

## HB0362S02 compared with HB0362S01

~~text~~ shows text that was in HB0362S01 but was deleted in HB0362S02.

text shows text that was not in HB0362S01 but was inserted into HB0362S02.

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Representative Karianne Lisonbee proposes the following substitute bill:

### JUVENILE JUSTICE REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:** ~~text~~ Karianne Lisonbee

Senate Sponsor: ~~text~~ Kirk A. Cullimore

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#### LONG TITLE

##### General Description:

This bill amends provisions related to juvenile justice.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the requirements for the juvenile gang and other violent crime prevention and intervention program;
- ▶ amends the definition of an evidence-based program for purposes of responses to school-based behavior;
- ▶ modifies the requirements for referring an offense that occurs when school is in session or during a school-sponsored activity;
- ▶ provides the requirements for referring a minor who is alleged of being a habitual

## HB0362S02 compared with HB0362S01

### truant:

- ▶ modifies provisions regarding reintegration plans for students who have committed a serious offense;
- ▶ requires a school employee to report an offense that is committed by a minor on school grounds when school is in session or at a school-sponsored activity;
- ▶ makes it a crime to solicit a minor for ~~any~~ a felony offense;
- ▶ clarifies the crime of criminal solicitation in regard to adults;
- ▶ modifies the crime for the possession of a dangerous weapon on or about school grounds;
- ▶ modifies the crime for the possession of a dangerous weapon by a minor;
- ▶ amends the jurisdiction of the juvenile court;
- ▶ addresses the referral of a minor who is a habitual truant to the juvenile court;
- ▶ modifies the requirements for the notification by a juvenile court to a school;
- ▶ repeals statutes related to criminal solicitation, possession of a dangerous weapon by a minor, and contributing to the delinquency of a minor; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

~~None~~ This bill provides a coordination clause.

### **Utah Code Sections Affected:**

AMENDS:

**53E-3-516**, as last amended by Laws of Utah 2023, Chapters 115, 161

**53F-2-410**, as repealed and reenacted by Laws of Utah 2023, Chapter 161 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 98

**53G-8-211**, as last amended by Laws of Utah 2023, Chapter 161

**53G-8-213**, as enacted by Laws of Utah 2023, Chapter 161

**53G-8-510**, as last amended by Laws of Utah 2023, Chapter 115

**76-4-203**, as last amended by Laws of Utah 2013, Chapter 278

**76-10-505.5**, as last amended by Laws of Utah 2021, Chapter 141

**76-10-509.4**, as last amended by Laws of Utah 2023, Chapter 161

## HB0362S02 compared with HB0362S01

76-10-509.7, as last amended by Laws of Utah 2014, Chapter 428

76-10-512, as last amended by Laws of Utah 2014, Chapter 428

77-23a-8, as last amended by Laws of Utah 2023, Chapter 111

78A-6-103, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330

80-6-102, as last amended by Laws of Utah 2022, Chapter 155

80-6-103, as last amended by Laws of Utah 2023, Chapter 161

80-6-201, as last amended by Laws of Utah 2022, Chapter 335

80-6-202, as last amended by Laws of Utah 2022, Chapter 335

80-6-301, as enacted by Laws of Utah 2021, Chapter 261

80-6-303.5, as enacted by Laws of Utah 2023, Chapter 161

80-6-304.5, as enacted by Laws of Utah 2023, Chapter 161

80-6-1004.5, as enacted by Laws of Utah 2023, Chapter 115

### ENACTS:

76-4-205, Utah Code Annotated 1953

### REPEALS:

76-4-204, as last amended by Laws of Utah 2008, Chapter 179

76-10-509, as last amended by Laws of Utah 1993, Second Special Session, Chapter 10

76-10-2301, as last amended by Laws of Utah 2000, Chapter 105

### Utah Code Sections Affected by Coordination Clause:

53G-8-201, as enacted by Laws of Utah 2018, Chapter 3

53G-8-213, as enacted by Laws of Utah 2023, Chapter 161

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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) "Dangerous weapon" means ~~[the same as that term is defined in Section 53G-8-510]~~ a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.

(b) "Disciplinary action" means an action by a public school meant to formally

## HB0362S02 compared with HB0362S01

discipline a student of that public school that includes a suspension or expulsion.

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

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

(e) "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.

(f) "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.

(g) (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 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.

(h) " 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;

## HB0362S02 compared with HB0362S01

- (b) other law enforcement activities;
- (c) disciplinary actions; and
- (d) minors found in possession of a dangerous weapon.

(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;

(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; and

(f) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.

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

(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;

## HB0362S02 compared with HB0362S01

(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 **53F-2-410** is amended to read:

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

(1) As used in this section:

(a) "State agency" means a department, division, office, entity, agency, or other unit of the state.

(b) "State agency" includes the State Commission on Criminal and Juvenile Justice, the Administrative Office of the Courts, the Department of Corrections, and the Division of Juvenile Justice Services.

