child's parent or guardian cannot be located with reasonable diligence.

(b) The juvenile court may not grant temporary custody or a guardianship of a child to the Division of Child and Family Services under Subsection (4)(a) to address the minor's ungovernable or other behavior, mental health, or other disability, unless the Division of Child

HB0299S02 compared with HB0299S01

and Family Services:

(i) engages other relevant divisions of the department in conducting an assessment of the child and the child's family's needs;

(ii) based on an assessment under Subsection (4)(b)(i), determines that granting temporary custody or a guardianship of the child to the Division of Child and Family Services is the least restrictive intervention for the child that meets the child's needs; and

(iii) consents to the child being committed to the temporary custody of, or placed in a guardianship, with the Division of Child and Family Services.

Section 25. Section **80-6-709** is amended to read:

80-6-709. Payment of fines, fees, restitution, or other costs -- Community or compensatory service -- Property damage -- Unpaid balances.

(1) (a) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order a minor to:

- (i) pay a fine, fee, or other cost;
- (ii) pay restitution in accordance with Section 80-6-710; or
- (iii) complete community or compensatory service hours.

(b) (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a juvenile probation officer may permit the minor to complete a work program in lieu of paying part or all of the restitution by the juvenile court.

(ii) If the juvenile court orders the minor to complete community or compensatory service hours, a juvenile probation officer may permit the minor to complete a work program to help the minor complete the community or compensatory service hours.

(c) The juvenile court may, through a juvenile probation officer, encourage the development of nonresidential employment or a work program to enable a minor to fulfill the minor's obligations under Subsection (1)(a).

(d) Notwithstanding this section, a juvenile court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.

(2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to complete community or compensatory service hours, the juvenile court shall consider the dispositions collectively to ensure that an order:

- (a) is reasonable;

HB0299S02 compared with HB0299S01

(b) prioritizes restitution; and

~~[(c) takes into account the minor's ability to satisfy the order within the presumptive period of supervision under Section 80-6-712, or Section 80-6-802 if the minor is ordered to secure care.]~~

(c) except for restitution as provided in Subsection 80-6-710(5)(c), takes into account the minor's ability to pay the fine, fee, or other cost within the presumptive period under Section 80-6-712 or Section 80-6-802 if the minor is ordered to secure care.

(3) (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete community or compensatory service hours, the cumulative order shall be limited per criminal episode as follows:

(i) for a minor under 16 years old at the time of adjudication, the juvenile court may impose up to \$190 or up to 24 hours of community or compensatory service; and

(ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may impose up to \$280 or up to 36 hours of community or compensatory service.

(b) The cumulative order under Subsection (3)(a) does not include restitution.

(4) (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory service hours, the rate of conversion shall be no less than the minimum wage.

(b) If the juvenile court orders a minor to complete community service, the presumptive service order shall include between five and 10 hours of service.

(c) If a minor completes an approved substance use disorder prevention or treatment program or other court-ordered condition, the minor may be credited with compensatory service hours for the completion of the program or condition by the juvenile court.

(5) (a) If a minor commits an offense involving the use of graffiti under Section 76-6-106 or 76-6-206, the juvenile court may order the minor to clean up graffiti created by the minor or any other individual at a time and place within the jurisdiction of the juvenile court.

(b) The minor may complete the order of the juvenile court under Subsection (5)(a) in the presence and under the direct supervision of the minor's parent, guardian, or custodian.

(c) The minor's parent, guardian, or custodian shall report completion of the order to the juvenile court.

(d) The juvenile court may also require the minor to perform other alternative forms of restitution or repair to the damaged property in accordance with Section 80-6-710.

HB0299S02 compared with HB0299S01

(6) (a) Except as provided in Subsection (6)(b), the juvenile court may issue orders necessary for the collection of restitution and fines ordered under this section, including garnishments, wage withholdings, and executions.

(b) The juvenile court may not issue an order under Subsection (6)(a) if the juvenile court orders a disposition that changes custody of a minor, including detention, secure care, or any other secure or nonsecure residential placement.

