

# HB0304S04 compared with HB0304

~~text~~ shows text that was in HB0304 but was deleted in HB0304S04.

text shows text that was not in HB0304 but was inserted into HB0304S04.

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Senator Todd D. Weiler proposes the following substitute bill:

## JUVENILE JUSTICE REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Karianne Lisonbee**

Senate Sponsor: ~~\_\_\_\_\_~~ Michael S. Kennedy

Cosponsors:

Dan N. Johnson

Ryan D. Wilcox

Cheryl K. Acton

Karen M. Peterson

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### LONG TITLE

#### General Description:

This bill amends provisions related to juvenile justice.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to provide a report on certain law enforcement and disciplinary actions on school grounds to the State Commission on Criminal and Juvenile Justice;
- ▶ creates a juvenile gang and other violent crime prevention and intervention program

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to be administered by the State Board of Education;

- ▶ modifies requirements related to referrals for offenses committed by minors on school property;
- ▶ requires a school to develop a reintegration plan for a minor alleged to have committed a violent felony offense or a weapons offense;
- ▶ amends the requirements for the ~~{Criminal Justice Database}~~ criminal justice database;
- ▶ removes a repeal date relating to referrals for offenses committed by minors on school property;
- ▶ modifies the duties of the State Commission on Criminal and Juvenile Justice in regards to juvenile justice;
- ▶ makes it a crime for a minor to possess ~~{an auto sear}~~ a machinegun firearm attachment;
- ▶ modifies the notification requirements to schools regarding a minor who committed, or is alleged to have committed, a violent felony offense or a weapons offense;
- ▶ enacts data collection and reporting requirements for the State Commission on Criminal and Juvenile Justice and the Administrative Office of the Courts in regards to offenses committed, or allegedly committed, by minors;
- ~~{~~ ▶ ~~amends provisions related to the detention of a child in a holding room if the child is alleged to have committed an act that would be an offense if committed by an adult;~~
- ‡ ▶ clarifies provisions relating to a nonjudicial adjustment;
- ▶ modifies the eligibility requirements for a nonjudicial adjustment; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**53E-3-516**, as last amended by Laws of Utah 2022, Chapter 399

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53E-9-305, as last amended by Laws of Utah 2021, Chapter 262

53F-2-208, as last amended by Laws of Utah 2022, Chapter 1

53G-6-203, as last amended by Laws of Utah 2021, Chapter 359

53G-8-211, as last amended by Laws of Utah 2021, Chapters 262, 359 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 359

53G-8-402, as last amended by Laws of Utah 2021, Chapter 262

53G-8-403, as renumbered and amended by Laws of Utah 2018, Chapter 3

63A-16-1001, as enacted by Laws of Utah 2022, Chapter 390

63A-16-1002, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390

63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414

63M-7-208, as last amended by Laws of Utah 2021, Chapter 262

63M-7-218, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390

76-5-401.3, as last amended by Laws of Utah 2022, Chapter 181

~~76-10-105, as last amended by Laws of Utah 2021, Chapter 262~~

76-10-501, as last amended by Laws of Utah 2015, Chapters 212, 406

76-10-509.4, as last amended by Laws of Utah 2013, Chapter 301

78A-5-102.5, as enacted by Laws of Utah 2022, Chapter 155

78A-6-103, as last amended by Laws of Utah 2022, Chapters 155, 335

78A-6-210, as last amended by Laws of Utah 2021, Chapter 261

~~80-6-204~~ 80-6-103, as ~~renumbered and amended~~ enacted by Laws of Utah 2021, Chapter 261

80-6-302, as last amended by Laws of Utah 2022, Chapter 155

80-6-303, as last amended by Laws of Utah 2022, Chapter 155

80-6-304, as last amended by Laws of Utah 2022, Chapter 430

80-6-305, as renumbered and amended by Laws of Utah 2021, Chapter 261

ENACTS:

53G-8-213, Utah Code Annotated 1953

80-6-104, Utah Code Annotated 1953

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**80-6-303.5**, Utah Code Annotated 1953

**80-6-304.5**, Utah Code Annotated 1953

REPEALS AND REENACTS:

**53F-2-410**, as repealed and reenacted by Laws of Utah 2021, Chapter 319

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

Section 1. Section **53E-3-516** is amended to read:

**53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.**

(1) As used in this section:

(a) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(b) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(c) "Minor" means the same as that term is defined in Section 53G-6-201.

(d) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

- (i) a search and seizure by an SRO;
- (ii) issuance of a criminal citation;
- (iii) issuance of a ticket or summons;
- (iv) filing a delinquency petition; or
- (v) referral to a probation officer.

(e) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other

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school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(g) ~~["Student]~~ "School resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

- (a) arrests of a minor;
- (b) other law enforcement activities; and
- (c) disciplinary actions.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

- (i) the reason for the other law enforcement activity; and
- (ii) the type of other law enforcement activity used;
- (c) the number of disciplinary actions imposed, including:
  - (i) the reason for the disciplinary action; and
  - (ii) the type of disciplinary action;
- (d) the number of SROs employed; and

(e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

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- (a) age;
- (b) grade level;
- (c) race;
- (d) sex; and
- (e) disability status.
- (6) Information included in the annual report described in Subsection (2) shall comply

with:

- (a) Chapter 9, Part 3, Student Data Protection;
- (b) Chapter 9, Part 2, Student Privacy; and
- (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

- (8) The state board shall provide the report described in Subsection (2):

(a) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year[-]; and

(b) to the State Commission on Criminal and Juvenile Justice before July 1 of each year for incidents that occurred during the previous school year.

Section 2. Section **53E-9-305** is amended to read:

**53E-9-305. Collecting student data -- Prohibition -- Student data collection notice**

**-- Written consent.**

- (1) An education entity may not collect a student's:

- (a) social security number; or
- (b) except as required in Section 80-6-103, criminal record.

(2) Except as provided in Subsection (3), an education entity that collects student data shall, in accordance with this section, prepare and distribute to parents and students a student data collection notice statement that:

- (a) is a prominent, stand-alone document;
- (b) is annually updated and published on the education entity's website;
- (c) states the student data that the education entity collects;
- (d) states that the education entity will not collect the student data described in

Subsection (1);

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(e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;

(f) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";

(g) describes in general terms how the education entity stores and protects student data; and

(h) states a student's rights under this part.

(3) The state board may publicly post the state board's collection notice described in Subsection (2).

(4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:

(a) the student, if the student is an adult student; or

(b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data if the education entity:

(a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains written consent to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric information if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:

(i) the biometric identifier or biometric information to be collected;

(ii) the purpose of collecting the biometric identifier or biometric information; and

(iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains written consent to collect the biometric identifier or biometric information

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from an individual described in Subsection (4).

(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an evidence-based alternative intervention described in [~~Subsection 53G-8-211(3)~~] Section 53G-8-211 without written consent.

(8) Nothing in this section prohibits an education entity from including additional information related to student and parent privacy in the notice described in Subsection (2).

