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**JUVENILE JUSTICE AMENDMENTS**  
2024 GENERAL SESSION  
STATE OF UTAH  
**Chief Sponsor: Stephanie Pitcher**  
House Sponsor: Matthew H. Gwynn

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**LONG TITLE**

**General Description:**

This bill amends provisions related to juvenile justice.

**Highlighted Provisions:**

This bill:

- defines terms;
- clarifies requirements regarding the collection of a DNA specimen from a minor adjudicated by the juvenile court;
- allows the Division of Juvenile Justice Services to manage accounts and finances for minors in the custody of the Division of Juvenile Justice Services;
- provides that a minor may not be placed in a correctional facility that is intended to hold adults accused or convicted of offenses as an alternative to detention;
- provides a time period in which an agency is required to send an affidavit to an individual who is the subject of an expungement order by the juvenile court; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 53-10-403**, as last amended by Laws of Utah 2023, Chapters 328, 457
- 53-10-403.5**, as last amended by Laws of Utah 2023, Chapters 184, 500
- 53-10-404**, as last amended by Laws of Utah 2021, Chapter 262
- 53-10-406**, as last amended by Laws of Utah 2022, Chapter 113

28 **78A-6-353**, as renumbered and amended by Laws of Utah 2021, Chapter 261

29 **80-1-102**, as last amended by Laws of Utah 2023, Chapter 330

30 **80-5-202**, as last amended by Laws of Utah 2023, Chapter 139

31 **80-6-205**, as last amended by Laws of Utah 2022, Chapter 155

32 **80-6-608**, as last amended by Laws of Utah 2023, Chapter 330

33 **80-6-704**, as enacted by Laws of Utah 2021, Chapter 261

34 **80-6-1006.1**, as enacted by Laws of Utah 2023, Chapter 115

35 ENACTS:

36 **80-5-304**, Utah Code Annotated 1953

37

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

39 Section 1. Section **53-10-403** is amended to read:

40 **53-10-403 . DNA specimen analysis -- Application to offenders, including minors.**

41 (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to[  
42 ~~any person who~~]:

43 (a) a person who has pled guilty to or has been convicted of any of the offenses under  
44 Subsection (2)(a) or (b) on or after July 1, 2002;

45 (b) a person who has pled guilty to or has been convicted by any other state or by the  
46 United States government of an offense which if committed in this state would be  
47 punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after  
48 July 1, 2003;

49 (c) a person who has been booked on or after January 1, 2011, through December 31,  
50 2014, for any offense under Subsection (2)(c);

51 (d) a person who has been booked:

52 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May  
53 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any  
54 felony offense; or

55 (ii) on or after January 1, 2015, for any felony offense; or

56 (e) a minor:

57 (i) (A) who is adjudicated by the juvenile court for an offense described in  
58 Subsection (2) that is within the jurisdiction of the juvenile court on or after  
59 July 1, 2002; or

60 (B) who is adjudicated by the juvenile court for an offense described in  
61 Subsection (2) and is in the legal custody of the Division of Juvenile Justice

- 62                    Services for the offense on or after July 1, 2002; and  
63                    (ii) who is 14 years old or older at the time of the commission of the offense  
64                    described in Subsection (2).  
65                    [~~(e) is a minor under Subsection (3).~~]  
66                    (2) Offenses referred to in Subsection (1) are:  
67                    (a) any felony or class A misdemeanor under the Utah Code;  
68                    (b) any offense under Subsection (2)(a):  
69                    (i) for which the court enters a judgment for conviction to a lower degree of offense  
70                    under Section 76-3-402; or  
71                    (ii) regarding which the court allows the defendant to enter a plea in abeyance as  
72                    defined in Section 77-2a-1; or  
73                    (c) (i) any violent felony as defined in Section 53-10-403.5;  
74                    (ii) sale or use of body parts, Section 26B-8-315;  
75                    (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;  
76                    (iv) operating a motor vehicle with any amount of a controlled substance in an  
77                    individual's body and causing serious bodily injury or death, as codified before  
78                    May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8  
79                    (2)(g);  
80                    (v) a felony violation of enticing a minor, Section 76-4-401;  
81                    (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);  
82                    (vii) a felony violation of propelling a substance or object at a correctional officer, a  
83                    peace officer, or an employee or a volunteer, including health care providers,  
84                    Section 76-5-102.6;  
85                    (viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);  
86                    (ix) aggravated human trafficking, Section 76-5-310, and aggravated human  
87                    smuggling, Section 76-5-310.1;  
88                    (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;  
89                    (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;  
90                    (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;  
91                    (xiii) sale of a child, Section 76-7-203;  
92                    (xiv) aggravated escape, Subsection 76-8-309(2);  
93                    (xv) a felony violation of assault on an elected official, Section 76-8-315;  
94                    (xvi) influencing, impeding, or retaliating against a judge or member of the Board of  
95                    Pardons and Parole, Section 76-8-316;

- 96 (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;  
 97 (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;  
 98 (xix) a felony violation of sexual battery, Section 76-9-702.1;  
 99 (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;  
 100 (xxi) a felony violation of abuse or desecration of a dead human body, Section  
 101 76-9-704;  
 102 (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section  
 103 76-10-402;  
 104 (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction,  
 105 Section 76-10-403;  
 106 (xxiv) possession of a concealed firearm in the commission of a violent felony,  
 107 Subsection 76-10-504(4);  
 108 (xxv) assault with the intent to commit bus hijacking with a dangerous weapon,  
 109 Subsection 76-10-1504(3);  
 110 (xxvi) commercial obstruction, Subsection 76-10-2402(2);  
 111 (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section  
 112 77-41-107;  
 113 (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or  
 114 (xxix) violation of condition for release after arrest under Section 78B-7-802.

115 [~~(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by~~  
 116 ~~the juvenile court due to the commission of any offense described in Subsection (2), and~~  
 117 ~~who:]~~

118 [~~(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court~~  
 119 ~~on or after July 1, 2002; or]~~

120 [~~(b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or~~  
 121 ~~after July 1, 2002, for an offense under Subsection (2).]~~

122 Section 2. Section **53-10-403.5** is amended to read:

123 **53-10-403.5 . Definitions.**

124 As used in this section and Sections 53-10-403, 53-10-403.7, 53-10-404,  
 125 53-10-404.5, 53-10-405, and 53-10-406:

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

127 [(+) (2) "Bureau" means the Bureau of Forensic Services.

128 [(2)] (3) "Combined DNA Index System" or "CODIS" means the program operated by the  
 129 Federal Bureau of Investigation to support criminal justice DNA databases and the



130 software used to run the databases.

131 [(3)] (4) "Conviction" means:

132 (a) a verdict or conviction;

133 (b) a plea of guilty or guilty with a mental condition;

134 (c) a plea of no contest; or

135 (d) the acceptance by the court of a plea in abeyance.

136 [(4)] (5) "DNA" means deoxyribonucleic acid.

137 [(5)] (6) "DNA profile" means the patterns of fragments of DNA used to identify an  
138 individual.

139 [(6)] (7) "DNA specimen" or "specimen" means a biological sample collected from an  
140 individual or a crime scene, or that is collected as part of an investigation.

141 [(7)] (8) "Final judgment" means a judgment, including any supporting opinion, concerning  
142 which all appellate remedies have been exhausted or the time for appeal has expired.

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

144 [(8)] (10) "Rapid DNA" means the fully automated process of developing a DNA profile.

145 [(9)] (11) "Violent felony" means any offense under Section 76-3-203.5.

146 Section 3. Section **53-10-404** is amended to read:

147 **53-10-404 . DNA specimen analysis -- Requirement to obtain the specimen.**

148 (1) As used in this section, "person" [~~refers to any person as described under Section~~  
149 ~~53-10-403~~] means a person or minor described in Section 53-10-403.

150 (2) (a) A person under Section 53-10-403 or any person required to register as a sex  
151 offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide  
152 a DNA specimen and shall reimburse the agency responsible for obtaining the DNA  
153 specimen \$150 for the cost of obtaining the DNA specimen unless:

154 (i) the person was booked under Section 53-10-403 and is not required to reimburse  
155 the agency under Section 53-10-404.5; or

156 (ii) the agency determines the person lacks the ability to pay.

157 (b) (i) (A) The responsible agencies shall establish guidelines and procedures for  
158 determining if the person is able to pay the fee.