(7) Any information necessary to collect unpaid fines, fees, assessments, [bait,] or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing an order under this section.

(8) (a) If, before the entry of any order terminating the juvenile court's continuing jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution ordered by the juvenile court, the juvenile court shall:

(i) record all pertinent information for the unpaid balance in the minor's file[-]; and

(ii) if there is an unpaid amount of restitution, record the amount of unpaid restitution as a civil judgment and list the victim, or the estate of the victim, as the judgment creditor in the civil judgment.

(b) The juvenile court may not transfer responsibility to collect unpaid fines, fees, surcharges, and restitution for a minor's case to the Office of State Debt Collection created in Section 63A-3-502.

~~[(c) The juvenile court shall reduce a restitution order to a judgment and list the victim, or the estate of the victim, as the judgment creditor in the judgment.]~~

Section 26. Section **80-6-710** is amended to read:

80-6-710. Determination of restitution -- Requirements.

(1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order the minor to repair, replace, or otherwise make restitution for:

(a) material loss caused by an offense listed in the petition; or

(b) conduct for which the minor agrees to make restitution.

(2) Within seven days after the day on which a petition is filed under this chapter, the prosecuting attorney or a juvenile probation officer shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.

HB0299S02 compared with HB0299S01

(3) A victim that receives notice under Subsection (2) is responsible for providing the [prosecutor] prosecuting attorney with:

(a) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;

(b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

(c) if available, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and

(d) the victim's contact information, including the victim's current home and work address and telephone number.

(4) A prosecuting attorney or victim shall submit a request for restitution to the juvenile court:

(a) if feasible, at the time of disposition; or

(b) within 90 days after disposition.

~~[(5) The juvenile court shall order a financial disposition that prioritizes the payment of restitution.]~~

~~[(6) To determine whether restitution, or the amount of restitution, is appropriate under Subsection (1);]~~

(5) In an order for restitution under Subsection (1), the juvenile court:

(a) shall only order restitution for the victim's material loss;

(b) may not order restitution if the juvenile court finds that the minor is unable to pay or acquire the means to pay;

(c) shall take into account:

(i) the minor's ability to satisfy the restitution order within six months from the day on which restitution is ordered; or

(ii) if the minor participates in a restorative justice program under Subsection (6), the amount or conditions of restitution agreed upon by the minor and the victim of the adjudicated offense;

~~[(e)]~~ (d) shall credit any amount paid by the minor to the victim in a civil suit against restitution owed by the minor; and

~~[(d) shall take into account the presumptive period of supervision for the minor's case~~

HB0299S02 compared with HB0299S01

~~under Section 80-6-712, or the presumptive period of commitment for secure care under Section 80-6-804 if the minor is ordered to secure care, in determining the minor's ability to satisfy the restitution order within that presumptive term; and]~~

(e) shall credit any amount paid to the victim in restitution against liability in a civil suit.

~~[(7)]~~ (6) If the minor and the victim of the adjudicated offense agree to participate, the juvenile court may refer the minor's case to a restorative justice program, such as victim offender mediation, to address how loss resulting from the adjudicated offense may be addressed.

~~[(8)]~~ (7)(a) The juvenile court may require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person for providing information resulting in an adjudication of a minor for the commission of an offense.

~~[(9)]~~ (b) If a minor is returned to this state in accordance with Title 55, Chapter 12, Interstate Compact for Juveniles, the juvenile court may order the minor to make restitution for costs expended by any governmental entity for the return of the minor.

Section 27. Section **80-6-711** is amended to read:

80-6-711. Suspending a disposition.

(1) Except as otherwise provided in Subsection (2), a juvenile court may not suspend a disposition ordered under this part.

(2) (a) If a minor qualifies for ~~[secure care under Section 80-6-705]~~ commitment to the division under Section 80-6-703, the juvenile court may suspend a disposition for commitment to the division ~~[under Section 80-6-703]~~ in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense within 90 days after the day on which the juvenile court suspends the disposition for commitment.