Section 3. Section **53F-2-208** is amended to read:

### **53F-2-208. Cost of adjustments for growth and inflation.**

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units);

(iii) the Adult Education Program, described in Section 53F-2-401;

(iv) state support of pupil transportation, described in Section 53F-2-402;

(v) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vi) the Concurrent Enrollment Program, described in Section 53F-2-409; and

(vii) the [~~gang prevention and intervention~~] juvenile ~~gang and other violent crime prevention and intervention~~ program, described in Section 53F-2-410; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall

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determine:

- (i) the cost of the inflation adjustment described in Subsection (1)(a); and
- (ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

Section 4. Section 53F-2-410 is repealed and reenacted to read:

**53F-2-410. Juvenile gang and other violent crime prevention and intervention program -- Funding.**

(1) Subject to appropriations by the Legislature, the state board shall:

- (a) create a juvenile gang and other violent crime prevention and intervention program that is designed to help students at risk for violent criminal involvement stay in school; and
- (b) distribute money under the program to school districts and charter schools through the distribution formula described in Subsection (2).

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) establish a formula to distribute program funding to schools in school districts and charter schools that:

- (i) ~~use~~uses the data reported to the state board under Section 80-6-104; and
- (ii) prioritizes the schools in school districts and charter schools based on the prevalence of crimes committed by minors within the boundaries of each municipality where a school is located;

(b) annually ~~adjusts~~adjust the distribution of program funding using the data reported to the state board under Section 80-6-104; and

(c) establish baseline performance standards that school districts or charter schools are required to meet in order to receive funding under the program.

(3) (a) A school district or a charter school seeking program funding shall submit a proposal to the state board ~~describing~~that:

- (i) describes how the school district or charter school intends to use the funds; and
- (ii) provides data related to Subsection (2)(a)(ii).

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(b) The ~~school~~state board shall allocate funding on a per student basis to prioritized school districts and charter schools that submit a successful proposal under Subsection (3)(a).

(4) The state board may not distribute funds to a school district or a charter school that fails to meet performance standards described in Subsection (2)(c).

(5) A school district or a charter school that is awarded funds under this section shall submit a report to the state board that includes details on:

(a) how the school district or the charter school used the funds; and

(b) ~~details on~~ the school district's, or the charter school's, compliance with the performance standards described in Subsection (2)(c).

Section 5. Section **53G-6-203** is amended to read:

**53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school authorities.**

(1) Except as provided in Section 53G-6-204 or 53G-6-702, a school-age child who is enrolled in a public school shall attend the public school in which the school-age child is enrolled.

(2) [~~Except during the period between the effective date of this bill and June 1, 2022,~~] In accordance with Section 53G-8-211, a local school board, charter school governing board, or school district may impose administrative penalties on a school-age child who is:

(a) in grade 7 or above, unless the school-age child is less than 12 years old; and

(b) truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue a notice of truancy in accordance with Subsection (4); and

(b) shall establish a procedure for a school-age child, or the school-age child's parents, to contest a notice of truancy.

(4) A notice of truancy described in Subsection (3):

(a) may not be issued until a school-age child has been truant at least five times during the school year;

(b) may not be issued to a school-age child who is less than 12 years old or in a grade below grade 7;

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(c) may not be issued to a school-age child exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

(d) shall direct the school-age child who receives the notice of truancy and the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's trancies; and

(ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child; and

(e) shall be mailed to, or served on, the school-age child's parent.

(5) (a) Except as provided in Subsection (5)(b), nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age child who has been truant fewer than five times, provided that the action does not conflict with the requirements of this part.

(b) A local school board, charter school governing board, or school district may not take punitive action to resolve a truancy problem with a school-age child during the period described in Subsection (2).

(6) Notwithstanding this section, during the period described in Subsection (2), a school administrator, designee of a school administrator, law enforcement officer acting as a school resource officer, or truancy specialist may not issue or otherwise enforce a notice of truancy.

Section 6. Section **53G-8-211** is amended to read:

### **53G-8-211. Responses to school-based behavior.**

(1) As used in this section:

(a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is [~~less than~~] under 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii) (A) is truant at least 10 times during one school year; or

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(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

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

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

(e) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(58)(b) and (c).

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(g) "School administrator" means a principal of a school.

(h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(j) "School-age child" means the same as that term is defined in Section 53G-6-201.

(k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

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(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

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

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense ~~[at the school where the student is enrolled: (a)]~~ on school property where the student is enrolled:

~~[(i)]~~ (a) when school is in session; or

~~[(ii)]~~ (b) during a school-sponsored activity~~[-or].~~

~~[(b) except during the period between March 17, 2021 and June 1, 2022, that is truancy.]~~

(3) ~~{ Except as provided in Subsection (4), if }~~ If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, the school administrator, the school administrator's designee, or a school resource officer may refer the minor:

~~{ (a) to a court or a law enforcement agency; or~~

~~}~~ { (b) a to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center, as defined in Section 80-5-102;

(iii) a youth court or comparable restorative justice program;

(iv) an evidence-based alternative intervention created and developed by the school or school district; { or }

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services { ; } or

~~{ (4) If a minor is alleged to have committed an offense that is truancy, the school administrator, the school administrator's designee, a school resource officer, or a law enforcement officer or agency:~~

~~(a) may not refer the minor to a prosecuting attorney or court for the offense, except as~~

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provided in Subsection (6); and

~~— (b) may refer the minor to an evidence-based alternative intervention, including:~~

~~— (i) a mobile crisis outreach team;~~

~~— (ii) a youth services center as defined in Section 80-5-102;~~

~~— (iii) a youth court or comparable restorative justice program;~~

~~— (iv) an evidence based-alternative intervention created and developed by the school or school district; or~~

~~— (v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services;~~

~~— (5) A school administrator, the school administrator's designee, or a school resource officer shall refer a minor~~ vi) a tobacco cessation or education program if the offense is a violation of Section 76-10-105; or

(b) for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice Services ~~{for allegedly being a habitual truant }~~ if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (4)(3)(b)a).

(6)4) A) Except as provided in Subsection (5), if a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a ~~{court or a }~~ law enforcement officer or agency ~~{for allegedly being a habitual truant if the minor:~~

~~— (a) refuses to participate in}~~ or a court only if:

(a) the minor allegedly committed the same offense on school property on two previous occasions; and

(b) the minor was referred to an evidence-based alternative intervention ~~{ under Subsection (4)(b); and~~

~~— (b) fails to participate in prevention and}~~ , or to prevention or early intervention youth services ~~{ provided by the Division of Juvenile Justice Services under Subsection (5)}~~ , as described in Subsection (3) for both of the two previous offenses.

(5) If a minor is alleged to have committed a traffic offense that is an infraction, a

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school administrator, the school administrator's designee, or a school resource officer may refer the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the traffic offense.