~~(1)~~ (2) 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)~~ (3).

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

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

(i) uses the data reported to the state board ~~[under Section 80-6-104]~~, the State Commission on Criminal and Juvenile Justice, the Administrative Office of the Courts, the Department of Corrections, and the Division of Juvenile Justice Services; ~~[and]~~

(ii) prioritizes the schools in school districts and charter schools based on the

## HB0362S02 compared with HB0362S01

prevalence of crimes committed by minors within the boundaries of each municipality where a school is located; and

(iii) prioritizes school districts and charter schools that demonstrate collaborative efforts with local law enforcement agencies and community prevention.

(b) annually 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)]~~ (4) (a) A school district or a charter school seeking program funding shall submit a proposal to the state board that:

(i) describes how the school district or charter school intends to use the funds; and

(ii) provides data related to the prevalence of crimes committed by minors within the school district as described in Subsection ~~[(2)(a)(ii)]~~ (3)(a)(ii).

(b) The 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)(a).

~~[(4)]~~ (5) 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)]~~ (3)(c).

~~[(5)]~~ (6) 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) the school district's, or the charter school's, compliance with the performance standards described in Subsection ~~[(2)(c)]~~ (3)(c).

Section 3. 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) has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

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

(iii) is created and developed by a school or school district and has been approved by the state board.

## HB0362S02 compared with HB0362S01

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

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

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

(iii) (A) is truant at least ~~10 times~~ 20 days during one school year; or

(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(65)(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;



## HB0362S02 compared with HB0362S01

(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.

(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) a minor who is alleged to be a habitual truant; and

(b) a minor enrolled in school who is alleged to have committed an offense on school property where the student is enrolled:

(a) (i) when school is in session; or

(b) (ii) during a school-sponsored activity.

(3) 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, or a minor is alleged to be a habitual truant, the school administrator, the school administrator's designee, or a school resource officer ~~may~~ shall refer the minor:

(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 certified youth court, as defined in Section 80-6-901, or comparable restorative justice program;

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

(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~~

(vi) a tobacco cessation or education program if the offense is a violation of Section

## HB0362S02 compared with HB0362S01

76-10-105; or

(vii) truancy mediation; or

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

(4) Except as provided in Subsection ~~[(5)]~~ (6), 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 law enforcement officer or agency or a court only if:

(a) the minor allegedly committed ~~[the same offense]~~ an offense on school property on ~~[two previous occasions]~~ a previous occasion; and

(b) the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth services, as described in Subsection (3) for ~~[both of the two previous offenses]~~ the previous offense.

(5) If a minor is alleged to be a habitual truant, a school administrator, the school administrator's designee, or a school resource officer may only refer the minor to a law enforcement officer or agency or a court if:

(a) the minor was previously alleged of being a habitual truant at least twice during the same school year; and

(b) the minor was referred to an evidence-based alternative intervention, or for prevention and early intervention youth services, as described in Subsection (3) for at least two of the previous habitual trancies.

~~[(5)]~~ (6) If a minor is alleged to have committed a traffic offense that is an infraction, a 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.

~~[(6)]~~ (7) Notwithstanding ~~[Subsection (4)]~~ Subsections (4) and (5), a school resource officer may:

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

(b) consult with school administration about the conduct of a minor enrolled in a

## HB0362S02 compared with HB0362S01

school;

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

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

(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.

~~[(7)]~~ (8) (a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (4) or (5), 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 ~~[(7)(a)]~~ (8)(a) may not be a school resource officer.

(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 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 (3)(b); and

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

(d) A minor referred to a court under Subsection (4) or (5) 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~~[-]~~:

(i) when the underlying offense is a status offense or infraction~~[-]~~; or

(ii) for being a habitual truant.

(e) If a minor is referred to a court under Subsection (4) or (5), the court may use, when

## HB0362S02 compared with HB0362S01

available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

~~[(8)]~~ (9) 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 court or to the evidence-based alternative interventions in Subsection (3)(a).

*The following section is affected by a coordination clause at the end of this bill.*

Section 4. Section **53G-8-213** is amended to read:

**53G-8-213. Reintegration plan for student alleged to have committed a serious 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.

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

(b) "Serious offense" means the same as that term is defined in Section 80-6-103.

(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;]~~ serious offense, 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 school 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.

(5) A reintegration plan under this section is classified as a protected record under Section 63G-2-305.

(6) All other records of disclosures under this section are governed by Title 63G,

## HB0362S02 compared with HB0362S01

Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 5. Section **53G-8-510** is amended to read:

**53G-8-510. Notification of an offense committed by a minor on school grounds -- Immunity from civil and criminal liability.**

(1) As used in this section:

~~[(a)]~~ ~~"Dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.]~~

~~[(b)]~~ (a) "Minor" means the same as that term is defined in Section 80-1-102.