(b) The duration of a suspended disposition under Subsection (2)(a) may not:

(i) exceed 90 days after the day on which the juvenile court suspends the disposition for commitment; and

(ii) be extended under any circumstance.

(3) The juvenile court may only lift a suspension of a disposition under Subsection (2)(a):

(a) following adjudication of a new misdemeanor or felony offense committed by the

HB0299S02 compared with HB0299S01

minor during the period of suspension set out under Subsection (2)(a);

(b) if a new assessment or evaluation has been completed and the assessment or evaluation recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; or

(c) if, after a notice and a hearing, the juvenile court finds:

(i) a new or previous evaluation recommends a higher level of treatment; and

(ii) the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.

(4) A suspended disposition under Subsection (1) may not be imposed without:

(a) notice to the minor and the minor's counsel; and

(b) a hearing.

Section 28. Section **80-6-712** is amended to read:

80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):

(i) in the home of a qualifying relative or guardian[~~;~~];

(ii) at an independent living program contracted or operated by the division[~~;~~]; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

HB0299S02 compared with HB0299S01

(3) If the juvenile court orders a minor to secure care, the authority shall:

- (a) have jurisdiction over the minor's case; and
- (b) apply the provisions of Part 8, Commitment and Parole.

(4) (a) [~~In accordance with Section 80-6-711 and Subsections (1) and (2), the~~] The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation[;] or Subsection (2) for commitment to the division, unless:

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

(ii) the minor commits a new misdemeanor or felony offense;

(iii) the minor has not completed community or compensatory service hours [~~have not been completed~~];

(iv) there is an outstanding fine; or

~~[(v) there is a failure to pay restitution in full.]~~

(v) the minor has not paid restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

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

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to [~~Subsection (8)]~~ Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

~~[(6) If a circumstance under Subsection (4)(a)(iii), (iv), or (v) exists, the juvenile court may extend supervision for no more than three months.]~~

(6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:

(a) one time for no more than three months; and

(b) as intake probation.

(7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has

HB0299S02 compared with HB0299S01

not paid restitution in full as described in Subsection (4)(a)(v):

(i) the juvenile court may only:

(A) extend jurisdiction up to four times for no more than three months at a time;

(B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under Subsection (7)(a)(i); and

(C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;

(ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and

(iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every three months regarding the minor's efforts to pay restitution.

(b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:

(i) terminate jurisdiction over the minor's case; and

(ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection 80-6-709(8).

~~[(7)]~~ (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

~~[(8) For a minor who is under the continuing jurisdiction of the juvenile court and whose supervision is extended under Subsection (4)(a)(iii), (iv), or (v), supervision may only be extended as intake probation.]~~

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

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

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

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

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

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

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

HB0299S02 compared with HB0299S01

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

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

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

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

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

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

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

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

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

(p) (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and
(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Section 29. Section **80-6-802** is amended to read:

80-6-802. Commitment to secure care -- Rights of individuals in secure care.

(1) If a youth offender is ordered to secure care under Section 80-6-705, the youth offender shall remain in secure care until the youth offender is:

(a) 21 years old;

(b) paroled; or

(c) discharged.

(2) If a serious youth offender is ordered to secure care under Section 80-6-705, the serious youth offender shall remain in secure care until the serious youth offender is:

(a) 25 years old;

(b) paroled; or

(c) discharged.

(3) (a) Subject to Subsection (3)(b), a juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, has the right to:

(i) phone the juvenile offender's or individual's parent, guardian, or an attorney [~~while~~

HB0299S02 compared with HB0299S01

~~the juvenile offender is in secure care~~]; and

(ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.

(b) The division may:

(i) establish a schedule for which a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, may visit or phone a person described in Subsection (3)(a);

(ii) allow a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to visit or call persons described in Subsection (3)(a) in special circumstances;

(iii) limit the number and length of calls and visits for a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to persons described in Subsection (3)(a) on account of scheduling, facility, or personnel constraints; or

(iv) limit the ~~[juvenile's]~~ juvenile offender's or individual's rights under Subsection (3)(a) if a compelling reason exists to limit the ~~[juvenile's]~~ juvenile offender's or individual's rights.