~~[(3) (a) Except as provided in Subsections (3)(c) and (5), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy:]~~

~~[(i) a school district or school may not refer the minor to a law enforcement officer or agency or a court; and]~~

~~[(ii) a law enforcement officer or agency may not refer the minor to a prosecuting attorney or a court.]~~

~~[(b) Except as provided in Subsection (3)(c), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy, a school district, school, or law enforcement officer or agency may refer the minor to evidence-based alternative interventions, including:]~~

~~[(i) a mobile crisis outreach team;]~~

~~[(ii) a youth services center as defined in Section 80-5-102;]~~

~~[(iii) a youth court or comparable restorative justice program;]~~

~~[(iv) evidence-based interventions created and developed by the school or school district; and]~~

~~[(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services:]~~

~~[(e) (f)(7)(6) ~~(f)~~ Notwithstanding Subsection [(3)(a) ~~(c)~~] (A)(4), a school resource officer may:~~

~~[(i) (a) investigate possible criminal offenses and conduct, including conducting probable cause searches;~~

~~[(ii) (b) consult with school administration about the conduct of a minor enrolled in a school;~~

~~[(iii) (c) transport a minor enrolled in a school to a location if the location is permitted by law;~~

~~[(iv) (d) take temporary custody of a minor in accordance with Section 80-6-201; or~~

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~~[(v)]~~ (e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

~~[(d) Notwithstanding other provisions of this section, if a law enforcement officer has cause to believe a minor has committed an offense on school property when school is not in session and not during a school-sponsored activity, the law enforcement officer may refer the minor to:]~~

~~[(i) a prosecuting attorney or a court; or]~~

~~[(ii) evidence-based alternative interventions at the discretion of the law enforcement officer:]~~

~~[(e) If a minor is alleged to have committed a traffic offense that is an infraction, a school district, a school, or a law enforcement officer or agency may refer the minor to a prosecuting attorney or a court for the traffic offense:]~~

~~[(4) A school district or school shall refer a minor for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice Services for a class C misdemeanor committed on school property or for being a habitual truant if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(b).]~~

~~[(5) A school district or school may refer a minor to a court or a law enforcement officer or agency for an alleged class C misdemeanor committed on school property or for allegedly being a habitual truant if the minor:]~~

~~[(a) refuses to participate in an evidence-based alternative intervention under Subsection (3)(b); and]~~

~~[(b) fails to participate in prevention and early intervention youth services provided by the Division of Juvenile Justice Services under Subsection (4).]~~

~~[(6)]~~ ~~[(87)]~~ (a) If a minor is referred to a court or a law enforcement officer or agency under ~~[(5)]~~ Subsection ~~[(5)]~~ ~~[(this section)]~~ ~~[(4)]~~, the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection ~~[(6)(a)]~~ ~~[(87)]~~(a) may not be a school resource officer.

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(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) if the ~~referral is for habitual truancy~~ minor was referred to prevention or early intervention youth services under Subsection (3)(b), a report from the Division of Juvenile Justice Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection [(4)] ~~(3)(b)~~; and

(v) any other information that the school district or school considers relevant.

~~(d)~~ (d) A minor referred to a court under Subsection [(5)] (4) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353, when the underlying offense is ~~[a class C misdemeanor occurring on school property or habitual truancy]~~ a status offense or infraction.

~~(e)~~ (e) If a minor is referred to a court under Subsection [(5)] (4), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor. ~~(f)~~

~~(7)~~ (8) ~~[If the alleged offense is a class B misdemeanor or a class A misdemeanor]~~ If a minor is alleged to have committed an offense on school property that is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a ~~[juvenile]~~ court or to the evidence-based alternative interventions in Subsection ~~(3)(b)~~ (3)(b) (3)(a).

Section 7. Section 53G-8-213 is enacted to read:

53G-8-213. Reintegration plan for student alleged to have committed violent felony or weapon offense.

(1) As used in this section:

(a) "Multidisciplinary team" means the local education agency, the juvenile court, the Division of Juvenile Justice Services, a school resource officer if applicable, and any other relevant party that should be involved in a reintegration plan.

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(b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) If a school district receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five days after the day on which the school receives a notification.

(3) The school may deny admission to the student until the school completes the reintegration plan under Subsection (2).

(4) The reintegration plan under Subsection (2) shall address:

(a) a behavioral intervention for the student;

(b) a short-term mental health or counseling service for the student; and

(c) an academic intervention for the student.

Section 8. Section 53G-8-402 is amended to read:

**53G-8-402. Notification by juvenile court and law enforcement agencies.**

~~[(1) Notifications received from the juvenile court or law enforcement agencies by the school district]~~

(1) ~~{Notifications}~~ A notification received by a school district from the juvenile court or a law enforcement ~~{agencies by the school district}~~ agency under Section 80-6-103 ~~[are]~~ is governed by this part.

~~[(2) School districts may enter into agreements with law enforcement agencies for]~~

(2) ~~{School districts}~~ A school district may enter into ~~{agreements}~~ an agreement with a law enforcement ~~{agencies for}~~ agency regarding a notification under Subsection (1).

Section 9. Section 53G-8-403 is amended to read:

**53G-8-403. Superintendent required to notify school.**

(1) Within three days of receiving ~~[the information]~~ a notification from the juvenile court or a law enforcement agency under Section 80-6-103, the district superintendent shall notify the principal of the school the juvenile attends or last attended.

(2) Upon receipt of the information, the principal shall:

(a) make a notation in a secure file other than the student's permanent file; and

(b) if the student is still enrolled in the school, notify staff members who, in his

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opinion, should know of the adjudication.

(3) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.

(4) Access to secure files shall be limited to persons authorized to receive information under this part.

Section ~~{7}~~10. Section **63A-16-1001** is amended to read:

### **Part 10. Criminal and Juvenile Justice Database**

#### **63A-16-1001. Definitions.**

As used in this part:

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

(2) "Criminal justice agency" means an agency or institution directly involved in the apprehension, prosecution, and incarceration of an individual involved in criminal activity, including law enforcement, correctional facilities, jails, courts, probation, and parole.

(3) "Database" means the [~~Criminal Justice Database~~] criminal and juvenile justice database created in this part.

(4) "Division" means the Division of Technology Services created in Section 63A-16-103.

Section ~~{8}~~11. Section **63A-16-1002** is amended to read:

#### **63A-16-1002. Criminal and juvenile justice database.**

(1) The commission shall oversee the creation and management of a [~~Criminal Justice Database~~] criminal and juvenile justice database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

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(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 24-4-118, forfeiture reporting requirements;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 63M-7-214, law enforcement agency grant reporting;

(g) Section 63M-7-216, prosecutorial data collection;

(h) Section 64-13-21, supervision of sentenced offenders placed in community;

(i) Section 64-13-25, standards for programs;

(j) Section 64-13-45, department reporting requirements;

(k) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

(l) Section 77-7-8.5, use of tactical groups;

(m) Section 77-20-103, release data requirements;

(n) Section 77-22-2.5, court orders for criminal investigations;

(o) Section 78A-2-109.5, court demographics reporting;

(p) Section 80-6-104, data collection on offenses committed by minors; and

~~(p)~~ (q) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing

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Committee not later than January 16, 2023.

