

Senator Todd D. Weiler proposes the following substitute bill:

PARENTAL LIABILITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses parental liability for the conduct of a minor.

Highlighted Provisions:

This bill:

▶ addresses the civil liability of a parent or guardian with legal custody of a minor in regards to damages or costs from a fire, property damage, or a threat of terrorism by the minor; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-7-225.1, as enacted by Laws of Utah 2018, Chapter 189

53G-8-212, as last amended by Laws of Utah 2021, Chapter 262

ENACTS:

78B-3-1001, Utah Code Annotated 1953



26 **78B-3-1003**, Utah Code Annotated 1953

27 RENUMBERS AND AMENDS:

28 **78B-3-1002**, (Renumbered from 80-6-610, as renumbered and amended by Laws of
29 Utah 2021, Chapter 261)

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

32 Section 1. Section **53-7-225.1** is amended to read:

33 **53-7-225.1. Civil liability -- Parental liability for conduct by a minor.**

34 [~~(1)(a) An individual who negligently, recklessly, or intentionally causes or spreads a
35 fire through discharge of a class C explosive is liable for the cost of suppressing that fire and
36 any damages the fire causes.]~~

37 [~~(b) If the individual described in Subsection (1)(a) is a minor, the parent or legal
38 guardian having legal custody of the minor is liable for the costs and damages for which the
39 minor is liable under this section.]~~

40 (1) As used in this section, "minor" means an individual who is younger than 18 years
41 old.

42 (2) A person may bring a cause of action against an individual, who negligently,
43 recklessly, or intentionally causes or spreads a fire through discharge of a class C explosive, to
44 recover:

45 (a) costs incurred by the person in suppressing the fire; or

46 (b) damages from the fire suffered by the person.

47 (3) (a) Notwithstanding Section **78B-3-1002**, and except as provided in Subsection
48 (3)(b), a person may bring a cause of action against the parent or legal guardian having legal
49 custody of a minor, who negligently, recklessly, or intentionally causes or spreads a fire
50 through discharge of a class C explosive, to recover:

51 (i) costs incurred by the person in suppressing the fire; or

52 (ii) damages from the fire suffered by the person.

53 (b) A person may not bring a cause of action against the state, an agency of the state, or
54 a contracted provider of an agency of the state, under Subsection (3)(a).

55 ~~[(c)]~~ (4) A court may waive part or all of the parent or guardian's liability for damages
56 under Subsection [~~(1)(b)] (3) if the court finds:~~

57 [(i)] (a) good cause; and
 58 [(ii)] (b) that the parent or legal guardian:
 59 [(A)] (i) made a reasonable effort to supervise and direct the minor; or
 60 [(B)] (ii) in the event the parent or guardian knew in advance of the minor's negligent,
 61 reckless, or intentional conduct [~~described in Subsection (1)(a)~~], made a reasonable effort to
 62 restrain the minor.

63 [(2)] (5) (a) The conduct described in [~~Subsection (1)~~] Subsections (2) and (3) includes
 64 any negligent, reckless, or intentional conduct, regardless of whether:

65 (i) the person discharges a class C common state approved explosive:
 66 (A) within the permitted time periods described in Subsection 53-7-225(3); or
 67 (B) in an area where discharge was not prohibited under Subsection 53-7-225(5)(b) or
 68 (c); or

69 (ii) the fire begins on:
 70 (A) private land;
 71 (B) land owned by the state or a political subdivision of the state;
 72 (C) federal land; or
 73 (D) tribal land.

74 (b) Discharging a class C explosive in an area in which fireworks are prohibited due to
 75 hazardous environmental conditions, in accordance with Subsection 15A-5-202.5(1)(b),
 76 constitutes the negligent, reckless, or intentional conduct described in [~~Subsection (1)~~]
 77 Subsections (2) and (3).

78 (6) A person who suffers damage from a fire may pursue all other legal remedies in
 79 addition to seeking damages under this section.

80 [~~(3) A person who incurs costs to suppress a fire described in Subsection (1) may bring~~
 81 ~~an action under this section to recover those costs against an individual described in Subsection~~
 82 ~~(1).~~]

83 [~~(4) A person who suffers damage from a fire described in Subsection (1) may:]~~

84 [~~(a) bring an action under this section for those damages against an individual~~
 85 ~~described in Subsection (1); and]~~

86 [~~(b) pursue all other legal remedies in addition to seeking damages under Subsection~~
 87 ~~(4)(a).~~]

88 Section 2. Section 53G-8-212 is amended to read:

89 **53G-8-212. Defacing or damaging school property -- Student's liability -- Work**
90 **program alternative.**

91 (1) A student who willfully defaces or otherwise damages any school property may be
92 suspended or otherwise disciplined.

93 (2) (a) If a school's property has been lost or willfully cut, defaced, or otherwise
94 damaged, the school may withhold the issuance of an official written grade report, diploma, or
95 transcript of the student responsible for the damage or loss until the student or the student's
96 parent has paid for the damages.

97 (b) The student's parent [~~is liable for damages as otherwise provided in Section~~]
98 [~~80-6-610~~] may be liable for damages under Section [78B-3-1002](#).

99 (3) (a) If the student and the student's parent are unable to pay for the damages or if it is
100 determined by the school in consultation with the student's parent that the student's interests
101 would not be served if the parent were to pay for the damages, the school shall provide for a
102 program of work the student may complete in lieu of the payment.

103 (b) The school shall release the official grades, diploma, and transcripts of the student
104 upon completion of the work.

105 (4) Before any penalties are assessed under this section, the school shall adopt
106 procedures to ensure that the student's right to due process is protected.

107 (5) No penalty may be assessed for damages which may be reasonably attributed to
108 normal wear and tear.