(c) A juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, shall be advised of the rights described in Subsection (3)(a).

Section 30. Section **80-6-804** is amended to read:

80-6-804. Review and termination of secure care.

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

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

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

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

HB0299S02 compared with HB0299S01

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

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

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

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

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

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

(e) The authority shall:

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

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

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

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

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:

(i) in the home of a qualifying relative or guardian [or];

(ii) at an independent living program contracted or operated by the division[-]; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

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

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

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

(iii) restitution has not been completed.

HB0299S02 compared with HB0299S01

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

- (i) the recommendations of the licensed service provider;
- (ii) the juvenile offender's record in the treatment program; and
- (iii) the juvenile offender's completion of the goals of the treatment program.

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

(f) The authority shall:

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

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

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

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

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

- (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- (c) Section 76-5-203, murder or attempted murder;
- (d) Section 76-5-205, manslaughter;
- (e) Section 76-5-206, negligent homicide;
- (f) Section 76-5-207, automobile homicide;
- (g) Section 76-5-207.5, automobile homicide involving a handheld wireless communication device;
- (h) Section 76-5-208, child abuse homicide;
- (i) Section 76-5-209, homicide by assault;
- (j) Section 76-5-302, aggravated kidnapping;
- (k) Section 76-5-405, aggravated sexual assault;
- (l) a felony violation of Section 76-6-103, aggravated arson;
- (m) Section 76-6-203, aggravated burglary;

HB0299S02 compared with HB0299S01

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

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

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

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

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

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

(i) until the juvenile offender is:

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

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

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

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

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

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

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

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

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

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

HB0299S02 compared with HB0299S01

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

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

Section 31. ~~Coordinating H.B. 299 with S.B. 120 -- Substantive and technical amendment:~~

~~If this H.B. 299 and S.B. 120, Juvenile Justice Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the database for publication by:~~

~~(1) amending Subsection 80-6-709(2) to read:~~

~~"(2) If the juvenile court orders a minor to pay [a fine, fee, restitution, or other cost,] restitution or to complete community or compensatory service hours, the juvenile court shall consider the dispositions collectively to ensure that an order:~~

~~(a) is reasonable; and~~

~~(b) prioritizes restitution[; and];~~

~~[(c) takes into account the minor's ability to satisfy the order within the presumptive period of supervision under Section 80-6-712, or Section 80-6-802 if the minor is ordered to secure care.]";~~

~~(2) amending Subsection 80-6-712(4)(a) to read:~~

~~"(4) (a) [In accordance with Section 80-6-711 and Subsections (1) and (2), the] The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation[,] or Subsection (2) for commitment to the division, unless:~~

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

~~(ii) the minor commits a new misdemeanor or felony offense;~~

~~(iii) the minor has not completed community or compensatory service hours [have not been completed]; or~~

~~[(iv) there is an outstanding fine; or]~~

~~[(v) there is a failure to pay restitution in full.]~~

~~(iv) the minor has not paid restitution in full."; and~~

HB0299S02 compared with HB0299S01

~~— (3) changing the reference in Subsection 80-6-712(7)(a) from "Subsection (4)(a)(v)" to "Subsection (4)(a)(iv)":~~

~~— Section 32. Coordinating H.B.} 299 with H.B. 171 -- Substantive amendment.~~

If this H.B. 299 and H.B. 171, Custodial Interrogation Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the database for publication by:

(1) amending Subsection 80-6-206(1)(a) in H.B. 171 to read:

"(a) "Custodial interrogation" means any interrogation of an individual while the individual is in custody."; and

(2) amending Subsection 80-6-206(5)(a) in this bill to read:

"(5)(a) If an individual is admitted to a detention facility under Section 80-6-205, committed to a secure care facility under Section 80-6-705, or housed in a secure care facility under Section 80-6-507, and the individual is subject to a custodial interrogation for an offense, the individual may not be interrogated unless:"