Section ~~9~~12. Section **63I-1-253** is amended to read:

**63I-1-253. Repeal dates: Titles 53 through 53G.**

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(7) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(10) [Subsection] ~~4~~5 Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(11) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(12) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

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(14) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(15) Section 53F-5-203 is repealed July 1, 2024.

(16) Section 53F-5-213 is repealed July 1, 2023.

(17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(19) Section 53F-5-219, which creates the Local [~~Innovations~~] Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(20) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(21) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

~~[(22) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.]~~

~~[(23)]~~ (22) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

~~[(24)]~~ (23) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section ~~10~~13. Section **63M-7-208** is amended to read:

### **63M-7-208. Juvenile justice oversight -- Delegation -- Effective dates.**

(1) The State Commission on Criminal and Juvenile Justice shall:

(a) support implementation and expansion of evidence-based juvenile justice programs and practices, including assistance regarding implementation fidelity, quality assurance, and ongoing evaluation;

(b) examine and make recommendations on the use of third-party entities or an intermediary organization to assist with implementation and to support the performance-based contracting system authorized in Subsection (1)(m);

(c) oversee the development of performance measures to track juvenile justice reforms, and ensure early and ongoing stakeholder engagement in identifying the relevant performance

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measures;

(d) evaluate currently collected data elements throughout the juvenile justice system and contract reporting requirements to streamline reporting, reduce redundancies, eliminate inefficiencies, and ensure a focus on recidivism reduction;

(e) review averted costs from reductions in out-of-home placements for juvenile justice youth placed with the Division of Juvenile Justice Services and the Division of Child and Family Services, and make recommendations to prioritize the reinvestment and realignment of resources into community-based programs for youth living at home, including the following:

(i) statewide expansion of:

(A) juvenile receiving centers, as defined in Section 80-1-102;

(B) mobile crisis outreach teams, as defined in Section 62A-15-102;

(C) youth courts; and

(D) victim-offender mediation;

(ii) statewide implementation of nonresidential diagnostic assessment;

(iii) statewide availability of evidence-based programs and practices including cognitive behavioral and family therapy programs for minors assessed by a validated risk and needs assessment as moderate or high risk;

(iv) implementation and infrastructure to support the sustainability and fidelity of evidence-based juvenile justice programs, including resources for staffing, transportation, and flexible funds; and

(v) early intervention programs such as family strengthening programs, family wraparound services, and proven truancy interventions;

(f) assist the Administrative Office of the Courts in the development of a statewide sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's family to pay;

(g) analyze the alignment of resources and the roles and responsibilities of agencies, such as the operation of early intervention services, receiving centers, and diversion, and make recommendations to reallocate functions as appropriate, in accordance with Section 80-5-401;

(h) comply with the data collection and reporting requirements under Section 80-6-104;

~~[(h) ensure that data reporting is expanded and routinely review data in additional~~

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areas, including:]

~~[(i) referral and disposition data by judicial district;]~~

~~[(ii) data on the length of time minors spend in the juvenile justice system, including the total time spent under court jurisdiction, on community supervision, and in each out-of-home placement;]~~

~~[(iii) recidivism data for minors who are diverted to a nonjudicial adjustment under Section 80-6-304 and minors for whom dispositions are ordered under Section 80-6-701, including tracking minors into the adult corrections system;]~~

~~[(iv) change in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement, and]~~

~~[(v) dosage of programming;]~~

(i) develop a reasonable timeline within which all programming delivered to minors in the juvenile justice system must be evidence-based or consist of practices that are rated as effective for reducing recidivism by a standardized program evaluation tool;

(j) provide guidelines to be considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing tools considered by the Administrative Office of the Courts and the Division of Juvenile Justice Services in developing or selecting tools to be used for the evaluation of juvenile justice programs;

(k) develop a timeline to support improvements to juvenile justice programs to achieve reductions in recidivism and review reports from relevant state agencies on progress toward reaching that timeline;

(l) subject to Subsection (2), assist in the development of training for juvenile justice stakeholders, including educators, law enforcement officers, probation staff, judges, Division of Juvenile Justice Services staff, Division of Child and Family Services staff, and program providers;

(m) subject to Subsection (3), assist in the development of a performance-based contracting system, which shall be developed by the Administrative Office of the Courts and the Division of Juvenile Justice Services for contracted services in the community and contracted out-of-home placement providers;

(n) assist in the development of a validated detention risk assessment tool that ~~shall be~~ is developed or adopted and validated by the Administrative Office of the Courts and the

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Division of Juvenile Justice Services as provided in Section 80-5-203 [~~on and after July 1, 2018~~]; and

(o) annually issue and make public a report to the governor, president of the Senate, speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the progress of the reforms and any additional areas in need of review.

(2) Training described in Subsection (1)(l) should include instruction on evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity, and fidelity, and shall be supplemented by the following topics:

(a) adolescent development;

(b) identifying and using local behavioral health resources;

(c) cross-cultural awareness;

~~[(c) implicit bias;]~~

~~[(d) cultural competency;]~~

~~[(e)]~~ (d) graduated responses;

~~[(f)]~~ (e) Utah juvenile justice system data and outcomes; and

~~[(g)]~~ (f) gangs.

(3) The system described in Subsection (1)(m) shall provide incentives for:

(a) the use of evidence-based juvenile justice programs and practices rated as effective by the tools selected in accordance with Subsection (1)(j);

(b) the use of three-month timelines for program completion; and

(c) evidence-based programs and practices for minors living at home in rural areas.

(4) The State Commission on Criminal and Juvenile Justice may delegate the duties imposed under this section to a subcommittee or board established by the State Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204(2).

~~[(5) Subsections (1)(a) through (c) take effect August 1, 2017. The remainder of this section takes effect July 1, 2018.]~~

Section ~~{11}~~ 14. Section **63M-7-218** is amended to read:

**63M-7-218. State grant requirements.**

Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5)(a) through ~~[(o)]~~ (p).

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Section ~~{12}~~15. Section 76-5-401.3 is amended to read:

### **76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.**

(1) (a) As used in this section, "adolescent" means an individual in the transitional phase of human physical and psychological growth and development between childhood and adulthood who is 12 years old or older, but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual activity if the actor:

(a) is an adolescent; and

(b) has sexual activity with another adolescent.

(3) A violation of Subsection (2) is a:

(a) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old;

(b) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(c) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(d) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(e) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

(f) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(g) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

(h) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(4) The offenses referred to in Subsection (2) are:

(a) rape, in violation of Section 76-5-402;

(b) rape of a child, in violation of Section 76-5-402.1;

(c) object rape, in violation of Section 76-5-402.2;

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- (d) object rape of a child, in violation of Section 76-5-402.3;
  - (e) forcible sodomy, in violation of Section 76-5-403;
  - (f) sodomy on a child, in violation of Section 76-5-403.1;
  - (g) sexual abuse of a child, in violation of Section 76-5-404;
  - (h) aggravated sexual assault, in violation of Section 76-5-405;
  - (i) incest, in violation of Section 76-7-102; or
  - (j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).
- (5) An offense under this section is not eligible for a nonjudicial adjustment under

Section ~~[80-6-304]~~ 80-6-303.5 or a referral to a youth court under Section 80-6-902.