159 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's  
160 obligation to determine an inmate's ability to pay.

161 (ii) An agency's guidelines and procedures may provide for the assessment of \$150  
162 on the inmate's county trust fund account and may allow a negative balance in the  
163 account until the \$150 is paid in full.

- 164 (3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA  
165 Specimen Restricted Account created in Section 53-10-407, except that the  
166 agency collecting the fee may retain not more than \$25 per individual specimen  
167 for the costs of obtaining the saliva DNA specimen.
- 168 (ii) The agency collecting the \$150 fee may not retain from each separate fee more  
169 than \$25, and no amount of the \$150 fee may be credited to any other fee or  
170 agency obligation.
- 171 (b) The responsible agency shall determine the method of collecting the DNA specimen.  
172 Unless the responsible agency determines there are substantial reasons for using a  
173 different method of collection or the person refuses to cooperate with the collection,  
174 the preferred method of collection shall be obtaining a saliva specimen.
- 175 (c) The responsible agency may use reasonable force, as established by its guidelines  
176 and procedures, to collect the DNA sample if the person refuses to cooperate with the  
177 collection.
- 178 (d) If the judgment places the person on probation, the person shall submit to the  
179 obtaining of a DNA specimen as a condition of the probation.
- 180 (e) (i) Under this section a person is required to provide one DNA specimen and pay  
181 the collection fee as required under this section.
- 182 (ii) The person shall provide an additional DNA specimen only if the DNA specimen  
183 previously provided is not adequate for analysis.
- 184 (iii) The collection fee is not imposed for a second or subsequent DNA specimen  
185 collected under this section.
- 186 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect  
187 any outstanding amount of a fee due under this section from any person who owes  
188 any portion of the fee and deposit the amount in the DNA Specimen Restricted  
189 Account created in Section 53-10-407.
- 190 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as  
191 possible and transferred to the Department of Public Safety:
- 192 (i) after a conviction or ~~[a finding of jurisdiction]~~ an adjudication by the juvenile court;  
193 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a  
194 person for any offense under Subsection 53-10-403(1)(c); and  
195 (iii) on and after January 1, 2015, after the booking of a person for any felony  
196 offense, as provided under Subsection 53-10-403(1)(d)(ii).
- 197 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency may

- 198 cause a DNA specimen to be obtained and transferred to the Department of Public  
199 Safety after the booking of a person for any felony offense, as provided under  
200 Subsection 53-10-403(1)(d)(i).
- 201 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate  
202 for analysis, the agency shall, as soon as possible:
- 203 (i) obtain and transmit an additional DNA specimen; or  
204 (ii) request that another agency that has direct access to the person and that is  
205 authorized to collect DNA specimens under this section collect the necessary  
206 second DNA specimen and transmit it to the Department of Public Safety.
- 207 (d) Each agency that is responsible for collecting DNA specimens under this section  
208 shall establish:
- 209 (i) a tracking procedure to record the handling and transfer of each DNA specimen it  
210 obtains; and  
211 (ii) a procedure to account for the management of all fees it collects under this  
212 section.
- 213 (5) (a) The Department of Corrections is the responsible agency whenever the person is  
214 committed to the custody of or is under the supervision of the Department of  
215 Corrections.
- 216 ~~[(b) The juvenile court is the responsible agency regarding a minor under Subsection  
217 53-10-403(3), but if the minor has been committed to the legal custody of the  
218 Division of Juvenile Justice Services, that division is the responsible agency if a  
219 DNA specimen of the minor has not previously been obtained by the juvenile court  
220 under Section 80-6-608.]~~
- 221 (b) If a minor described in Subsection 53-10-403(3) is not committed to the legal  
222 custody of the Division of Juvenile Justice Services upon an adjudication, the  
223 juvenile court is the responsible agency regarding the collection of a DNA specimen  
224 from the minor.
- 225 (c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of  
226 the Division of Juvenile Justice Services upon an adjudication, the Division of  
227 Juvenile Justice Services is the responsible agency regarding the collection of a DNA  
228 specimen from the minor.
- 229 ~~[(e)]~~ (d) The sheriff operating a county jail is the responsible agency regarding the  
230 collection of DNA specimens from persons who:
- 231 (i) have pled guilty to or have been convicted of an offense listed under Subsection

- 232 53-10-403(2) but who have not been committed to the custody of or are not under  
233 the supervision of the Department of Corrections;
- 234 (ii) are incarcerated in the county jail:
- 235 (A) as a condition of probation for a felony offense; or  
236 (B) for a misdemeanor offense for which collection of a DNA specimen is  
237 required;
- 238 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county  
239 jail for any offense under Subsection 53-10-403(1)(c)[-]; and
- 240 (iv) are booked at the county jail:
- 241 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony  
242 offense on or after May 13, 2014, through December 31, 2014, under  
243 Subsection 53-10-404(4)(b); or  
244 (B) on or after January 1, 2015, for any felony offense.
- 245 ~~(d)~~ (e) Each agency required to collect a DNA specimen under this section shall:
- 246 (i) designate employees to obtain the saliva DNA specimens required under this  
247 section; and
- 248 (ii) ensure that employees designated to collect the DNA specimens receive  
249 appropriate training and that the specimens are obtained in accordance with  
250 generally accepted protocol.
- 251 (6) (a) As used in this Subsection (6), "department" means the Department of  
252 Corrections.
- 253 (b) Priority of obtaining DNA specimens by the department is:
- 254 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the  
255 custody of or under the supervision of the department before these persons are  
256 released from incarceration, parole, or probation, if their release date is prior to  
257 that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004;  
258 and
- 259 (ii) second, the department shall obtain DNA specimens from persons who are  
260 committed to the custody of the department or who are placed under the  
261 supervision of the department after July 1, 2002, within 120 days after the  
262 commitment, if possible, but not later than prior to release from incarceration if  
263 the person is imprisoned, or prior to the termination of probation if the person is  
264 placed on probation.
- 265 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)

- 266 is:
- 267 (i) first, persons on probation;
- 268 (ii) second, persons on parole; and
- 269 (iii) third, incarcerated persons.
- 270 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
- 271 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains
- 272 DNA specimens from persons in the custody of or under the supervision of the
- 273 Department of Corrections as of July 1, 2002, prior to their release.
- 274 (7) (a) As used in this Subsection (7):
- 275 (i) "Court" means the juvenile court.
- 276 (ii) "Division" means the Division of Juvenile Justice Services.
- 277 (b) Priority of obtaining DNA specimens by the court from minors under Section
- 278 53-10-403 whose cases are under the jurisdiction of the court but who are not in the
- 279 legal custody of the division shall be:
- 280 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under
- 281 the court's jurisdiction, before the court's jurisdiction over the minors' cases
- 282 terminates; and
- 283 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction
- 284 of the court after July 1, 2002, within 120 days of the minor's case being found to
- 285 be within the court's jurisdiction, if possible, but no later than before the court's
- 286 jurisdiction over the minor's case terminates.
- 287 (c) Priority of obtaining DNA specimens by the division from minors under Section
- 288 53-10-403 who are committed to the legal custody of the division shall be:
- 289 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
- 290 division's legal custody and who have not previously provided a DNA specimen
- 291 under this section, before termination of the division's legal custody of these
- 292 minors; and
- 293 (ii) second, to obtain specimens from minors who are placed in the legal custody of
- 294 the division after July 1, 2002, within 120 days of the minor's being placed in the
- 295 custody of the division, if possible, but no later than before the termination of the
- 296 court's jurisdiction over the minor's case.
- 297 (8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile
- 298 Justice Services, and all law enforcement agencies in the state shall by policy
- 299 establish procedures for obtaining saliva DNA specimens, and shall provide training

