

## SB0224S01 compared with SB0224

~~text~~ shows text that was in SB0224 but was deleted in SB0224S01.

text shows text that was not in SB0224 but was inserted into SB0224S01.

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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: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

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

##### Highlighted Provisions:

This bill:

- ▶ addresses the civil liability of a parent or guardian with legal custody of a minor ~~for the acts of the 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

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### 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

~~{ 80-6-709, as last amended by Laws of Utah 2022, Chapter 155~~

~~80-6-712, as last amended by Laws of Utah 2022, Chapters 116, 155, 426, and 430~~

#### ENACTS:

78B-3-1001, Utah Code Annotated 1953

78B-3-1003, Utah Code Annotated 1953

#### RENUMBERS AND AMENDS:

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

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

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

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

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

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

~~[(c)]~~

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

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

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

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

(3) (a) Notwithstanding Section 78B-3-1002, and except as provided in Subsection

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(3)(b), a person may bring a cause of action against the parent or legal guardian having legal custody of a minor, who negligently, recklessly, or intentionally causes or spreads a fire through discharge of a class C explosive, to recover:

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

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

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

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

~~[(i)]~~ (a) good cause; and

~~[(ii)]~~ (b) that the parent or legal guardian:

~~[(A)]~~ (i) made a reasonable effort to supervise and direct the minor; or

~~[(B)]~~ (ii) in the event the parent or guardian knew in advance of the minor's negligent, reckless, or intentional conduct ~~[described in Subsection (1)(a)]~~, made a reasonable effort to restrain the minor.

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

(i) the person discharges a class C common state approved explosive:

(A) within the permitted time periods described in Subsection 53-7-225(3); or

(B) in an area where discharge was not prohibited under Subsection 53-7-225(5)(b) or

(c); or

(ii) the fire begins on:

(A) private land;

(B) land owned by the state or a political subdivision of the state;

(C) federal land; or

(D) tribal land.

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

Subsection (1) Subsections (2) and (3).

(6) A person who suffers damage from a fire may pursue all other legal remedies in

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### addition to seeking damages under this section.

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

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

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

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

Section ~~(1)~~2. Section **53G-8-212** is amended to read:

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

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

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

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

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

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

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

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

(6) If the Department of Health and Human Services or a licensed child-placing agency

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has been granted custody of the student, the student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

Section ~~{2}~~3. Section **78B-3-1001** is enacted to read:

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

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

As used in this part:

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

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

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

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

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

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

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

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

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

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

~~[(2) A parent or guardian with legal custody of a minor is liable for damages sustained to property {, including damages as a result of graffiti,} not to exceed \$5,000 {;} when the~~

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minor is adjudicated for an offense ~~{}~~ under Subsection (1):

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

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

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

~~[(3) A juvenile court may make an order for restitution under Subsection (1) or (2) to be paid by the minor's parent or guardian if the minor is adjudicated for an offense.]~~

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

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

(a) good cause; or

(b) that the parent or guardian:

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

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

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

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

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

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

~~(b) in the event the parent or guardian knew in advance of the possible taking, injury,~~

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or destruction by the minor, made a reasonable effort to restrain the minor.

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

Section ~~{4}~~5. Section **78B-3-1003** is enacted to read:

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

(1) ~~{A}~~Except as provided in Subsection (6), if a person suffers damages from a threat of terrorism committed by a minor in accordance with Section 76-5-107.3, the person may bring a cause of action against a parent or guardian with legal custody of {a}the minor {is liable for the} to recover costs and damages ~~{sustained when}~~caused by the ~~{minor commits a}~~ threat of terrorism~~{ in accordance with Section 76-5-107.3}~~.

(2) A parent or guardian is not liable for costs and damages under Subsection (1) if:

(a) the parent or guardian made a reasonable effort to supervise and direct the minor; or  
(b) made a reasonable effort to restrain the minor if the parent or guardian knew in advance of the minor's intent to commit a threat of terrorism.

(3) If a parent or guardian is found liable under this section, the court may waive part or all of the parent's or guardian's liability for costs ~~{or}~~and damages if the court finds ~~{, upon the record}~~:

(a) good cause; or  
(b) that the parent or guardian:  
(i) made a reasonable effort to restrain the wrongful conduct; and  
(ii) reported the conduct to law enforcement after the parent or guardian knew of the minor's wrongful conduct.

(4) A report is not required under Subsection (3)(b)(ii) from a parent or guardian if the minor was arrested or apprehended by law enforcement.

(5) An adjudication or a conviction of a minor for an offense under Section 76-5-107.3 is not required for a civil action to be brought under this section.