(6) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

(7) An offense under this section is not subject to registration under Subsection 77-41-102(17).

Section ~~{13}~~ 16. Section ~~{76-10-105}~~ 76-10-501 is amended to read:

~~{~~ ~~76-10-105. Buying or possessing a tobacco product or an electronic cigarette product by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.~~

~~—— (1) An individual who is 18 years old or older, but younger than 21 years old, and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine product is:~~

~~—— (a) guilty of an infraction; and~~

~~—— (b) subject to:~~

~~—— (i) a minimum fine or penalty of \$60; and~~

~~—— (ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.~~

~~—— (2) (a) An individual who is under 18 years old and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine product is subject to a citation under Section 80-6-302[, unless the violation is committed on school property under Section 53G-8-211].~~

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~~\_\_\_\_\_ (b) If a violation under this section is adjudicated under Section 80-6-701, the minor may be subject to the following:~~

~~\_\_\_\_\_ (i) a fine or penalty, in accordance with Section 80-6-709; and~~

~~\_\_\_\_\_ (ii) participation in a court-approved tobacco education program, which may include a participation fee.~~

~~\_\_\_\_\_ (3) [(a)] A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property.~~

~~\_\_\_\_\_ [(b) A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.]~~

~~\_\_\_\_\_ Section 14. Section 76-10-501 is amended to read:~~

### ‡ **76-10-501. Definitions.**

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

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- (A) barrel;
- (B) bolt;
- (C) breechblock; or
- (D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

~~{ (2) "Auto sear" means a part designed and intended to convert a firearm into a fully automatic weapon.~~

† ~~{(2){(3)}~~ "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

~~{(3){(4)}~~ (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.

~~{(4){(5)}~~ "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

~~{(5){(6)}~~ "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

(b) (i) was manufactured at least 50 years before the current date; and

(ii) is not a replica of a firearm described in Subsection ~~{(5)(b)(i){(6)(b)(i)}~~;

(c) is certified by the curator of a municipal, state, or federal museum that exhibits firearms to be a curio or relic of museum interest;

(d) derives a substantial part of its monetary value:

(i) from the fact that the firearm is:

(A) novel;

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- (B) rare; or
- (C) bizarre; or
- (ii) because of the firearm's association with an historical:
  - (A) figure;
  - (B) period; or
  - (C) event; and

(e) has been designated as a curio or relic firearm by the director of the United States Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.

~~(6)~~ ~~(7)~~ (a) "Dangerous weapon" means:

- (i) a firearm; or
- (ii) an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(b) The following factors are used in determining whether any object, other than a firearm, is a dangerous weapon:

- (i) the location and circumstances in which the object was used or possessed;
- (ii) the primary purpose for which the object was made;
- (iii) the character of the wound, if any, produced by the object's unlawful use;
- (iv) the manner in which the object was unlawfully used;
- (v) whether the manner in which the object is used or possessed constitutes a potential imminent threat to public safety; and
- (vi) the lawful purposes for which the object may be used.

(c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device as defined by Section 76-10-306.

~~(7)~~ ~~(8)~~ "Dealer" means a person who is:

- (a) licensed under 18 U.S.C. Sec. 923; and
- (b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

~~(8)~~ ~~(9)~~ "Enter" means intrusion of the entire body.

~~(9)~~ ~~(10)~~ "Federal Firearms Licensee" means a person who:

- (a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and
- (b) is engaged in the activities authorized by the specific category of license held.

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~~(10)~~~~(11)~~ (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

~~(11)~~~~(12)~~ "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

~~(12)~~~~(13)~~ "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

~~(13)~~~~(14)~~ (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.

~~(14)~~~~(15)~~ "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

(15) "Machinegun firearm attachment" means any part or combination of parts added to a semiautomatic firearm that allows the firearm to fire as a fully automatic weapon.

~~(15)~~ (16) "Prohibited area" means a place where it is unlawful to discharge a firearm.

~~(16)~~ (17) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

~~(17)~~ (18) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

~~(18)~~ (19) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other

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storage area of a motor vehicle, not including a glove box or console box.

~~[(19)]~~ (20) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

~~[(20)]~~ (21) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

~~[(21)]~~ (22) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.

~~[(22)]~~ (23) "Slug" means a single projectile discharged from a shotgun shell.

~~[(23)]~~ (24) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

~~[(24)]~~ (25) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section ~~{15}~~17. Section **76-10-509.4** is amended to read:

### **76-10-509.4. Prohibition of possession of certain weapons by minors.**

(1) ~~[A minor under 18 years of age]~~ An individual who is under 18 years old may not possess a handgun.

(2) Except as provided by federal law, ~~[a minor under 18 years of age]~~ an individual who is under 18 years old may not possess the following:

(a) a short barreled rifle ~~[or]~~;

~~(b) a~~ short barreled shotgun; ~~[or]~~

~~[(b)]~~ (c) a fully automatic weapon; or

~~(d) an auto sear;~~ a machinegun firearm attachment.

(3) ~~[Any person]~~ An individual who violates Subsection (1) is guilty of:

(a) a class B misdemeanor upon the first offense; and

(b) a class A misdemeanor for each subsequent offense.

(4) ~~[Any person]~~ An individual who violates Subsection (2) is guilty of a third degree felony.

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### Section 18. Section 78A-5-102.5 is amended to read:

#### **78A-5-102.5. Jurisdiction of the district court over an offense committed by a 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)]~~ Section 53G-8-211.

(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)]~~ Section 53G-8-211.

(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:

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(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.

(5) Except as provided in Subsections (6) and (7), if the district court has jurisdiction over a qualifying offense or a separate offense 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 that is not the qualifying offense or separate offense listed in the 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 19. 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 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;

(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

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law, that was committed:

(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)~~

### Section 53G-8-211.

(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 80, Chapter 6, Part 11, 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,

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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;

(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 ~~16~~20. Section **78A-6-210** is amended to read:

### **78A-6-210. Fines -- Fees -- Deposit with state treasurer -- Restricted account.**

(1) There is created a restricted account in the General Fund known as the "Nonjudicial Adjustment Account."

(2) (a) The account shall be funded from the financial penalty established under [~~Subsection 80-6-304(6)(a)] Section 80-6-304.~~

(b) The court shall deposit all money collected as a result of penalties assessed as part of the nonjudicial adjustment of a case into the account.

(c) The account shall be used to pay the expenses of juvenile compensatory service,

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victim restitution, and diversion programs.

(3) (a) Except under Subsection (3)(b) or (4) and as otherwise provided by law, the juvenile court shall pay all fines, fees, penalties, and forfeitures imposed and collected by the juvenile court to the state treasurer for deposit into the General Fund.