- 300 for employees designated to collect saliva DNA specimens.
- 301 (b) (i) The department may designate correctional officers, including those employed  
302 by the adult probation and parole section of the department, to obtain the saliva  
303 DNA specimens required under this section.
- 304 (ii) The department shall ensure that the designated employees receive appropriate  
305 training and that the specimens are obtained in accordance with accepted protocol.
- 306 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.
- 307 Section 4. Section **53-10-406** is amended to read:
- 308 **53-10-406 . DNA specimen analysis -- Bureau responsibilities.**
- 309 (1) The bureau shall:
- 310 (a) administer and oversee the DNA specimen collection process;
- 311 (b) store each DNA specimen and associated records received;
- 312 (c) analyze each specimen, or contract with a qualified public or private laboratory to  
313 analyze the specimen, to establish the genetic profile of the donor or to otherwise  
314 determine the identity of the person;
- 315 (d) maintain a criminal identification database containing information derived from  
316 DNA analysis;
- 317 (e) ensure that the DNA identification system does not provide information allowing  
318 prediction of genetic disease or predisposition to illness;
- 319 (f) ensure that only DNA markers routinely used or accepted in the field of forensic  
320 science are used to establish the gender and unique individual identification of the  
321 donor;
- 322 (g) utilize only those DNA analysis procedures that are consistent with, and do not  
323 exceed, procedures established and used by the Federal Bureau of Investigation for  
324 the forensic analysis of DNA;
- 325 (h) destroy a DNA specimen obtained under this part if criminal charges have not been  
326 filed within 90 days after booking for an alleged offense under Subsection 53-10-403  
327 (2)(c); and
- 328 (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
329 Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing  
330 DNA specimens and for storing and destroying DNA specimens and associated  
331 records, and criminal identification information obtained from the analysis.
- 332 (2) Procedures for DNA analysis may include all techniques which the department  
333 determines are accurate and reliable in establishing identity.

- 334 (3) (a) In accordance with Section 63G-2-305, each DNA specimen and associated  
335 record is classified as protected.
- 336 (b) The department may not transfer or disclose any DNA specimen, associated record,  
337 or criminal identification information obtained, stored, or maintained under this  
338 section, except under the provisions of this section.
- 339 (4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if the  
340 department determines that there is a reasonable likelihood that the inspection would  
341 prejudice a pending criminal investigation.
- 342 (5) The department shall adopt procedures governing the inspection of records, DNA  
343 specimens, and challenges to the accuracy of records. The procedures shall  
344 accommodate the need to preserve the materials from contamination and destruction.
- 345 (6) A person whose DNA specimen is obtained under this part may, personally or through a  
346 legal representative, submit:
- 347 (a) to the court a motion for a court order requiring the destruction of the person's DNA  
348 specimen, associated record, and any criminal identification record created in  
349 connection with that specimen, and removal of the person's DNA record from the  
350 database described in Subsection (1)(d) if:
- 351 (i) a final judgment reverses the conviction, judgment, or order that created an  
352 obligation to provide a DNA specimen; or
- 353 (ii) all charges arising from the same criminal episode for which the DNA specimen  
354 was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final  
355 judgment of dismissal with prejudice or acquittal; or
- 356 (b) to the department a request for the destruction of the person's DNA specimen, and  
357 associated record, and removal of the person's DNA record from the database  
358 described in Subsection (1)(d) if:
- 359 (i) no charge arising from the same criminal episode for which the DNA specimen  
360 was obtained under Subsection 53-10-404.5(1)(a) is filed against the person  
361 within one year after the day on which the person is booked; or
- 362 (ii) all charges arising from the same criminal episode for which the DNA specimen  
363 was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final  
364 judgment of dismissal with prejudice or acquittal.
- 365 (7) A court order issued under Subsection (6)(a) may be accompanied by a written notice to  
366 the person advising that state law provides for expungement of criminal charges if the  
367 charge is resolved by a final judgment of dismissal or acquittal.

- 368 (8) The department shall destroy the person's DNA specimen, and associated record, and  
369 remove the person's DNA record from the database described in Subsection (1)(d), if:  
370 (a) the person provides the department with:
- 371 (i) a court order for destruction described in Subsection (6)(a), and a certified copy of:
    - 372 (A) the court order reversing the conviction, judgment, or order;
    - 373 (B) a court order to set aside the conviction; or
    - 374 (C) the dismissal or acquittal of the charge regarding which the person was  
375 arrested; or
  - 376 (ii) a written request for destruction of the DNA specimen, and associated record, and  
377 removal of the DNA record from the database described in Subsection (6)(b), and  
378 a certified copy of:
    - 379 (A) a declination to prosecute from the prosecutor; or
    - 380 (B) a court document that indicates all charges have been resolved by a final  
381 judgment of dismissal with prejudice or acquittal; and
  - 382 (b) the department determines that the person is not obligated to submit a DNA  
383 specimen as a result of a separate conviction or [~~juvenile~~]adjudication for an offense  
384 listed in Subsection 53-10-403(2).
- 385 (9) The department may not destroy a person's DNA specimen or remove a person's DNA  
386 record from the database described in Subsection (1)(d) if the person has a prior  
387 conviction or a pending charge for which collection of a sample is authorized in  
388 accordance with Section 53-10-404.
- 389 (10) A DNA specimen, associated record, or criminal identification record created in  
390 connection with that specimen may not be affected by an order to set aside a conviction,  
391 except under the provisions of this section.
- 392 (11) If funding is not available for analysis of any of the DNA specimens collected under  
393 this part, the bureau shall store the collected specimens until funding is made available  
394 for analysis through state or federal funds.
- 395 (12) (a) (i) A person who, due to the person's employment or authority, has  
396 possession of or access to individually identifiable DNA information contained in  
397 the state criminal identification database or the state DNA specimen repository  
398 may not willfully disclose the information in any manner to any individual,  
399 agency, or entity that is not entitled under this part to receive the information.
- 400 (ii) A person may not willfully obtain individually identifiable DNA information  
401 from the state criminal identification database or the state DNA repository other



402 than as authorized by this part.

403 (iii) A person may not willfully analyze a DNA specimen for any purpose, or to  
404 obtain any information other than as required under this part.

405 (iv) A person may not willfully fail to destroy or fail to ensure the destruction of a  
406 DNA specimen when destruction is required by this part or by court order.

407 (b) (i) A person who violates Subsection (12)(a)(i), (ii), or (iii) is guilty of a third  
408 degree felony.

409 (ii) A person who violates Subsection (12)(a)(iv) is guilty of a class B misdemeanor.

410 Section 5. Section **78A-6-353** is amended to read:

411 **78A-6-353 . Contempt -- Penalty -- Enforcement of fine, fee, or restitution.**

412 (1) An individual who willfully violates or refuses to obey any order of the juvenile court  
413 may be proceeded against for contempt of court.

414 (2) If a juvenile court finds an individual who is 18 years old or older in contempt of court,  
415 the juvenile court may impose sanctions on the individual in accordance with Title 78B,  
416 Chapter 6, Part 3, Contempt.

417 (3) ~~[(a)]~~ Except as otherwise provided in ~~[this Subsection (3)]~~ Subsection (4), if a  
418 juvenile court finds a child in contempt of court, the juvenile court may:

419 ~~[(i)]~~ (a) place the child on probation in accordance with Section 80-6-702;

420 ~~[(ii)]~~ (b) order the child to detention, or an alternative to detention, in accordance with  
421 Section 80-6-704; or

422 ~~[(iii)]~~ (c) require the child to pay a fine or fee in accordance with Section 80-6-709.

423 ~~[(b)]~~ (4) (a) The juvenile court may only order a child to secure detention under

424 Subsection ~~[(3)(a)(ii)]~~ (3)(b) for no longer than 72 hours, excluding weekends and  
425 legal holidays.

426 ~~[(e)]~~ (b) The juvenile court may not suspend all or part of an order to secure detention  
427 upon compliance with conditions imposed by the juvenile court.

428 ~~[(d)]~~ (c) The juvenile court may not enforce a disposition under Subsection ~~[(3)(a)(iii)]~~  
429 (3)(c) through an order for detention, a community-based program, or secure care.

430 ~~[(4)]~~ (5) On the sole basis of a child's absence from placement, a juvenile court may not hold  
431 a child in contempt under this section if the child:

432 (a) is in the legal custody of the Division of Child and Family Services; and

433 (b) is missing, has been abducted, or has run away.