~~[(c)]~~ (b) "School employee" means an individual working in the individual's capacity as:

(i) a school teacher;

(ii) a school staff member;

(iii) a school administrator; or

(iv) an individual:

(A) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and

(B) who works on a school campus.

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

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

(2) If a minor ~~[is found]~~ commits an offense on school grounds when school is in session or at a school-sponsored activity ~~[in possession of a dangerous weapon]~~ and that information is reported to, or known by, a school employee, the school employee shall notify the principal.

(3) After receiving a notification under Subsection (2), the principal shall notify:

(a) a law enforcement officer or agency if the principal may refer the offense to a law enforcement officer or agency as described in Section 53G-8-211; and

(b) school or district personnel if the principal determines that school or district

## HB0362S02 compared with HB0362S01

personnel should be informed.

(4) A person who in good faith reports information under Subsection (2) or (3) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

Section 6. Section **76-4-203** is amended to read:

### Part 2. Criminal Conspiracy and Solicitation

#### **76-4-203. Criminal solicitation of an adult.**

~~[(1) An actor commits criminal solicitation if, with intent that a felony be committed, he solicits, requests, commands, offers to hire, or importunes another person to engage in specific conduct that under the circumstances as the actor believes them to be would be a felony or would cause the other person to be a party to the commission of a felony.]~~

(1) (a) As used in this section:

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

(ii) "Solicit" means to ask, command, encourage, importune, intentionally aid, offer to hire, or request.

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

(2) An actor commits criminal solicitation of an adult if:

(a) the actor intentionally solicits an adult to engage in conduct that is a felony offense; and

(b) the actor believes, under the circumstances, that the conduct would be a felony offense or would cause the adult to be a party to the commission of a felony offense.

(3) A violation of Subsection (2) where the actor solicits the adult to commit:

(a) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;

(b) except as provided in Subsection (3)(c) or (d), a first degree felony is a second degree felony;

(c) any of the following felony offenses is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life:

(i) murder, as described in Subsection 76-5-203(2)(a);

(ii) child kidnapping, as described in Section 76-5-301.1; or

## HB0362S02 compared with HB0362S01

(iii) except as provided in Subsection (3)(d), an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, that is a first degree felony;

(d) except as provided in Subsection (4), any of the following felony offenses is a first degree felony punishable by a term of imprisonment of not less than 15 years and which may be for life:

- (i) rape of a child, Section 76-5-402.1;
- (ii) object rape of a child, Section 76-5-402.3; or
- (iii) sodomy on a child, Section 76-5-403.1;
- (e) a second degree felony is a third degree felony; and
- (f) a third degree felony is a class A misdemeanor.

(4) If a court finds that a lesser term than the term described in Subsection (3)(d) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

- (a) 10 years and which may be for life;
- (b) six years and which may be for life; or
- (c) three years and which may be for life.

~~[(2)]~~ (5) An actor may be convicted under this section only if the solicitation is made under circumstances strongly corroborative of the actor's intent that the felony offense be committed.

~~[(3)]~~ (6) It is not a defense [~~under this section that the person~~] to a violation of this section that:

- (a) the adult solicited by the actor:
  - ~~[(a)]~~ (i) does not agree to act upon the solicitation;
  - ~~[(b)]~~ (ii) does not commit an overt act;
  - ~~[(c)]~~ (iii) does not engage in conduct constituting a substantial step toward the commission of any offense;
  - ~~[(d)]~~ (iv) is not criminally responsible for the felony solicited;
  - ~~[(e)]~~ (v) was acquitted, was not prosecuted or convicted, or was convicted of a different offense or of a different type or degree of offense; or
  - ~~[(f)]~~ (vi) is immune from prosecution[-]; or
- ~~[(4)]~~ (b) [~~It is not a defense under this section that~~] the actor:

## HB0362S02 compared with HB0362S01

~~[(a)]~~ (i) belongs to a class of persons that by definition is legally incapable of committing the offense in an individual capacity; or

~~[(b)]~~ (ii) fails to communicate with the ~~[person he]~~ adult that the actor solicits to commit an offense~~;~~ if the intent of the actor's conduct was to effect the communication.

~~[(5)]~~ ~~[(7)]~~ Nothing in this section prevents an actor who otherwise solicits ~~{}~~; requests, commands, encourages, or intentionally aids another person ~~{}~~ an adult to engage in conduct ~~{}~~ which ~~{}~~ that constitutes an offense from being prosecuted and convicted as a party to the offense under Section 76-2-202 if the ~~{}~~ person solicited ~~{}~~ adult actually commits the offense. ]

Section 7. Section ~~76-4-205~~ is enacted to read:

### 76-4-205. Criminal solicitation of a minor.

(1) (a) As used in this section:

(i) "Minor" means an individual who is under 18 years old.

(ii) "Solicit" means to ask, command, encourage, importune, intentionally aid, offer to hire, or request.