(b) No more than 50% of any fine or forfeiture collected may be paid to a state rehabilitative employment program for a minor adjudicated under Section 80-6-701 that provides for employment of the minor in the county of the minor's residence if:

(i) reimbursement for the minor's labor is paid to the victim of the offense or wrongful act committed by the minor;

(ii) the amount earned and paid is set by court order;

(iii) the minor is not paid more than the hourly minimum wage; and

(iv) no payments to victims are made without the minor's involvement in a rehabilitative work program.

(c) Fines withheld under Subsection (3)(b) and any private contributions to the rehabilitative employment program are accounted for separately and are subject to audit at any time by the state auditor.

(d) (i) Funds withheld under Subsection (3)(b) and private contributions are nonlapsing.

(ii) The board shall establish policies for the use of the funds described in this Subsection (3)(d).

(4) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 80% to the General Fund.

(5) A state or local public officer may not charge a fee for the service of process in any proceedings initiated by a public agency.

Section 21. Section 80-6-103 is amended to read:

**80-6-103. Notification to a school -- Civil and criminal liability.**

(1) As used in this section:

(a) "School" means a school in a local education agency.

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(b) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

~~[(a)]~~ (c) "School official" means:

(i) the school superintendent of the district in which the minor resides or attends school; or

(ii) if there is no school superintendent for the school, the principal of the school where the minor attends.

~~[(b)]~~ (d) "Transferee school official" means:

(i) the school superintendent of the district in which the minor resides or attends school if the minor is admitted to home detention; or

(ii) if there is no school superintendent for the school, the principal of the school where the minor attends if the minor is admitted to home detention.

(2) A notification under this section is provided for a minor's supervision and student safety.

(3) (a) ~~[(i)]~~ If a minor is taken into temporary custody under Section 80-6-201 ~~or admitted to a detention facility under Section 80-6-205,~~ for a violent felony ~~;~~ or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official ~~as soon as practicable or as established under Subsection 53G-8-402(2)~~ within five days after the day on which the minor is taken into temporary custody.

~~[(ii)]~~ (b) A notification under this ~~section~~ Subsection (3) shall only disclose:

~~[(A)]~~ (i) the name of the minor;

~~[(B)]~~ (ii) the offense for which the minor was taken into temporary custody or admitted to detention; and

~~[(C)]~~ (iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.

~~[(b)]~~ (4) After a detention hearing for a minor who is alleged to have committed a violent felony, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the juvenile court shall order ~~that~~ a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency ~~are notified~~ of the juvenile court's decision, including any disposition, order, or no-contact order.

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~~[(4)]~~ (5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order ~~[that]~~ a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency ~~[are notified]~~ that the minor has been admitted to home detention.

~~[(5)]~~ (6) (a) If the juvenile court adjudicates a minor for an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the ~~[court shall order that]~~ juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, ~~[is notified]~~ of the adjudication.

(b) A notification under ~~[Subsection (5)(a)]~~ this Subsection(6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.

(c) A notification under this section shall include:

- (i) the name of the minor;
- (ii) the offense for which the minor was adjudicated; and
- (iii) if available, the name of the victim if the victim:
  - (A) resides in the same school district as the minor; or
  - (B) attends the same school as the minor.

~~[(6)]~~ (7) If the juvenile court orders probation under Section 80-6-702, the juvenile court ~~[may order that]~~ shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official ~~[are notified]~~ of the juvenile court's order for probation.

~~[(7)]~~ (8) (a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:

- (i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and
- (ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

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~~(8)~~(9) (a) A notification under this section shall be classified as a protected record under Section 63G-2-305.

(b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section ~~(17)~~22. Section **80-6-104** is enacted to read:

**80-6-104. Data collection on offenses committed by minors -- Reporting requirement.**

(1) As used in this section:

(a) "Firearm" means the same as that term is defined in Section 76-10-501.

(b) "Firearm-related offense" means a criminal offense involving a firearm.

(c) "School is in session" means the same as that term is defined in Section 53E-3-516.

(d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.

(2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:

(a) the number of referrals to the juvenile court;

(b) the number of minors diverted to a nonjudicial adjustment;

(c) the number of minors that satisfy the conditions of a nonjudicial adjustment;

(d) the number of minors for whom a petition for an offense is filed in the juvenile court;

(e) the number of minors for whom an information is filed in the juvenile court;

(f) the number of minors bound over to the district court by the juvenile court;

(g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;

(h) the number of adjudications in the juvenile court for offenses committed by minors;

(i) the number of guilty pleas entered into by minors in the juvenile court;

(j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and

(k) for each minor charged in the juvenile court with a firearm-related offense:

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- (i) the minor's age at the time the offense was committed or allegedly committed;
  - (ii) the minor's zip code at the time that the offense was referred to the juvenile court;
  - (iii) whether the minor is a restricted person under Subsection 76-10-503(1)(a)(iv) or (1)(b)(ii);
  - (iv) the type of offense for which the minor is charged;
  - (v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and
  - (vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.
- (3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.
- (4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:
- (a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;
  - (b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;
  - (c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and
  - (d) dosages of programming.
- (5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:
- (a) data collected by the State Commission on Criminal and Juvenile Justice under this section;
  - (b) data collected by the State Board of Education under Section 53E-3-516; and

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(c) recommendations for legislative action with respect to the data described in this Subsection (5).

~~{Section 18. Section 80-6-204 is amended to read:~~

~~**80-6-204. Detention or confinement of a minor -- Restrictions.**~~

~~(1) Except as provided in Subsection (2) or this chapter, if a child is apprehended by a peace officer, or brought before a court for examination under state law, the child may not be confined:~~

~~(a) in a jail, lockup, or cell used for an adult who is charged with a crime; or~~

~~(b) in secure care.~~

~~(2) (a) The division shall detain a child in accordance with Sections 80-6-502, 80-6-504, and 80-6-505 if:~~

~~(i) the child is charged with an offense under Section 80-6-502 or 80-6-503;~~

~~(ii) the district court has obtained jurisdiction over the offense because the child is bound over to the district court under Section 80-6-504; and~~

~~(iii) the juvenile or district court orders the detention of the child.~~

~~(b) (i) If a child is detained before a detention hearing, or a preliminary hearing under Section 80-6-504 if a criminal information is filed for the child under Section 80-6-503, the child may only be held in certified juvenile detention accommodations in accordance with rules made by the commission:~~

~~(ii) The commission's rules shall include rules for acceptable sight and sound separation from adult inmates:~~

~~(iii) The commission shall certify that a correctional facility is in compliance with the commission's rules:~~

~~(iv) This Subsection (2)(b) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a):~~

~~(3) (a) In an area of low density population, the commission may, by rule, approve a juvenile detention accommodation within a correctional facility that has acceptable sight and sound separation:~~

~~(b) An accommodation described in Subsection (3)(a) shall be used only:~~

~~(i) for short-term holding of a child who is alleged to have committed an act that would be a criminal offense if committed by an adult; and~~