434 Section 6. Section **80-1-102** is amended to read:

435 **80-1-102 . Juvenile Code definitions.**

436 Except as provided in Section 80-6-1103, as used in this title:

437 (1) (a) "Abuse" means:

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

439 (B) threatened harm of a child;

440 (C) sexual exploitation;

441 (D) sexual abuse; or

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

443 (ii) that a child's natural parent:

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

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

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

451 (b) "Abuse" does not include:

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

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

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

455 (A) in self-defense;

456 (B) in defense of others;

457 (C) to protect the child; or

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

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

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

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

465 (3) (a) "Adjudication" means, except as provided in Subsection (3)(b):

466 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile  
467 Justice:

468 (A) a finding by the juvenile court that the facts alleged in a delinquency petition  
469 or criminal information alleging that a minor committed an offense have been

- 470                    proved;
- 471                    (B) an admission by a minor in the juvenile court as described in Section 80-6-306;
- 472                    or
- 473                    (C) a plea of no contest by minor in the juvenile court; or
- 474                    (ii) for all other proceedings under this title, a finding by the juvenile court that the
- 475                    facts alleged in the petition have been proved.
- 476                    (b) "Adjudication" does not include:
- 477                    (i) an admission by a minor described in Section 80-6-306 until the juvenile court
- 478                    enters the minor's admission; or
- 479                    (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 480                    (4) (a) "Adult" means an individual who is 18 years old or older.
- 481                    (b) "Adult" does not include an individual:
- 482                    (i) who is 18 years old or older; and
- 483                    (ii) who is a minor.
- 484                    (5) "Attorney guardian ad litem" means the same as that term is defined in Section
- 485                    78A-2-801.
- 486                    (6) "Board" means the Board of Juvenile Court Judges.
- 487                    (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18
- 488                    years old.
- 489                    (8) "Child and family plan" means a written agreement between a child's parents or
- 490                    guardian and the Division of Child and Family Services as described in Section 80-3-307.
- 491                    (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 492                    (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 493                    (11) "Child protection team" means a team consisting of:
- 494                    (a) the child welfare caseworker assigned to the case;
- 495                    (b) if applicable, the child welfare caseworker who made the decision to remove the
- 496                    child;
- 497                    (c) a representative of the school or school district where the child attends school;
- 498                    (d) if applicable, the law enforcement officer who removed the child from the home;
- 499                    (e) a representative of the appropriate Children's Justice Center, if one is established
- 500                    within the county where the child resides;
- 501                    (f) if appropriate, and known to the division, a therapist or counselor who is familiar
- 502                    with the child's circumstances;
- 503                    (g) if appropriate, a representative of law enforcement selected by the chief of police or

- 504 sheriff in the city or county where the child resides; and
- 505 (h) any other individuals determined appropriate and necessary by the team coordinator  
506 and chair.
- 507 (12) (a) "Chronic abuse" means repeated or patterned abuse.
- 508 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 509 (13) (a) "Chronic neglect" means repeated or patterned neglect.
- 510 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 511 (14) "Clandestine laboratory operation" means the same as that term is defined in Section  
512 58-37d-3.
- 513 (15) "Commit" or "committed" means, unless specified otherwise:
- 514 (a) with respect to a child, to transfer legal custody; and
- 515 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 516 (16) "Community-based program" means a nonsecure residential or nonresidential program,  
517 designated to supervise and rehabilitate juvenile offenders, that prioritizes the least  
518 restrictive setting, consistent with public safety, and operated by or under contract with  
519 the Division of Juvenile Justice and Youth Services.
- 520 (17) "Community placement" means placement of a minor in a community-based program  
521 described in Section 80-5-402.
- 522 (18) "Correctional facility" means:
- 523 (a) a county jail; or
- 524 (b) a secure correctional facility as defined in Section 64-13-1.
- 525 (19) "Criminogenic risk factors" means evidence-based factors that are associated with a  
526 minor's likelihood of reoffending.
- 527 (20) "Department" means the Department of Health and Human Services created in Section  
528 26B-1-201.
- 529 (21) "Dependent child" or "dependency" means a child who is without proper care through  
530 no fault of the child's parent, guardian, or custodian.
- 531 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a  
532 parent or a previous custodian to another person, agency, or institution.
- 533 (23) "Detention" means home detention or secure detention.
- 534 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice  
535 and Youth Services in accordance with Section 80-5-501, for minors held in detention.
- 536 (25) "Detention risk assessment tool" means an evidence-based tool established under  
537 Section 80-5-203 that:

- 538 (a) assesses a minor's risk of failing to appear in court or reoffending before  
539 adjudication; and
- 540 (b) is designed to assist in making a determination of whether a minor shall be held in  
541 detention.
- 542 (26) "Developmental immaturity" means incomplete development in one or more domains  
543 that manifests as a functional limitation in the minor's present ability to:
- 544 (a) consult with counsel with a reasonable degree of rational understanding; and  
545 (b) have a rational as well as factual understanding of the proceedings.
- 546 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor,  
547 under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 548 (28) "Educational neglect" means that, after receiving a notice of compulsory education  
549 violation under Section 53G-6-202, the parent or guardian fails to make a good faith  
550 effort to ensure that the child receives an appropriate education.
- 551 (29) "Educational series" means an evidence-based instructional series:
- 552 (a) obtained at a substance abuse program that is approved by the Division of Integrated  
553 Healthcare in accordance with Section 26B-5-104; and  
554 (b) designed to prevent substance use or the onset of a mental health disorder.
- 555 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 556 (31) "Evidence-based" means a program or practice that has had multiple randomized  
557 control studies or a meta-analysis demonstrating that the program or practice is effective  
558 for a specific population or has been rated as effective by a standardized program  
559 evaluation tool.
- 560 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 561 (33) "Formal probation" means a minor is:
- 562 (a) supervised in the community by, and reports to, a juvenile probation officer or an  
563 agency designated by the juvenile court; and  
564 (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- 565 (34) "Group rehabilitation therapy" means psychological and social counseling of one or  
566 more individuals in the group, depending upon the recommendation of the therapist.
- 567 (35) "Guardian" means a person appointed by a court to make decisions regarding a minor,  
568 including the authority to consent to:
- 569 (a) marriage;  
570 (b) enlistment in the armed forces;  
571 (c) major medical, surgical, or psychiatric treatment; or

- 572 (d) legal custody, if legal custody is not vested in another individual, agency, or  
573 institution.
- 574 (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- 575 (37) "Harm" means:
- 576 (a) physical or developmental injury or damage;
- 577 (b) emotional damage that results in a serious impairment in the child's growth,  
578 development, behavior, or psychological functioning;
- 579 (c) sexual abuse; or
- 580 (d) sexual exploitation.
- 581 (38) "Home detention" means placement of a minor:
- 582 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent  
583 of the minor's parent, guardian, or custodian, under terms and conditions established  
584 by the Division of Juvenile Justice and Youth Services or the juvenile court; or
- 585 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the  
586 minor's home, or in a surrogate home with the consent of the minor's parent,  
587 guardian, or custodian, under terms and conditions established by the Division of  
588 Juvenile Justice and Youth Services or the juvenile court.
- 589 (39) (a) "Incest" means engaging in sexual intercourse with an individual whom the  
590 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle,  
591 aunt, nephew, niece, or first cousin.
- 592 (b) "Incest" includes:
- 593 (i) blood relationships of the whole or half blood, regardless of whether the  
594 relationship is legally recognized;
- 595 (ii) relationships of parent and child by adoption; and
- 596 (iii) relationships of stepparent and stepchild while the marriage creating the  
597 relationship of a stepparent and stepchild exists.
- 598 (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 599 (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 600 (42) "Indigent defense service provider" means the same as that term is defined in Section  
601 78B-22-102.
- 602 (43) "Indigent defense services" means the same as that term is defined in Section  
603 78B-22-102.
- 604 (44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- 605 (45) (a) "Intake probation" means a minor is:

- 606 (i) monitored by a juvenile probation officer; and  
607 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- 608 (b) "Intake probation" does not include formal probation.
- 609 (46) "Intellectual disability" means a significant subaverage general intellectual functioning  
610 existing concurrently with deficits in adaptive behavior that constitutes a substantial  
611 limitation to the individual's ability to function in society.
- 612 (47) "Juvenile offender" means:
- 613 (a) a serious youth offender; or  
614 (b) a youth offender.
- 615 (48) "Juvenile probation officer" means a probation officer appointed under Section  
616 78A-6-205.
- 617 (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by  
618 the Division of Juvenile Justice and Youth Services, or under contract with the Division  
619 of Juvenile Justice and Youth Services, that is responsible for minors taken into  
620 temporary custody under Section 80-6-201.
- 621 (50) "Legal custody" means a relationship embodying:
- 622 (a) the right to physical custody of the minor;  
623 (b) the right and duty to protect, train, and discipline the minor;  
624 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary  
625 medical care;  
626 (d) the right to determine where and with whom the minor shall live; and  
627 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 628 (51) "Licensing Information System" means the Licensing Information System maintained  
629 by the Division of Child and Family Services under Section 80-2-1002.
- 630 (52) "Management Information System" means the Management Information System  
631 developed by the Division of Child and Family Services under Section 80-2-1001.
- 632 (53) "Mental illness" means:
- 633 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,  
634 behavioral, or related functioning; or  
635 (b) the same as that term is defined in:
- 636 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders  
637 published by the American Psychiatric Association; or  
638 (ii) the current edition of the International Statistical Classification of Diseases and  
639 Related Health Problems.