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

(2) An actor commits criminal solicitation of a minor if:

(a) the actor intentionally solicits a minor to engage in conduct that is ~~{an}~~ a felony offense; and

(b) the actor believes, under the circumstances, that the conduct would be ~~{an}~~ a felony offense or would cause the minor to be a party to the commission of ~~{an}~~ a felony offense.

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

(a) a first degree felony if the actor solicits conduct that is a first degree felony;

(b) a second degree felony if the actor solicits conduct that is a second degree felony;

or

(c) a third degree felony if the actor solicits conduct that is a third degree felony~~;~~;

~~{~~ (d) a class A misdemeanor if the actor solicits conduct that is a class A misdemeanor;

~~—~~ (e) a class B misdemeanor if the actor solicits conduct that is a class B misdemeanor;

~~—~~ (f) a class C misdemeanor if the actor solicits conduct that is a class C misdemeanor; or

~~—~~ (g) an infraction if the actor solicits conduct that is an infraction.

~~†~~ (4) An actor may be convicted under this section only if the solicitation is made under



## HB0362S02 compared with HB0362S01

circumstances strongly corroborative of the actor's intent that the offense be committed.

(5) It is not a defense to a violation of this section that:

(a) the minor:

(i) does not agree to act upon the solicitation;

(ii) does not commit an overt act;

(iii) does not engage in conduct constituting a substantial step toward the commission of the offense;

(iv) is not criminally responsible for the offense solicited;

(v) was acquitted or the allegations about the minor's in a delinquency petition were found to not be true;

(vi) was not prosecuted, adjudicated, or convicted, or was convicted or adjudicated of a different offense or of a different type or degree of offense; or

(vii) is immune from prosecution; or

(b) the actor:

(i) belongs to a class of persons that by definition is legally incapable of committing the offense in an individual capacity; or

(ii) fails to communicate with the minor that the actor solicits to commit an offense if the intent of the actor's conduct was to effect the communication.

~~{ (6) Nothing in this section prevents an actor who otherwise solicits a minor to engage in conduct that constitutes an offense from being prosecuted and adjudicated or convicted as a party to the offense under Section 76-2-202 if the minor actually commits the offense.~~

‡ Section 8. Section **76-10-505.5** is amended to read:

**76-10-505.5. Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises -- Penalties.**

(1) As used in this section, "on or about school premises" means:

(a) (i) in a public or private elementary or secondary school; or

(ii) on the grounds of any of those schools;

(b) (i) in a public or private institution of higher education; or

(ii) on the grounds of a public or private institution of higher education; and

(iii) (A) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or

## HB0362S02 compared with HB0362S01

(B) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

(2) ~~[A person]~~ An actor who is 18 years old or older may not possess ~~[any]~~ a dangerous weapon, firearm, or short barreled shotgun~~[, as those terms are defined in Section 76-10-501,]~~ at a place that the ~~[person]~~ actor knows, or has reasonable cause to believe, is on or about school premises ~~[as defined in this section].~~

(3) (a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.

(b) Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.

(4) This section does not apply if:

(a) the ~~[person]~~ actor is authorized to possess a firearm as provided under Section 53-5-704, 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law;

(b) the ~~[person]~~ actor is authorized to possess a firearm as provided under Section 53-5-704.5, unless the ~~[person]~~ actor is in a location where the ~~[person]~~ actor is prohibited from carrying a firearm under Subsection 53-5-710(2);

(c) the possession is approved by the responsible school administrator;

(d) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the ~~[person]~~ actor responsible for ~~[its]~~ the item's possession or use; or

(e) the possession is:

(i) at the ~~[person's]~~ actor's place of residence or on the ~~[person's]~~ actor's property; or

(ii) in any vehicle lawfully under the ~~[person's]~~ actor's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not prohibit prosecution of:

(a) a more serious weapons offense that may occur on or about school premises[:]; or

(b) possession of a dangerous weapon by a minor, as described in Section 76-10-509.4, that occurs on or about school premises.

Section 9. Section **76-10-509.4** is amended to read:

**76-10-509.4. Possession of a dangerous weapon by a minor -- Penalties.**

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

## HB0362S02 compared with HB0362S01

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

~~(1) As used in this section, "responsible adult" means an individual:~~

~~(a) who is 18 years old or older; and~~

~~(b) who may lawfully possess a dangerous weapon.~~

~~(2) An actor who is under 18 years old may not possess a dangerous weapon.~~

~~(3) (a) Except as provided in Subsection (3)(b), a violation of Subsection ~~(1)~~(2) is:~~

~~(i) a class B misdemeanor for a first offense; and~~

~~(ii) a class A misdemeanor for each subsequent offense.~~

~~(b) A violation of Subsection ~~(1)~~(2) is a third degree felony if the dangerous weapon~~

~~is:~~

~~(i) a handgun;~~

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

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

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

~~[(d)] (v) a machinegun firearm attachment.~~

~~[(3) 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) An individual who violates Subsection (2) is guilty of a third degree felony:]~~

~~(4) ~~This~~ For an actor who is younger than 14 years old, this section does not apply if~~