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- ~~—— (ii) for a maximum confinement period of six hours.~~
- ~~—— (c) A child may only be held in an accommodation described in Subsection (3)(a) for:~~
  - ~~—— (i) identification;~~
  - ~~—— (ii) notification of a juvenile court official;~~
  - ~~—— (iii) processing; and~~
  - ~~—— (iv) allowance of adequate time for evaluation of needs and circumstances regarding the release or transfer of the child to a shelter or detention facility.~~
- ~~—— (d) This Subsection (3) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a):~~
- ~~—— (4) (a) If a child is alleged to have committed an act that would be [a criminal offense] a misdemeanor or infraction offense if committed by an adult, the child may be detained in a holding room in a local law enforcement agency facility for a maximum of two hours:~~
  - ~~—— [(i) for a maximum of two hours; and]~~
  - ~~—— [(ii) (A)] (i) for identification or interrogation; or~~
  - ~~—— [(B)] (ii) while awaiting release to a parent or other responsible adult.~~
- ~~—— (b) If a child is alleged to have committed an act that would be a felony offense if committed by an adult, the child may be detained in a holding room in a local law enforcement agency facility for a maximum of four hours:~~
  - ~~—— (i) for identification or interrogation; or~~
  - ~~—— (ii) while awaiting release to a parent or other responsible adult.~~
- ~~—— (c) A holding room described in [Subsection (4)(a)] Subsections (4)(a) and (b) shall be certified by the commission in accordance with the commission's rules:~~
- ~~—— [(c)] (d) The commission's rules shall include provisions for constant supervision and for sight and sound separation from adult inmates:~~
- ~~—— (5) Willful failure to comply with this section is a class B misdemeanor.~~
- ~~—— (6) (a) The division is responsible for the custody and detention of:~~
  - ~~—— (i) a child who requires detention before trial or examination, or is placed in secure detention after an adjudication under Section 80-6-704; and~~
  - ~~—— (ii) a juvenile offender under Subsection 80-6-806(7).~~
- ~~—— (b) Subsection (6)(a) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a):~~

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~~—— (c) (i) The commission shall provide standards for custody or detention under Subsections (2)(b), (3), and (4):~~

~~—— (ii) The division shall determine and set standards for conditions of care and confinement of children in detention facilities:~~

~~—— (d) (i) The division, or a public or private agency willing to undertake temporary custody or detention upon agreed terms in a contract with the division, shall provide all other custody or detention in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems:~~

~~—— (ii) This Subsection (6)(d) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a):~~

~~—— (7) Except as otherwise provided by this chapter, if an individual who is, or appears to be, under 18 years old is received at a correctional facility, the sheriff, warden, or other official, in charge of the correctional facility shall:~~

~~—— (a) immediately notify the juvenile court of the individual; and~~

~~—— (b) make arrangements for the transfer of the individual to a detention facility, unless otherwise ordered by the juvenile court.~~

~~—— Section 19}; (6) Nothing in this section shall be construed to require the disclosure of information or data that is classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.~~

Section 23. 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

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(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;

(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

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(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.

(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,~~] An offense 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)~~] 80-6-303.5(4).

(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

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

(12) If a proceeding is commenced under this section, the minor may remit a fine without a personal appearance before the 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 ~~20~~24. 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;

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(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 the individual is eligible for a nonjudicial adjustment in accordance with Section ~~80-6-304~~ 80-6-303.5.

(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 Sections 78A-5-102 and 78A-7-106.

Section ~~21~~25. Section 80-6-303.5 is enacted to read:

### **80-6-303.5. Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.**

(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, a juvenile probation officer shall make a preliminary inquiry in accordance with this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(3) (a) The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:

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- (i) undergo a drug and alcohol screening;
- (ii) if found appropriate by the screening, participate in an assessment; and
- (iii) if warranted by the screening and assessment, follow the recommendations of the

assessment.

(4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:

(a) the minor:

(i) is referred for an offense that is a misdemeanor, infraction, or status offense;

(ii) has no more than ~~one~~two prior ~~adjudication~~adjudications; and

(iii) has no more than ~~one~~two prior unsuccessful nonjudicial adjustment ~~attempt~~attempts; or

(b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old.

(5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).

(8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:

(a) an offense alleged to have occurred when the minor was 12 years old or older that is:

(i) a felony offense; or

(ii) a misdemeanor violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-107, threat of violence;

(C) Section 76-5-107.1, threats against schools;

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(D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(E) Section 76-5-206, negligent homicide;

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

(G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;

(H) Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;

(I) Section 76-10-507, possession of a deadly weapon with criminal intent;

(J) Section 76-10-509, possession of a dangerous weapon by a minor; or

(K) Section 76-10-509.4, prohibition of possession of certain weapons by minors; or

(b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:

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

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

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

(iv) Section 76-5-302, aggravated kidnapping;

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

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm.

(9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:

(a) the referral involves an offense described in Subsection (8); or

(b) the minor has a current suspended order for custody under Section 80-6-711.

Section ~~{22}~~26. Section **80-6-304** is amended to read:

### **80-6-304. Nonjudicial adjustments.**

~~[(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, a juvenile probation officer shall make a preliminary inquiry in accordance with Subsections (3), (4), and (5) to determine whether the~~

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~~minor is eligible to enter into a nonjudicial adjustment.]~~

~~[(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.]~~

~~[(3) (a) The juvenile probation officer may:]~~

~~[(i) conduct a validated risk and needs assessment; and]~~

~~[(ii) request that a prosecuting attorney review a referral in accordance with Subsection (9) if:]~~

~~[(A) the results of the validated risk and needs assessment indicate the minor is high risk; or]~~

~~[(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions:]~~

~~[(b) If a minor violates Section 41-6a-502, the minor shall:]~~

~~[(i) undergo a drug and alcohol screening;]~~

~~[(ii) if found appropriate by the screening, participate in an assessment; and]~~

~~[(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.]~~

~~[(4) Except as provided in Subsection (5)(b), the juvenile probation officer shall request that a prosecuting attorney review a referral in accordance with Subsection (9) if:]~~

~~[(a) the referral involves:]~~

~~[(i) a felony offense; or]~~

~~[(ii) a violation of:]~~

~~[(A) Section 41-6a-502, driving under the influence;]~~

~~[(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;]~~

~~[(C) Section 76-5-206, negligent homicide;]~~

~~[(D) Section 76-9-702.1, sexual battery;]~~

~~[(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or]~~

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~~[(F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the dangerous weapon is a firearm;]~~

~~[(b) the minor has a current suspended order for custody under Section 80-6-711; or]~~

~~[(c) the referral involves an offense alleged to have occurred before an individual was 12 years old and the offense is a felony violation of:]~~