- 640 (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
- 641 (a) a child; or
- 642 (b) an individual:
- 643 (i) (A) who is at least 18 years old and younger than 21 years old; and
- 644 (B) for whom the Division of Child and Family Services has been specifically
- 645 ordered by the juvenile court to provide services because the individual was an
- 646 abused, neglected, or dependent child or because the individual was
- 647 adjudicated for an offense;
- 648 (ii) (A) who is at least 18 years old and younger than 25 years old; and
- 649 (B) whose case is under the jurisdiction of the juvenile court in accordance with
- 650 Subsection 78A-6-103(1)(b); or
- 651 (iii) (A) who is at least 18 years old and younger than 21 years old; and
- 652 (B) whose case is under the jurisdiction of the juvenile court in accordance with
- 653 Subsection 78A-6-103(1)(c).
- 654 (55) "Mobile crisis outreach team" means the same as that term is defined in Section
- 655 26B-5-101.
- 656 (56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual
- 657 desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
- 658 or the breast of a female child, or takes indecent liberties with a child as defined in
- 659 Section 76-5-401.1.
- 660 (57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's
- 661 biological or adoptive parent.
- 662 (b) "Natural parent" includes the minor's noncustodial parent.
- 663 (58) (a) "Neglect" means action or inaction causing:
- 664 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe
- 665 Relinquishment of a Newborn Child;
- 666 (ii) lack of proper parental care of a child by reason of the fault or habits of the
- 667 parent, guardian, or custodian;
- 668 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or
- 669 necessary subsistence or medical care, or any other care necessary for the child's
- 670 health, safety, morals, or well-being;
- 671 (iv) a child to be at risk of being neglected or abused because another child in the
- 672 same home is neglected or abused;
- 673 (v) abandonment of a child through an unregulated child custody transfer under



- 674 Section 78B-24-203; or  
675 (vi) educational neglect.
- 676 (b) "Neglect" does not include:
- 677 (i) a parent or guardian legitimately practicing religious beliefs and who, for that  
678 reason, does not provide specified medical treatment for a child;
- 679 (ii) a health care decision made for a child by the child's parent or guardian, unless  
680 the state or other party to a proceeding shows, by clear and convincing evidence,  
681 that the health care decision is not reasonable and informed;
- 682 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 683 (iv) permitting a child, whose basic needs are met and who is of sufficient age and  
684 maturity to avoid harm or unreasonable risk of harm, to engage in independent  
685 activities, including:
- 686 (A) traveling to and from school, including by walking, running, or bicycling;  
687 (B) traveling to and from nearby commercial or recreational facilities;  
688 (C) engaging in outdoor play;  
689 (D) remaining in a vehicle unattended, except under the conditions described in  
690 Subsection 76-10-2202(2);  
691 (E) remaining at home unattended; or  
692 (F) engaging in a similar independent activity.
- 693 (59) "Neglected child" means a child who has been subjected to neglect.
- 694 (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation  
695 officer, without an adjudication of the minor's case under Section 80-6-701, upon the  
696 consent in writing of:
- 697 (a) the assigned juvenile probation officer; and  
698 (b) (i) the minor; or  
699 (ii) the minor and the minor's parent, guardian, or custodian.
- 700 (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual  
701 disability or related condition, or developmental immaturity, lacks the ability to:
- 702 (a) understand the nature of the proceedings against the minor or of the potential  
703 disposition for the offense charged; or  
704 (b) consult with counsel and participate in the proceedings against the minor with a  
705 reasonable degree of rational understanding.
- 706 (62) "Parole" means a conditional release of a juvenile offender from residency in secure  
707 care to live outside of secure care under the supervision of the Division of Juvenile

- 708 Justice and Youth Services, or another person designated by the Division of Juvenile  
709 Justice and Youth Services.
- 710 (63) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 711 (64) (a) "Probation" means a legal status created by court order, following an  
712 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the  
713 minor's home under prescribed conditions.
- 714 (b) "Probation" includes intake probation or formal probation.
- 715 (65) "Prosecuting attorney" means:
- 716 (a) the attorney general and any assistant attorney general;  
717 (b) any district attorney or deputy district attorney;  
718 (c) any county attorney or assistant county attorney; and  
719 (d) any other attorney authorized to commence an action on behalf of the state.
- 720 (66) "Protective custody" means the shelter of a child by the Division of Child and Family  
721 Services from the time the child is removed from the home until the earlier of:  
722 (a) the day on which the shelter hearing is held under Section 80-3-301; or  
723 (b) the day on which the child is returned home.
- 724 (67) "Protective services" means expedited services that are provided:
- 725 (a) in response to evidence of neglect, abuse, or dependency of a child;  
726 (b) to a cohabitant who is neglecting or abusing a child, in order to:  
727 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the  
728 causes of neglect or abuse; and  
729 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and  
730 (c) in cases where the child's welfare is endangered:  
731 (i) to bring the situation to the attention of the appropriate juvenile court and law  
732 enforcement agency;  
733 (ii) to cause a protective order to be issued for the protection of the child, when  
734 appropriate; and  
735 (iii) to protect the child from the circumstances that endanger the child's welfare  
736 including, when appropriate:  
737 (A) removal from the child's home;  
738 (B) placement in substitute care; and  
739 (C) petitioning the court for termination of parental rights.
- 740 (68) "Protective supervision" means a legal status created by court order, following an  
741 adjudication on the ground of abuse, neglect, or dependency, whereby:

- 742 (a) the minor is permitted to remain in the minor's home; and  
743 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided  
744 by an agency designated by the juvenile court.
- 745 (69) (a) "Related condition" means a condition that:  
746 (i) is found to be closely related to intellectual disability;  
747 (ii) results in impairment of general intellectual functioning or adaptive behavior  
748 similar to that of an intellectually disabled individual;  
749 (iii) is likely to continue indefinitely; and  
750 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 751 (b) "Related condition" does not include mental illness, psychiatric impairment, or  
752 serious emotional or behavioral disturbance.
- 753 (70) (a) "Residual parental rights and duties" means the rights and duties remaining with  
754 a parent after legal custody or guardianship, or both, have been vested in another  
755 person or agency, including:  
756 (i) the responsibility for support;  
757 (ii) the right to consent to adoption;  
758 (iii) the right to determine the child's religious affiliation; and  
759 (iv) the right to reasonable parent-time unless restricted by the court.
- 760 (b) If no guardian has been appointed, "residual parental rights and duties" includes the  
761 right to consent to:  
762 (i) marriage;  
763 (ii) enlistment; and  
764 (iii) major medical, surgical, or psychiatric treatment.
- 765 (71) "Runaway" means a child, other than an emancipated child, who willfully leaves the  
766 home of the child's parent or guardian, or the lawfully prescribed residence of the child,  
767 without permission.
- 768 (72) "Secure care" means placement of a minor, who is committed to the Division of  
769 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under  
770 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour  
771 supervision and confinement of the minor.
- 772 (73) "Secure care facility" means a facility, established in accordance with Section 80-5-503,  
773 for juvenile offenders in secure care.
- 774 (74) "Secure detention" means temporary care of a minor who requires secure custody in a  
775 physically restricting facility operated by, or under contract with, the Division of

776 Juvenile Justice and Youth Services:

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

778 or

779 (b) under Section 80-6-704.

780 (75) "Serious youth offender" means an individual who:

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

782 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction

783 of the juvenile court was extended over the individual's case until the individual was

784 25 years old in accordance with Section 80-6-605; and

785 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth

786 Services for secure care under Sections 80-6-703 and 80-6-705.

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

788 (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a

789 child.