~~the actor:~~

~~(a) possesses a dangerous weapon;~~

~~(b) has permission from the actor's parent or guardian to possess the dangerous~~

~~weapon;~~

~~(c) is accompanied by the actor's parent or guardian, or a responsible adult, while the~~

~~actor has the dangerous weapon in the actor's possession; and~~

~~(d) does not use the firearm in the commission of a crime.~~

~~(5) For an actor who is 14 years old or older but younger than 18 years old, this section~~

~~does not apply if the actor:~~

~~(a) possesses a dangerous weapon;~~

## HB0362S02 compared with HB0362S01

(b) has permission from the actor's parent or guardian to possess the dangerous weapon; and

(c) is accompanied by the actor's parent or guardian, or a responsible adult, while the actor has the dangerous weapon in the actor's possession} does not use the firearm in the commission of a crime.

Section 10. Section **76-10-509.7** is amended to read:

**76-10-509.7. Parent or guardian knowing of minor's possession of dangerous weapon.**

Any parent or guardian of a minor who knows that the minor is in possession of a dangerous weapon in violation of Section [76-10-509 or a firearm in violation of Section] 76-10-509.4 and fails to make reasonable efforts to remove the dangerous weapon [or firearm] from the minor's possession is guilty of a class B misdemeanor.

Section 11. Section **76-10-512** is amended to read:

**76-10-512. Target concessions, shooting ranges, competitions, and hunting excepted from prohibitions.**

(1) The provisions of Section [76-10-509 and Subsection 76-10-509.4(1)] 76-10-509.4 regarding possession of handguns by minors do not apply to any of the following:

(a) patrons firing at lawfully operated target concessions at amusement parks, piers, and similar locations provided that the firearms to be used are firmly chained or affixed to the counters;

(b) any person in attendance at a hunter's safety course or a firearms safety course;

(c) any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law;

(d) any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition;

(e) any minor under 18 years [~~of age~~] old who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law;

(f) any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting; or

## HB0362S02 compared with HB0362S01

(g) any person traveling to or from any activity described in Subsection (1)(b), (c), (d), (e), or (f) with an unloaded firearm in the person's possession.

(2) It is not a violation of Subsection 76-10-503(2) or (3) for a restricted person defined in Subsection 76-10-503(1) to own, possess, or have under the person's custody or control, archery equipment, including crossbows, for the purpose of lawful hunting and lawful target shooting.

(3) Notwithstanding Subsection (2), the possession of archery equipment, including crossbows, by a restricted person defined in Subsection 76-10-503(1) may be prohibited by:

- (a) a court, as a condition of pre-trial release or probation; or
- (b) the Board of Pardons and Parole, as a condition of parole.

Section 12. Section **77-23a-8** is amended to read:

### **77-23a-8. Court order to authorize or approve interception -- Procedure.**

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

- (a) any act:
  - (i) prohibited by the criminal provisions of:
    - (A) Title 58, Chapter 37, Utah Controlled Substances Act;
    - (B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or
    - (C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and
  - (ii) punishable by a term of imprisonment of more than one year;
- (b) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;
- (c) an offense:
  - (i) of:

## HB0362S02 compared with HB0362S01

- (A) attempt, Section 76-4-101;
- (B) conspiracy, Section 76-4-201;
- (C) [~~solicitation, Section 76-4-203~~] criminal solicitation of an adult, Section 76-4-203;

or

- (D) criminal solicitation of a minor, Section 76-4-205; and
  - (ii) punishable by a term of imprisonment of more than one year;
  - (d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year, Section 76-5-107.3;
- (e) (i) aggravated murder, Section 76-5-202;
- (ii) murder, Section 76-5-203; or
- (iii) manslaughter, Section 76-5-205;
- (f) (i) kidnapping, Section 76-5-301;
- (ii) child kidnapping, Section 76-5-301.1;
- (iii) aggravated kidnapping, Section 76-5-302;
- (iv) human trafficking, Section 76-5-308, 76-5-308.1, or 76-5-308.5, or human smuggling, Section 76-5-308.3; or
- (v) aggravated human trafficking, Section 76-5-310, or aggravated human smuggling, Section 76-5-310.1;
- (g) (i) arson, Section 76-6-102; or
- (ii) aggravated arson, Section 76-6-103;
- (h) (i) burglary, Section 76-6-202; or
- (ii) aggravated burglary, Section 76-6-203;
- (i) (i) robbery, Section 76-6-301; or
- (ii) aggravated robbery, Section 76-6-302;
- (j) an offense:
  - (i) of:
    - (A) theft, Section 76-6-404;
    - (B) theft by deception, Section 76-6-405; or
    - (C) theft by extortion, Section 76-6-406; and
    - (ii) punishable by a maximum term of imprisonment of more than one year;
  - (k) an offense of receiving stolen property that is punishable by a maximum term of