~~{Section 5. Section 80-6-709 is amended to read:~~

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

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

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- ~~—— (i) pay a fine, fee, or other cost;~~
- ~~—— (ii) pay restitution in accordance with Section 80-6-710; or~~
- ~~—— (iii) complete community or compensatory service hours.~~
- ~~—— (b) (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a juvenile probation officer may permit the minor to complete a work program in lieu of paying part or all of the restitution by the juvenile court.~~
- ~~—— (ii) If the juvenile court orders the minor to complete community or compensatory service hours, a juvenile probation officer may permit the minor to complete a work program to help the minor complete the community or compensatory service hours.~~
- ~~—— (c) The juvenile court may, through a juvenile probation officer, encourage the development of nonresidential employment or a work program to enable a minor to fulfill the minor's obligations under Subsection (1)(a).~~
- ~~—— (d) Notwithstanding this section, a juvenile court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.~~
- ~~—— (2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to complete community or compensatory service hours, the juvenile court shall consider the dispositions collectively to ensure that an order:~~
  - ~~—— (a) is reasonable;~~
  - ~~—— (b) prioritizes restitution; and~~
  - ~~—— (c) except for restitution as provided in Subsection 80-6-710(5)(c), takes into account the minor's ability to pay the fine, fee, or other cost within the presumptive period under Section 80-6-712 or Section 80-6-802 if the minor is ordered to secure care.~~
- ~~—— (3) (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete community or compensatory service hours, the cumulative order shall be limited per criminal episode as follows:~~
  - ~~—— (i) for a minor under 16 years old at the time of adjudication, the juvenile court may impose up to \$190 or up to 24 hours of community or compensatory service; and~~
  - ~~—— (ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may impose up to \$280 or up to 36 hours of community or compensatory service.~~
  - ~~—— (b) The cumulative order under Subsection (3)(a) does not include restitution.~~
- ~~—— (4) (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory~~

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~~service hours, the rate of conversion shall be no less than the minimum wage:~~

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

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

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

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

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

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

~~—— (6) The juvenile court may order restitution to be paid by a minor's parent or guardian if the minor's parent or guardian is liable for costs or damages caused by the minor's wrongful conduct under Title 78B, Chapter 3, Part 10, Parental Liability for the Acts of a Minor:~~

~~—— [(6)] (7) (a) Except as provided in Subsection [(6)(b)] (7)(b), the juvenile court may issue orders necessary for the collection of restitution and fines ordered under this section, including garnishments, wage withholdings, and executions:~~

~~—— (b) The juvenile court may not issue an order under Subsection [(6)(a)] (7)(a) if the juvenile court orders a disposition that changes custody of a minor, including detention, secure care, or any other secure or nonsecure residential placement:~~

~~—— [(7)] (8) Any information necessary to collect unpaid fines, fees, assessments, or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing an order under this section:~~

~~—— [(8)] (9) (a) If, before the entry of any order terminating the juvenile court's continuing jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution ordered by the juvenile court, the juvenile court shall:~~

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~~(i) record all pertinent information for the unpaid balance in the minor's file; and~~  
~~(ii) if there is an unpaid amount of restitution, record the amount of unpaid restitution as a civil judgment and list the victim, or the estate of the victim, as the judgment creditor in the civil judgment.~~

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

~~Section 6. Section 80-6-712 is amended to read:~~

~~**80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.**~~

~~(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:~~

~~(a) if the minor is placed on intake probation, no more than three months; or~~

~~(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.~~

~~(2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:~~

~~(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and~~

~~(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.~~

~~(b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):~~

~~(i) in the home of a qualifying relative or guardian;~~

~~(ii) at an independent living program contracted or operated by the division; or~~

~~(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.~~

~~(3) If the juvenile court orders a minor to secure care, the authority shall:~~

~~(a) have jurisdiction over the minor's case; and~~

~~(b) apply the provisions of Part 8, Commitment and Parole.~~

~~(4) (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at~~

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~~the end of the time period described in Subsection (1) for probation or Subsection (2) for commitment to the division, unless:~~

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

~~—— (ii) the minor commits a new misdemeanor or felony offense;~~

~~—— (iii) the minor has not completed community or compensatory service hours;~~

~~—— (iv) there is an outstanding fine; or~~

~~—— (v) the minor has not paid restitution in full.~~

~~—— (b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:~~

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

~~—— (ii) the minor's record in the treatment program; and~~

~~—— (iii) the minor's completion of the goals of the treatment program.~~

~~—— (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.~~

~~—— (6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:~~

~~—— (a) one time for no more than three months; and~~

~~—— (b) as intake probation.~~

~~—— (7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):~~

~~—— (i) the juvenile court may only:~~

~~—— (A) extend jurisdiction up to four times for no more than three months at a time;~~

~~—— (B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under this Subsection (7)(a)(i); and~~

~~—— (C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;~~

~~—— (ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and~~

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~~—— (iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every three months regarding the minor's efforts to pay restitution.~~

~~—— (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:~~

~~—— (i) terminate jurisdiction over the minor's case; and~~

~~—— (ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection [80-6-709(8)] 80-6-709(9).~~

~~—— (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.~~

~~—— (9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.~~

~~—— (10) This section does not apply to any minor adjudicated under this chapter for:~~

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

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

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

~~—— (d) Section 76-5-205, manslaughter;~~

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

~~—— (f) Section 76-5-207, negligently operating a vehicle resulting in death;~~

~~—— (g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;~~

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

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

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

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

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

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

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

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

~~—— (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)~~

~~involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and~~

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~~—— (ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or~~

~~—— (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.~~

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