790 (78) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection

791 (78)(b):

792 (i) if committed by an individual who is 18 years old or older:

793 (A) chronic abuse;

794 (B) severe abuse;

795 (C) sexual abuse;

796 (D) sexual exploitation;

797 (E) abandonment;

798 (F) chronic neglect; or

799 (G) severe neglect; or

800 (ii) if committed by an individual who is under 18 years old:

801 (A) causing serious physical injury, as defined in Subsection 76-5-109(1), to

802 another child that indicates a significant risk to other children; or

803 (B) sexual behavior with or upon another child that indicates a significant risk to

804 other children.

805 (b) "Severe type of child abuse or neglect" does not include:

806 (i) the use of reasonable and necessary physical restraint by an educator in

807 accordance with Subsection 53G-8-302(2) or Section 76-2-401;

808 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the

809 use of reasonable and necessary physical restraint or force in self-defense or

- 810 otherwise appropriate to the circumstances to obtain possession of a weapon or  
811 other dangerous object in the possession or under the control of a child or to  
812 protect the child or another individual from physical injury; or
- 813 (iii) a health care decision made for a child by a child's parent or guardian, unless,  
814 subject to Subsection (78)(c), the state or other party to the proceeding shows, by  
815 clear and convincing evidence, that the health care decision is not reasonable and  
816 informed.
- 817 (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the  
818 right to obtain a second health care opinion.
- 819 (79) "Sexual abuse" means:
- 820 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an  
821 adult directed towards a child;
- 822 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation  
823 committed by a child towards another child if:
- 824 (i) there is an indication of force or coercion;
- 825 (ii) the children are related, as described in Subsection (39), including siblings by  
826 marriage while the marriage exists or by adoption;
- 827 (iii) there have been repeated incidents of sexual contact between the two children,  
828 unless the children are 14 years old or older; or
- 829 (iv) there is a disparity in chronological age of four or more years between the two  
830 children;
- 831 (c) engaging in any conduct with a child that would constitute an offense under any of  
832 the following, regardless of whether the individual who engages in the conduct is  
833 actually charged with, or convicted of, the offense:
- 834 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the  
835 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
- 836 (ii) child bigamy, Section 76-7-101.5;
- 837 (iii) incest, Section 76-7-102;
- 838 (iv) lewdness, Section 76-9-702;
- 839 (v) sexual battery, Section 76-9-702.1;
- 840 (vi) lewdness involving a child, Section 76-9-702.5; or
- 841 (vii) voyeurism, Section 76-9-702.7; or
- 842 (d) subjecting a child to participate in or threatening to subject a child to participate in a  
843 sexual relationship, regardless of whether that sexual relationship is part of a legal or

- 844 cultural marriage.
- 845 (80) "Sexual exploitation" means knowingly:
- 846 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 847 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 848 (ii) engage in any sexual or simulated sexual conduct for the purpose of
- 849 photographing, filming, recording, or displaying in any way the sexual or
- 850 simulated sexual conduct;
- 851 (b) displaying, distributing, possessing for the purpose of distribution, or selling material
- 852 depicting a child:
- 853 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 854 (ii) engaging in sexual or simulated sexual conduct; or
- 855 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
- 856 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual
- 857 exploitation of a minor, regardless of whether the individual who engages in the
- 858 conduct is actually charged with, or convicted of, the offense.
- 859 (81) "Shelter" means the temporary care of a child in a physically unrestricted facility
- 860 pending a disposition or transfer to another jurisdiction.
- 861 (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 862 (83) "Significant risk" means a risk of harm that is determined to be significant in
- 863 accordance with risk assessment tools and rules established by the Division of Child and
- 864 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative
- 865 Rulemaking Act, that focus on:
- 866 (a) age;
- 867 (b) social factors;
- 868 (c) emotional factors;
- 869 (d) sexual factors;
- 870 (e) intellectual factors;
- 871 (f) family risk factors; and
- 872 (g) other related considerations.
- 873 (84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- 874 (85) "Status offense" means an offense that would not be an offense but for the age of the
- 875 offender.
- 876 (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or
- 877 excessive use of alcohol or other drugs or substances.

- 878 (87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance  
879 of the evidence, and separate consideration of each allegation made or identified in the  
880 case, that abuse, neglect, or dependency occurred .
- 881 (88) "Substitute care" means:
- 882 (a) the placement of a minor in a family home, group care facility, or other placement  
883 outside the minor's own home, either at the request of a parent or other responsible  
884 relative, or upon court order, when it is determined that continuation of care in the  
885 minor's own home would be contrary to the minor's welfare;
- 886 (b) services provided for a minor in the protective custody of the Division of Child and  
887 Family Services, or a minor in the temporary custody or custody of the Division of  
888 Child and Family Services, as those terms are defined in Section 80-2-102; or
- 889 (c) the licensing and supervision of a substitute care facility.
- 890 (89) "Supported" means a finding by the Division of Child and Family Services based on  
891 the evidence available at the completion of an investigation, and separate consideration  
892 of each allegation made or identified during the investigation, that there is a reasonable  
893 basis to conclude that abuse, neglect, or dependency occurred.
- 894 (90) "Termination of parental rights" means the permanent elimination of all parental rights  
895 and duties, including residual parental rights and duties, by court order.
- 896 (91) "Therapist" means:
- 897 (a) an individual employed by a state division or agency for the purpose of conducting  
898 psychological treatment and counseling of a minor in the division's or agency's  
899 custody; or
- 900 (b) any other individual licensed or approved by the state for the purpose of conducting  
901 psychological treatment and counseling.
- 902 (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that  
903 the child is at an unreasonable risk of harm or neglect.
- 904 (93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:
- 905 (a) results in behavior that is beyond the control or ability of the child, or the parent or  
906 guardian, to manage effectively;
- 907 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
- 908 (c) results in the situations described in Subsections (93)(a) and (b).
- 909 (94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to  
910 conclude that abuse, neglect, or dependency occurred.
- 911 (95) "Unsupported" means a finding by the Division of Child and Family Services at the

912 completion of an investigation, after the day on which the Division of Child and Family  
 913 Services concludes the alleged abuse, neglect, or dependency is not without merit, that  
 914 there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

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

917 (97) "Without merit" means a finding at the completion of an investigation by the Division  
 918 of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or  
 919 dependency did not occur, or that the alleged perpetrator was not responsible for the  
 920 abuse, neglect, or dependency.

921 (98) "Youth offender" means an individual who is:

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

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

925 Section 7. Section **80-5-202** is amended to read:

926 **80-5-202 . Division rulemaking authority -- Reports on sexual assault.**

927 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 928 division shall make rules to:

929 (a) establish standards for the admission of a minor to detention;

930 (b) describe good behavior for which credit may be earned under Subsection [~~80-6-704~~  
 931 ~~(4)~~] 80-6-704(5);

932 (c) establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to  
 933 calculate savings from General Fund appropriations under 2017 Laws of Utah,  
 934 Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders  
 935 with the division;

936 (d) establish policies and procedures regarding sexual assaults that occur in detention  
 937 and secure care facilities; and

938 (e) establish the qualifications and conditions for services provided by the division under  
 939 Section 80-6-809.

940 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 941 division may make rules:

942 (a) that govern the operation of prevention and early intervention programs, youth  
 943 service programs, juvenile receiving centers, and other programs described in Section  
 944 80-5-401; and

945 (b) that govern the operation of detention and secure care facilities.