## HB0362S02 compared with HB0362S01

imprisonment of more than one year, Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;

(m) bribery of a labor official, Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-518;

(p) criminal usury, Section 76-6-520;

(q) insurance fraud punishable by a maximum term of imprisonment of more than one year, Section 76-6-521;

(r) a violation of Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year, Section 76-6-703;

(s) bribery to influence official or political actions, Section 76-8-103;

(t) misusing public money or public property, Section 76-8-402;

(u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(v) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;

(x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(y) obstruction of justice, Section 76-8-306;

(z) destruction of property to interfere with preparation for defense or war, Section 76-8-802;

(aa) an attempt to commit crimes of sabotage, Section 76-8-804;

(bb) conspiracy to commit crimes of sabotage, Section 76-8-805;

(cc) advocating criminal syndicalism or sabotage, Section 76-8-902;

(dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(ee) riot punishable by a maximum term of imprisonment of more than one year, Section 76-9-101;

(ff) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year, Section 76-9-301.1;

(gg) possession, use, or removal of an explosive, chemical, or incendiary device and parts, Section 76-10-306;

## HB0362S02 compared with HB0362S01

(hh) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device, Section 76-10-307;

(ii) exploiting prostitution, Section 76-10-1305;

(jj) aggravated exploitation of prostitution, Section 76-10-1306;

(kk) bus hijacking or assault with intent to commit hijacking, Section 76-10-1504;

(ll) discharging firearms and hurling missiles, Section 76-10-1505;

(mm) violations of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act, Section 76-10-1602;

(nn) communications fraud, Section 76-10-1801;

(oo) money laundering, Sections 76-10-1903 and 76-10-1904; or

(pp) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year, Section 76-10-1906.

### Section 13. 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 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:



## HB0362S02 compared with HB0362S01

- (A) when school was in session; or
- (B) during a school-sponsored activity, as defined in ~~Subsection~~ Section 53G-8-211.
- (2) The juvenile court has original jurisdiction over:
  - (a) any proceeding concerning:
    - (i) a child who is an abused child, neglected child, or dependent child;
    - (ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;
    - (iii) 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;
    - (iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;
    - (v) 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;
    - (vi) the treatment or commitment of a minor who has an intellectual disability;
    - (vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;
    - (viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);
    - (ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;
    - (x) the treatment or commitment of a child with a mental illness;
    - (xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;
    - (xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;
    - (xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;
    - (xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;
    - (xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

## HB0362S02 compared with HB0362S01

(A) 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

(B) has run away from home; and

(xvi) 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;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; ~~and~~

(c) the extension of a nonjudicial adjustment under Section 80-6-304~~[-]; and~~

(d) a referral of a minor for being a habitual truant as defined in Section 53G-8-211.

(3) The juvenile court has original jurisdiction over a petition for special findings under Section 80-3-505.

(4) 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)(a)(xvi), (b), or (c).

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

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

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

(8) 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 14. Section 80-6-102 is amended to read:

### **80-6-102. Definitions.**

As used in this chapter:

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

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

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

## HB0362S02 compared with HB0362S01

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

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

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

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

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

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

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

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

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

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

(12) "Habitual truant" means the same as that term is defined in Section 53G-8-211.

~~[(12)]~~ (13) "Material loss" means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

(c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or

(d) medical expense.

~~[(13)]~~ (14) "Referral" means a formal referral, a referral to the juvenile court under Section 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under Section 80-6-302.

~~[(14)]~~ (15) "Rescission" means a written order of the authority that rescinds a date for parole.

## HB0362S02 compared with HB0362S01

~~[(15)]~~[(16)] "Restitution" means money or services that the juvenile court, or a juvenile probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to a victim for the minor's wrongful act or conduct.

~~[(16)]~~[(17)] "Revocation" means a written order of the authority that, after a hearing and determination under Section 80-6-806:

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

~~[(17)]~~[(18)] "Temporary custody" means the control and responsibility of a minor, before an adjudication under Section 80-6-701, until the minor is released to a parent, guardian, responsible adult, or to an appropriate agency.

~~[(18)]~~[(19)] "Termination" means a written order of the authority that terminates a juvenile offender from parole.

~~[(19)]~~[(20)] (a) "Victim" means a person that the juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct.

(b) "Victim" includes:

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

(ii) the Utah Office for Victims of Crime.

~~[(20)]~~[(21)] "Violent felony" means the same as that term is defined in Section 76-3-203.5.

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

~~[(22)]~~[(23)] "Youth services" means the same as that term is defined in Section 80-5-102.

Section ~~[(13)]~~15. 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.

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

## HB0362S02 compared with HB0362S01

(c) "School official" means:

(i) the school superintendent, or the school superintendent's designee, of the district in which the minor resides or attends school; or

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

(d) "Serious offense" means:

(i) a violent felony as defined in Section 76-3-203.5;

(ii) an offense that is a violation of Title 76, Chapter 6, Part 4, Theft, and the property stolen is a firearm; or

(iii) an offense that is a violation of Title 76, Chapter 10, Part 5, Weapons.