109 (6) If the Department of Health and Human Services or a licensed child-placing agency
110 has been granted custody of the student, the student's records, if requested by the department or
111 agency, may not be withheld from the department or agency for nonpayment of damages under
112 this section.

113 Section 3. Section 78B-3-1001 is enacted to read:

114 **Part 10. Parental Liability for the Acts of a Minor**

115 **78B-3-1001. Definitions.**

116 As used in this part:

117 (1) "Adjudication" means the adjudication of an offense under Title 80, Chapter 6,
118 Juvenile Justice.

119 (2) "Graffiti" means the same as that term is defined in Title 76, Chapter 6, Offenses
120 Against Property.

121 (3) "Minor" means an individual who is younger than 18 years old.

122 Section 4. Section **78B-3-1002**, which is renumbered from Section 80-6-610 is
123 renumbered and amended to read:

124 ~~[80-6-610].~~ **78B-3-1002. Property damage caused by a minor -- Liability of**
125 **parent or guardian.**

126 ~~[(1) A parent or guardian with legal custody of a minor is liable for damages sustained~~
127 ~~to property not to exceed \$2,000 when:]~~

128 (1) Except as provided in Subsection (7), a person may bring a cause of action against a
129 parent or guardian having legal custody of a minor for damages sustained to the person's
130 property, not exceeding \$2,000, when:

131 (a) the minor intentionally damages, defaces, destroys, or takes the property of another,
132 including using graffiti;

133 (b) the minor recklessly or willfully shoots or propels a missile, or other object at or
134 against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether
135 moving or standing; or

136 (c) the minor intentionally and unlawfully tampers with the property of another and
137 thereby recklessly endangers human life or recklessly causes or threatens a substantial
138 interruption or impairment of any public utility service, including using graffiti.

139 ~~[(2) A parent or guardian with legal custody of a minor is liable for damages sustained~~
140 ~~to property not to exceed \$5,000 when the minor is adjudicated for an offense under Subsection~~
141 ~~(1):]~~

142 (2) Except as provided in Subsection (7), a person may bring a cause of action against a
143 parent or guardian of a minor for damages sustained to the person's property, not exceeding
144 \$5,000, by the minor:

145 (a) for the benefit of, at the direction of, or in association with any criminal street gang
146 as defined in Section 76-9-802; or

147 (b) to gain recognition, acceptance, membership, or increased status with a criminal
148 street gang.

149 ~~[(3) A juvenile court may make an order for restitution under Subsection (1) or (2) to~~

150 be paid by the minor's parent or guardian if the minor is adjudicated for an offense.]

151 [~~(4)~~ As used in this section, property damage described under Subsection (1)(a) or (c),
152 or Subsection (2), includes graffiti, as defined in Section ~~76-6-107~~.]

153 ~~(5)~~ (3) A court may waive part or all of the liability for damages under this section by
154 the minor's parent or guardian if~~[-, after the minor is adjudicated,]~~ the court finds~~[-, upon the~~
155 record]:

156 (a) good cause; or

157 (b) that the parent or guardian:

158 (i) made a reasonable effort to restrain the wrongful conduct; and

159 (ii) reported the conduct to the property owner involved or the law enforcement agency
160 having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.

161 ~~(6)~~ (4) A report is not required under Subsection ~~[(5)(b)]~~ (3)(b) from a parent or
162 guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on
163 behalf of the property owner involved.

164 ~~(7)~~ (5) A conviction for criminal mischief under Section ~~76-6-106~~, criminal trespass
165 under Section ~~76-6-206~~, or an adjudication under Section ~~80-6-701~~ is not [~~a condition~~
166 ~~precedent to a civil action authorized~~] required for a civil action to be brought under
167 Subsection (1) or (2).

168 ~~(8)~~ (6) A parent or guardian is not liable under Subsection (1) or (2) if:

169 (a) the parent or guardian made a reasonable effort to supervise and direct the minor~~[-~~
170 ~~or];~~ or

171 (b) in the event the parent or guardian knew in advance of the possible taking, injury,
172 or destruction by the minor, made a reasonable effort to restrain the minor.

173 (7) A person may not bring a cause of action against the state, an agency of the state, or
174 a contracted provider of an agency of the state, under this section.

175 Section 5. Section **78B-3-1003** is enacted to read:

176 **78B-3-1003. Threat of terrorism -- Liability of parent or guardian.**

177 (1) Except as provided in Subsection (6), if a person suffers damages from a threat of
178 terrorism committed by a minor in accordance with Section ~~76-5-107.3~~, the person may bring a
179 cause of action against a parent or guardian with legal custody of the minor to recover costs and
180 damages caused by the threat of terrorism.

- 181 (2) A parent or guardian is not liable for costs and damages under Subsection (1) if:
182 (a) the parent or guardian made a reasonable effort to supervise and direct the minor; or
183 (b) made a reasonable effort to restrain the minor if the parent or guardian knew in
184 advance of the minor's intent to commit a threat of terrorism.
- 185 (3) If a parent or guardian is found liable under this section, the court may waive part
186 or all of the parent's or guardian's liability for costs and damages if the court finds:
- 187 (a) good cause; or
188 (b) that the parent or guardian:
189 (i) made a reasonable effort to restrain the wrongful conduct; and
190 (ii) reported the conduct to law enforcement after the parent or guardian knew of the
191 minor's wrongful conduct.
- 192 (4) A report is not required under Subsection (3)(b)(ii) from a parent or guardian if the
193 minor was arrested or apprehended by law enforcement.
- 194 (5) An adjudication or a conviction of a minor for an offense under Section [76-5-107.3](#)
195 is not required for a civil action to be brought under this section.
- 196 (6) A person may not bring a cause of action against the state, an agency of the state, or
197 a contracted provider of an agency of the state, under this section.