- 946 (3) A rule made by the division under Subsection (1)(a):
- 947 (a) may not permit secure detention based solely on the existence of multiple status
- 948 offenses, misdemeanors, or infractions arising out of a single criminal episode; and
- 949 (b) shall prioritize use of home detention for a minor who might otherwise be held in
- 950 secure detention.
- 951 (4) The rules described in Subsection (1)(d) shall:
- 952 (a) require education and training, including:
- 953 (i) providing to minors detained in secure care and detention facilities, at intake and
- 954 periodically, easy-to-understand information, which is developed and approved by
- 955 the division, on sexual assault prevention, treatment, reporting, and counseling in
- 956 consultation with community groups with expertise in sexual assault prevention,
- 957 treatment, reporting, and counseling; and
- 958 (ii) providing training specific to sexual assault to division mental health
- 959 professionals and all division employees who have direct contact with minors
- 960 regarding treatment and methods of prevention and investigation;
- 961 (b) require reporting of any incident of sexual assault, including:
- 962 (i) ensuring the confidentiality of sexual assault reports from minors and the
- 963 protection of minors who report sexual assault; and
- 964 (ii) prohibiting retaliation and disincentives for reporting sexual assault;
- 965 (c) require safety and care for minors who report sexual assault, including:
- 966 (i) providing, in situations in which there is reason to believe that a sexual assault has
- 967 occurred, reasonable and appropriate measures to ensure the minor's safety by
- 968 separating the minor from the minor's assailant, if known;
- 969 (ii) providing acute trauma care for minors who report sexual assault, including
- 970 treatment of injuries, HIV prophylaxis measures, and testing for sexually
- 971 transmitted infections;
- 972 (iii) providing confidential mental health counseling for minors who report sexual
- 973 assault, including:
- 974 (A) access to outside community groups or victim advocates that have expertise in
- 975 sexual assault counseling; and
- 976 (B) enabling confidential communication between minors and community groups
- 977 and victim advocates; and
- 978 (iv) monitoring minors who report sexual assault for suicidal impulses,
- 979 post-traumatic stress disorder, depression, and other mental health consequences

- 980 resulting from the sexual assault;
- 981 (d) require staff reporting of sexual assault and staff discipline for failure to report or for  
982 violating sexual assault policies, including:
- 983 (i) requiring all division employees to report any knowledge, suspicion, or  
984 information regarding an incident of sexual assault to the director or the director's  
985 designee;
- 986 (ii) requiring disciplinary action for a division employee who fails to report as  
987 required; and
- 988 (iii) requiring division employees to be subject to disciplinary sanctions up to and  
989 including termination for violating agency sexual assault policies, with  
990 termination the presumptive disciplinary sanction for division employees who  
991 have engaged in sexual assault, consistent with constitutional due process  
992 protections and state personnel laws and rules;
- 993 (e) require that any report of an incident of sexual assault be referred to the Division of  
994 Child and Family Services or a law enforcement agency with jurisdiction over the  
995 detention or secure care facility in which the alleged sexual assault occurred; and
- 996 (f) require data collection and reporting of all incidents of sexual assault from each  
997 detention and secure care facility.
- 998 (5) The division shall annually report the data described in Section (4)(f) to the Law  
999 Enforcement and Criminal Justice Interim Committee.

1000 Section 8. Section **80-5-304** is enacted to read:

1001 **80-5-304 . Income and finances for minors in the custody of the division.**

- 1002 (1) If a minor is committed to the custody of the division, the division may establish:
- 1003 (a) an account for the minor that is administered by the division; or
- 1004 (b) a joint account for the minor and the division at a federally insured financial  
1005 institution.
- 1006 (2) The division may:
- 1007 (a) collect funds earned or received by a minor; and
- 1008 (b) place the funds earned or received by the minor into an account described in  
1009 Subsection (1).
- 1010 (3) The division may:
- 1011 (a) only use funds placed in an account described in Subsection (1) for the minor,  
1012 including using the funds to pay restitution, reparations, fines, alimony, support  
1013 payments, cost of care, or similar court-ordered payments owed by the minor; and

1014 (b) provide the minor with any funds remaining in an account described in Subsection  
1015 (1) upon the minor's transition and termination from the custody of the division.

1016 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1017 division shall make rules to establish the administration of accounts and finances for  
1018 minors in the custody of the division.

1019 Section 9. Section **80-6-205** is amended to read:

1020 **80-6-205 . Admission to detention -- Alternative to detention -- Rights of a minor**  
1021 **in detention.**

1022 (1) If a minor is taken to a detention facility under Section 80-6-203, a designated staff  
1023 member of the detention facility shall immediately review the form and determine,  
1024 based on the results of the detention risk assessment tool and Subsection (2), whether to:

1025 (a) admit the minor to secure detention;

1026 (b) admit the minor to home detention;

1027 (c) place the minor in [~~another~~] an alternative to detention, except that the staff member  
1028 may not place the minor in a correctional facility that is intended to hold adults  
1029 accused or convicted of offenses as an alternative to detention; or

1030 (d) if the minor is a child, return the minor home upon a written promise by the minor's  
1031 parent, guardian, or custodian to bring the minor to the juvenile court at a time set or  
1032 without restriction.

1033 (2) [~~A minor may not be admitted to detention~~] The designated staff member may not admit  
1034 a minor to detention under Subsection (1) unless:

1035 (a) the minor is detainable based on the detention guidelines; or

1036 (b) the minor has been brought to detention in accordance with:

1037 (i) a court order;

1038 (ii) a warrant [~~in accordance with~~] described in Section 80-6-202; or

1039 (iii) a division warrant [~~in accordance with~~] described in Section 80-6-806.

1040 (3) If the designated staff member determines to admit a minor to home detention, the staff  
1041 member shall notify the juvenile court of that determination.

1042 (4) Even if a minor is eligible for secure detention, a peace officer or other person who  
1043 takes a minor to a detention facility, or the designated staff member of the detention  
1044 facility, may release a minor to a less restrictive alternative than secure detention.

1045 (5) (a) If a minor taken to a detention facility does not qualify for admission under  
1046 detention guidelines or this section, a designated staff member of the detention  
1047 facility shall arrange an appropriate alternative, including admitting a minor to a

- 1048 juvenile receiving center or a shelter facility.
- 1049 (b) (i) Except as otherwise provided by this section, a minor may not be placed or  
 1050 kept in secure detention while court proceedings are pending.
- 1051 (ii) A child may not be placed or kept in a shelter facility while court proceedings are  
 1052 pending, unless the child is in protective custody in accordance with Chapter 3,  
 1053 Abuse, Neglect, and Dependency Proceedings.
- 1054 (6) If a minor is taken into temporary custody and admitted to a secure detention, or another  
 1055 alternative to detention, a designated staff member of the detention facility shall:
- 1056 (a) immediately notify the minor's parent, guardian, or custodian; and  
 1057 (b) promptly notify the juvenile court of the placement.
- 1058 (7) If a minor is admitted to secure detention, or another alternative to detention, outside the  
 1059 county of the minor's residence and a juvenile court determines, in a detention hearing,  
 1060 that secure detention, or an alternative to detention, of the minor shall continue, the  
 1061 juvenile court shall direct the sheriff of the county of the minor's residence to transport  
 1062 the minor to secure detention or another alternative to detention in that county.
- 1063 (8) (a) Subject to Subsection (8)(b), a minor admitted to detention has a right to:
- 1064 (i) phone the minor's parent, guardian, or attorney immediately after the minor is  
 1065 admitted to detention; and  
 1066 (ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or  
 1067 custodian.
- 1068 (b) The division may:
- 1069 (i) establish a schedule for which a minor in detention may visit or phone a person  
 1070 described in Subsection (8)(a);  
 1071 (ii) allow a minor in detention to visit or call persons described in Subsection (8)(a)  
 1072 in special circumstances;  
 1073 (iii) limit the number and length of calls and visits for a minor in detention to persons  
 1074 described in Subsection (8)(a) on account of scheduling, facility, or personnel  
 1075 constraints; or  
 1076 (iv) limit the minor's rights [~~under~~] described in Subsection (8)(a) if a compelling  
 1077 reason exists to limit the minor's rights.
- 1078 (c) A minor admitted to detention shall be immediately advised of the minor's rights  
 1079 described in this Subsection (8).