~~(d)~~ (e) "Transferee school official" means:

(i) the school superintendent, or the superintendent's designee, 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, or the principal's designee, 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) If a minor is taken into temporary custody under Section 80-6-201 for [~~a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons~~] a serious offense, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.

(b) A notification under this Subsection (3) shall only disclose:

(i) the name of the minor;

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

(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.

(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~~] a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a

## HB0362S02 compared with HB0362S01

transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.

(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 a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.

(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~~] a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.

(b) A notification under 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.

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

(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.

## HB0362S02 compared with HB0362S01

(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 16. Section 80-6-201 is amended to read:

#### **80-6-201. Minor taken into temporary custody by peace officer, private citizen, or probation officer -- Grounds -- Protective custody.**

(1) A minor may be taken into temporary custody by a peace officer without a court order, or a warrant under Section 80-6-202, if the peace officer has probable cause to believe that:

(a) the minor has committed an offense under municipal, state, or federal law;

(b) the minor seriously endangers the minor's own welfare or the welfare of others and taking the minor into temporary custody appears to be necessary for the protection of the minor or others;

(c) the minor has run away or escaped from the minor's parents, guardian, or custodian;  
or

(d) the minor is:

(i) subject to the state's compulsory education law; and

(ii) subject to [Section] Sections 53G-6-208 and 53G-8-211, absent from school without legitimate or valid excuse.

(2) A private citizen may take a minor into temporary custody if under the circumstances the private citizen could make a citizen's arrest under Section 77-7-3 if the minor was an adult.

(3) A juvenile probation officer may take a minor into temporary custody:

(a) under the same circumstances as a peace officer in Subsection (1); or

(b) if the juvenile probation officer has a reasonable suspicion that the minor has violated the conditions of the minor's probation.

(4) (a) Nothing in this part shall be construed to prevent a peace officer or the Division of Child and Family Services from taking a minor into protective custody under Section 80-2a-202 or 80-3-204.

## HB0362S02 compared with HB0362S01

(b) If a peace officer or the Division of Child and Family Services takes a minor into protective custody, the provisions of Chapter 2, Child Welfare Services, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings shall govern.

Section 17. Section 80-6-202 is amended to read:

### **80-6-202. Warrants for minors.**

(1) (a) Except as otherwise provided in this section, after a petition is filed under Section 80-6-305, or a criminal information under Section 80-6-503, a juvenile court may issue a warrant for a minor to be taken into temporary custody if:

(i) there is probable cause to believe that:

(A) the minor has committed an offense that would be a felony if committed by an adult;

(B) the minor has failed to appear after the minor or the minor's parent, guardian, or custodian has been legally served with a summons in accordance with Section 78A-6-351 and the Utah Rules of Juvenile Procedure;

(C) there is a substantial likelihood the minor will not respond to a summons;

(D) a summons cannot be served and the minor's present whereabouts are unknown;

(E) serving a summons for the minor will be ineffectual;

(F) the minor seriously endangers others or the public and temporary custody appears to be necessary for the protection of others or the public; or

(G) the minor is a runaway or has escaped from the minor's parent, guardian, or custodian; or

(ii) the minor is under the continuing jurisdiction of the juvenile court and there is probable cause to believe that the minor:

(A) has left the custody of the person or agency vested by a court with legal custody, or guardianship of the minor, without permission; or

(B) has violated a court order.

(b) A warrant issued under this Subsection (1) shall be:

(i) filed in accordance with Utah Rules of Juvenile Procedure, Rule 7; and

(ii) executed in accordance with Title 77, Chapter 7, Arrest, by Whom, and How Made.

(2) A juvenile court may not issue a warrant for a minor to be taken into temporary



## HB0362S02 compared with HB0362S01

custody for:

- (a) a status offense; ~~[or]~~
- (b) an infraction~~[-];~~ or
- (c) being a habitual truant.

(3) (a) For a minor not eligible for a warrant under Subsection (2), a juvenile court may issue a warrant that directs a minor to be returned home, to the juvenile court, or to a shelter or other nonsecure facility.

(b) A warrant under Subsection (3)(a) may not direct a minor to secure care or secure detention.

(4) Subsection (2) does not apply to a minor who is under Chapter 6, Part 11, Interstate Compact for Juveniles.

### Section 18. Section 80-6-301 is amended to read:

#### **80-6-301. Referral to juvenile court.**

(1) Except as provided in Subsections (2) and (3), a peace officer, or a public official of the state, a county, a city, or a town charged with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral with the juvenile court within 10 days after the day on which a minor is taken into temporary custody under Section 80-6-201.

(2) If a minor is taken to a detention facility, a peace officer or a public official of the state, a county, a city, or a town charged with the enforcement of laws of the state or local jurisdiction shall file the formal referral with the juvenile court within 24 hours after the time in which the minor is taken into temporary custody under Section 80-6-201.