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

~~[(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;]~~

~~[(iii) Section 76-5-203, murder or attempted murder;]~~

~~[(iv) Section 76-5-302, aggravated kidnapping;]~~

~~[(v) Section 76-5-405, aggravated sexual assault;]~~

~~[(vi) Section 76-6-103, aggravated arson;]~~

~~[(vii) Section 76-6-203, aggravated burglary;]~~

~~[(viii) Section 76-6-302, aggravated robbery; or]~~

~~[(ix) Section 76-10-508.1, felony discharge of a firearm.]~~

~~[(5) (a) Except as provided in Subsections (3) and (4), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if the minor:]~~

~~[(i) is referred for an offense that is a misdemeanor, infraction, or status offense;]~~

~~[(ii) has no more than two prior adjudications; and]~~

~~[(iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.]~~

~~[(b) If the juvenile court receives a referral for an offense that is alleged to have occurred before an individual was 12 years old, the juvenile probation officer shall offer a nonjudicial adjustment to the individual, unless the referral includes an offense described in Subsection (4)(c).]~~

~~[(c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.]~~

~~[(ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.]~~

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~~[(d) Except as provided in Subsection (4), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria provided in Subsection (5)(a).]~~

~~[(6)]~~ (1) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:

(a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the terms established under Subsection ~~[(8)(c)]~~ (4);

(b) pay restitution to any victim;

(c) complete community or compensatory service;

(d) attend counseling or treatment with an appropriate provider;

(e) attend substance abuse treatment or counseling;

(f) comply with specified restrictions on activities or associations;

(g) attend victim-offender mediation if requested by the victim; and

(h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

~~[(7)]~~ (2) (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with ~~[Subsection (5)]~~ Section 80-6-303.5, the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to the juvenile probation officer upon request:

(i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

(ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the juvenile probation officer determining restitution based on the best information available.

~~[(8)(a)]~~ (3) ~~[(a)]~~ The juvenile probation officer may not predicate acceptance of an

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offer of a nonjudicial adjustment on an admission of guilt.

~~[(b)]~~ (4)(a) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection ~~[(6)]~~ (1).

~~[(c)]~~ (b) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection ~~[(6)]~~ (1) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.

~~[(d)]~~ (5)(a) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

~~[(e)(i)]~~ (b) ~~[Notwithstanding Subsection (8)(d), a]~~ A juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection ~~[(8)(d)]~~ (5)(a):

(i) for a minor who is:

(A) offered a nonjudicial adjustment ~~[under Subsection (5)(b)]~~ for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, ~~[or is]~~ that the minor committed before the minor was 12 years old; or

(B) referred ~~[under Subsection (9)(b)(ii)]~~ to a prosecuting attorney for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old~~[, if]~~; and

(ii) the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

~~[(ii)]~~ (c) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection ~~[(8)(e)(i)]~~ (5)(b), the judge may extend the nonjudicial adjustment until the minor completes the ~~[treatment under this Subsection (8)(e)]~~ specific treatment, but the judge may only grant each extension for 90 days at a time.

~~[(f)]~~ (6) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

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~~[(9) If a prosecuting attorney is requested to review a referral in accordance with Subsection (3) or (4), a minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment, or a minor is not offered or declines a nonjudicial adjustment in accordance with Subsection (5), the prosecuting attorney shall:]~~

~~[(a) review the case; and]~~

~~[(b) (i) dismiss the case;]~~

~~[(ii) refer the case back to the juvenile probation officer for a new attempt at nonjudicial adjustment; or]~~

~~[(iii) except as provided in Subsections (10)(b), (11), and 80-6-305(2), file a petition with the juvenile court.]~~

~~[(10) (a) A prosecuting attorney may file a petition only upon reasonable belief that:]~~

~~[(i) the charges are supported by probable cause;]~~

~~[(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and]~~

~~[(iii) the decision to charge is in the interests of justice.]~~

~~[(b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection (9)(b)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection (6) or conditions imposed through any other court diversion program.]~~

~~[(11) A prosecuting attorney may not file a petition against a minor unless:]~~

~~[(a) the prosecuting attorney has statutory authority to file the petition under Section 80-6-305; and]~~

~~[(b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (5);]~~

~~[(ii) the minor declines a nonjudicial adjustment;]~~

~~[(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;]~~

~~[(iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or]~~

~~[(v) the prosecuting attorney is acting under Subsection (9).]~~

~~[(12) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is~~

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commenced against a minor under Section 80-6-302, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment.]

Section ~~{23}~~27. Section 80-6-304.5 is enacted to read:

### **80-6-304.5. Prosecutorial review of referral to juvenile court -- Filing a petition.**

(1) A prosecuting attorney shall review a referral to the juvenile court for an offense committed by a minor if:

(a) the prosecuting attorney is requested to review the referral under Section 80-6-303.5;

(b) the minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment; or

(c) the minor is not offered or declines a nonjudicial adjustment.

(2) Upon review of a referral under Subsection (1), the prosecuting attorney shall:

(a) dismiss the referral;

(b) send the referral back to the juvenile probation officer for a new attempt at nonjudicial adjustment if the minor's case is eligible for a nonjudicial adjustment under Section 80-6-303.5; or

(c) except as provided in Subsection (5), file a petition with the juvenile court.

(3) A prosecuting attorney may only file a petition under Subsection (2)(c) upon reasonable belief that:

(a) the charges are 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.

(4) If a minor has substantially complied with the other conditions of a nonjudicial adjustment or conditions imposed through any other court diversion program, the minor's failure to pay a fine or fee as a condition of the nonjudicial adjustment or program may not serve as a basis for filing of a petition.

(5) A prosecuting attorney may not file a petition against a minor unless:

(a) the prosecuting attorney has statutory authority to file the petition under Section 80-6-305; and

(b) (i) the minor is not eligible for a nonjudicial adjustment under Section 80-6-303.5;

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(ii) the minor declines a nonjudicial adjustment;

(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment; or

(iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry.

(6) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section 80-6-302, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment if the minor is eligible for a nonjudicial adjustment under Section 80-6-303.5.

Section ~~{24}~~28. Section **80-6-305** is amended to read:

### **80-6-305. Petition for a delinquency proceeding -- Amending a petition -- Continuance.**

(1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

- (a) Subsection (2);
- (b) Section 80-6-302;
- (c) Section 80-6-502; and
- (d) Section 80-6-503.

(2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

- (a) the individual is alleged to have committed a felony violation of:
  - (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
  - (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
  - (iii) Section 76-5-203, murder or attempted murder;
  - (iv) Section 76-5-302, aggravated kidnapping;
  - (v) Section 76-5-405, aggravated sexual assault;
  - (vi) Section 76-6-103, aggravated arson;
  - (vii) Section 76-6-203, aggravated burglary;

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(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm; or

(b) an offer for a nonjudicial adjustment is made under Section [~~80-6-304~~] 80-6-303.5

and the minor:

(i) declines to accept the offer for the nonjudicial adjustment; or

(ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.

(3) A juvenile court may dismiss a petition under this section at any stage of the proceedings.

(4) (a) When evidence is presented during any proceeding in a minor's case that points to material facts not alleged in the petition, the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.

(b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.

(c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.