(3) A peace officer, public official, school district, or school may only refer a minor to the juvenile court under Section 53G-8-211 for an offense ~~{that is}~~ [that is], or for being a habitual truant, if the offense or habitual truancy is subject to referral ~~[under]~~ as described in Section 53G-8-211.

Section ~~{14}~~ 19. Section 80-6-303.5 is amended 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, or for the minor being a habitual truant, a juvenile probation officer shall make a preliminary inquiry in accordance with this

## HB0362S02 compared with HB0362S01

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:

(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 two prior adjudications; and

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

(b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old~~[-]; or~~

(c) the minor is referred for being a habitual truant.

(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

## HB0362S02 compared with HB0362S01

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;

(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; or

(J) Section 76-10-509.4, possession of a dangerous weapon by a minor; or

~~[(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;

## HB0362S02 compared with HB0362S01

- (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 20. Section 80-6-304.5 is amended 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) (a) Upon review of a referral of an offense under Subsection (1), the prosecuting attorney shall:

~~(a)~~ (i) dismiss the referral;

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

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

(b) Upon review of a referral for habitual truancy under Subsection (1), the prosecuting attorney shall dismiss the referral.

(3) A prosecuting attorney may only file a petition under Subsection ~~(2)(c)~~ (2)(a)(iii)

## HB0362S02 compared with HB0362S01

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;

(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 ~~{15}~~21. Section **80-6-1004.5** is amended to read:

**80-6-1004.5. Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.**

(1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

## HB0362S02 compared with HB0362S01

(d) all nonjudicial adjustments were completed on or after October 1, 2023.

(2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for 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

(f) Section ~~[76-10-509]~~ 76-10-509.4, possession of a dangerous weapon by a minor.

(3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:

(a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:

(i) the individual has reached 18 years old;

(ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and

(iii) the nonjudicial adjustment was for an offense that is not an offense described in Subsection (2); and

(b) the individual may reply to any inquiry about the nonjudicial adjustment as though there never was a nonjudicial adjustment.

Section ~~{16}~~ 22. **Repealer.**

This bill repeals:

Section 76-4-204, **Criminal solicitation -- Penalties.**

Section 76-10-509, **Possession of dangerous weapon by minor.**

Section 76-10-2301, **Contributing to the delinquency of a minor -- Definitions -- Penalties.**

Section ~~{17}~~ 23. **Effective date.**

This bill takes effect on May 1, 2024.

**Section 24. Coordinating H.B. 362 with H.B. 418 -- Technical amendment.**

## HB0362S02 compared with HB0362S01

If H.B. 362, Juvenile Justice Revisions, and H.B. 418, Student Offender Reintegration Amendments, both pass and become law, the Legislature intends that, on July 1, 2024:

(1) Section 53G-8-201 in H.B. 418 be amended to read:

**"53G-8-201. Definitions.**

[Reserved] As used in this part:

(1) "Sexual crime" or "sexual misconduct" means any conduct described in:

(a) Title 76, Chapter 5, Part 4, Sexual Offenses;

(b) Title 76, Chapter 5b, Sexual Exploitation Act;

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

(d) Section 76-9-702, lewdness; and

(e) Section 76-9-702.1, sexual battery.

(2) "Serious offense" means the same as that term is defined in Section 80-6-103.";

(2) Subsection 53G-8-203(4) in H.B. 418 be amended to read:

"(4) (a) Each LEA shall adopt a policy for responding to when a student has committed a serious offense or sexual crime.

(b) The policy described in Subsection (4)(a) shall:

(i) address a serious offense or sexual misconduct related to hazing;

(ii) distinguish procedures for when the crime occurs on school property and off of school property;

(iii) if a student has committed a serious offense or sexual crime, provide a process for a school resource officer to provide input for the LEA to consider regarding the safety risks a student may pose upon reintegration;

(iv) establish a process to inform a school resource officer of any student who is on probation;

(v) create procedures for determining an alternative placement for a student if the student attends the same school as:

(A) the victim of the student's crime; and

(B) an individual who has a protective order against the student; and

(vi) be compliant with state and federal law."; and

(3) Section 53G-8-213 be amended to read:

**"53G-8-213. Reintegration plan for student alleged to have committed a serious**

## HB0362S02 compared with HB0362S01

### offense.

(1) As used in this section[:-(a) "Multidisciplinary", "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.

[(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,] serious offense, 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 school 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[:]; and

(d) if the serious offense was directed at a school employee or another student within the school, notification of the reintegration plan to that school employee or student and the student's parent.

(5) A school district may not reintegrate a student into a school where:

(a) a student or staff member has a protective order against the student being reintegrated; or

(b) a student or staff member is the victim of a sexual crime committed by the student being reintegrated.

(6) A reintegration plan under this section is classified as a protected record under Section 63G-2-305.

(7) 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."



**HB0362S02 compared with HB0362S01**