1080 Section 10. Section **80-6-608** is amended to read:

1081 **80-6-608 . When photographs, fingerprints, or HIV infection tests may be taken**

1082 -- **Distribution -- DNA collection -- Reimbursement.**

- 1083 (1) The division shall take a photograph and fingerprints of a minor who is:
- 1084 (a) 14 years old or older at the time of the alleged commission of an offense that would
- 1085 be a felony if the minor were 18 years old or older; and
- 1086 (b) admitted to a detention facility for the alleged commission of the offense.
- 1087 (2) The juvenile court shall order a minor who is 14 years old or older at the time that the
- 1088 minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to
- 1089 have the minor's fingerprints taken at a detention facility or a local law enforcement
- 1090 agency if the minor is:
- 1091 (a) adjudicated for an offense that would be a class A misdemeanor if the minor were 18
- 1092 years old or older; or
- 1093 (b) adjudicated for an offense that would be a felony if the minor were 18 years old or
- 1094 older and the minor was not admitted to a detention facility.
- 1095 (3) The juvenile court shall take a photograph of a minor who is:
- 1096 (a) 14 years old or older at the time the minor was alleged to have committed an offense
- 1097 that would be a felony or a class A misdemeanor if the minor were 18 years old or
- 1098 older; and
- 1099 (b) adjudicated for the offense described in Subsection (3)(a).
- 1100 (4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall be
- 1101 forwarded to the Bureau of Criminal Identification and may be stored by electronic
- 1102 medium.
- 1103 (5) HIV testing shall be conducted on a minor who is taken into custody after having been
- 1104 adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon
- 1105 the request of:
- 1106 (a) the victim;
- 1107 (b) the parent or guardian of a victim who is younger than 14 years old; or
- 1108 (c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in
- 1109 Section 26B-6-201.
- 1110 (6) HIV testing shall be conducted on a minor against whom a petition has been filed or a
- 1111 pickup order has been issued for the commission of any offense under Title 76, Chapter
- 1112 5, Part 4, Sexual Offenses:
- 1113 (a) upon the request of:
- 1114 (i) the victim;
- 1115 (ii) the parent or guardian of a victim who is younger than 14 years old; or

- 1116 (iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in  
1117 Section 26B-6-201; and
- 1118 (b) in which:
- 1119 (i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any  
1120 other order based upon probable cause regarding the alleged offense; and
- 1121 (ii) the juvenile court has found probable cause to believe that the alleged victim has  
1122 been exposed to HIV infection as a result of the alleged offense.
- 1123 (7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger  
1124 than 14 years old without the consent of the juvenile court.
- 1125 (8) (a) Photographs taken under this section may be distributed or disbursed to:
- 1126 (i) state and local law enforcement agencies;
- 1127 (ii) the judiciary; and
- 1128 (iii) the division.
- 1129 (b) Fingerprints may be distributed or disbursed to:
- 1130 (i) state and local law enforcement agencies;
- 1131 (ii) the judiciary;
- 1132 (iii) the division; and
- 1133 (iv) agencies participating in the Western Identification Network.
- 1134 (9) (a) A DNA specimen shall be obtained from a minor who is [~~under the jurisdiction of~~  
1135 ~~the juvenile court as described in Subsection 53-10-403(3)~~] adjudicated by the  
1136 juvenile court as described in Subsection 53-10-403(1)(e).
- 1137 (b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4),  
1138 by:
- 1139 (i) designated employees of the juvenile court; or
- 1140 (ii) if the minor is committed to the division, designated employees of the division.
- 1141 (c) The responsible agency under Subsection (9)(b) shall ensure that an employee  
1142 designated to collect the saliva DNA specimens receives appropriate training and that  
1143 the specimens are obtained in accordance with accepted protocol.
- 1144 (d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA  
1145 Specimen Restricted Account created in Section 53-10-407.
- 1146 (e) Payment of the reimbursement is second in priority to payments the minor is ordered  
1147 to make for restitution under Section 80-6-710 and for treatment ordered under  
1148 Section 80-3-403.
- 1149 Section 11. Section **80-6-704** is amended to read:

1150 **80-6-704 . Detention or alternative to detention -- Limitations.**

- 1151 (1) (a) The juvenile court may order a minor to detention, or an alternative to detention,  
 1152 if the minor is adjudicated for:
- 1153 (i) an offense under Section 80-6-701; or  
 1154 (ii) contempt of court under Section 78A-6-353.
- 1155 (b) Except as provided in Subsection [~~78A-6-353(3)~~] 78A-6-353(4), and subject to the  
 1156 juvenile court retaining continuing jurisdiction over a minor's case, the juvenile court  
 1157 may order a minor to detention, or an alternative to detention, under Subsection [~~(1)~~]  
 1158 (1)(a) for a period not to exceed 30 cumulative days for an adjudication.
- 1159 (c) If a minor is held in detention before an adjudication, the time spent in detention  
 1160 before the adjudication shall be credited toward the 30 cumulative days eligible as a  
 1161 disposition under Subsection [~~(1)(a)~~] (1)(b).
- 1162 (d) If a minor spent more than 30 days in detention before a disposition[~~under~~  
 1163 ~~Subsection (1)~~], the juvenile court may not order the minor to detention under this  
 1164 section.
- 1165 (2) An order for detention under Subsection (1) may not be suspended upon conditions  
 1166 ordered by the juvenile court.
- 1167 (3) A juvenile court may not order a minor to detention for:
- 1168 (a) contempt of court, except to the extent permitted under Section 78A-6-353;  
 1169 (b) a violation of probation;  
 1170 (c) failure to pay a fine, fee, restitution, or other financial obligation;  
 1171 (d) unfinished compensatory or community service hours;  
 1172 (e) an infraction; or  
 1173 (f) a status offense.
- 1174 (4) A juvenile court may not order a minor be placed in a correctional facility that is  
 1175 intended to hold adults accused or convicted of offenses as an alternative to detention  
 1176 under Subsection (1).
- 1177 [~~(4)~~] (5) (a) If a minor is held in detention under this section, the minor is eligible to  
 1178 receive credit for good behavior against the period of detention.
- 1179 (b) The rate of credit is one day of credit for good behavior for every three days spent in  
 1180 detention.
- 1181 [~~(5)~~] (6) (a) A minor may not be held in secure detention following a disposition by the  
 1182 juvenile court:
- 1183 (i) under Chapter 3, Abuse, Neglect, and Dependency Proceedings; or

- 1184 (ii) except as provided in Subsection [~~(5)(b)~~] (6)(b), for a community-based program.
- 1185 (b) If a minor is awaiting placement by the division under Section 80-6-703, a minor
- 1186 may not be held in secure detention for longer than 72 hours, excluding weekends
- 1187 and holidays.
- 1188 (c) The period of detention under Subsection [~~(5)(b)~~] (6)(b) may be extended by the
- 1189 juvenile court for a cumulative total of seven calendar days if:
- 1190 (i) the division, or another agency responsible for placement, files a written petition
- 1191 with the juvenile court requesting the extension and setting forth good cause; and
- 1192 (ii) the juvenile court enters a written finding that it is in the best interests of both the
- 1193 minor and the community to extend the period of detention.
- 1194 (d) The juvenile court may extend the period of detention beyond the seven calendar
- 1195 days if the juvenile court finds, by clear and convincing evidence, that:
- 1196 (i) the division, or another agency responsible for placement, does not have space for
- 1197 the minor; and
- 1198 (ii) the safety of the minor and community requires an extension of the period of
- 1199 detention.
- 1200 (e) The division, or the agency with custody of the minor, shall report to the juvenile
- 1201 court every 48 hours, excluding weekends and holidays, regarding whether the
- 1202 division, or another agency responsible for placement, has space for the minor.
- 1203 (f) The division, or agency, requesting an extension shall promptly notify the detention
- 1204 facility that a written petition has been filed.
- 1205 (g) The juvenile court shall promptly notify the detention facility regarding the juvenile
- 1206 court's initial disposition and any ruling on a petition for an extension, whether
- 1207 granted or denied.

1208 Section 12. Section **80-6-1006.1** is amended to read:

1209 **80-6-1006.1 . Exceptions to expungement order -- Distribution of expungement**  
 1210 **order -- Agency duties -- Effect of expungement -- Access to expunged record.**

- 1211 (1) This section applies to an expungement order under Section 80-6-1004.1, 80-6-1004.2,
- 1212 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.
- 1213 (2) The juvenile court may not order:
- 1214 (a) the Board of Pardons and Parole and the Department of Corrections to seal a record
- 1215 in the possession of the Board of Pardons and Parole or the Department of
- 1216 Corrections, except that the juvenile court may order the Board of Pardons and Parole
- 1217 and the Department of Corrections to restrict access to a record if the record is



- 1218 specifically identified in the expungement order as a record in the possession of the  
1219 Board of Pardons and Parole or the Department of Corrections; or
- 1220 (b) the Division of Child and Family Services to expunge a record in an individual's  
1221 juvenile record that is contained in the Management Information System or the  
1222 Licensing Information System unless:
- 1223 (i) the record is unsupported; or
- 1224 (ii) after notice and an opportunity to be heard, the Division of Child and Family  
1225 Services stipulates in writing to expunging the record.
- 1226 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a  
1227 copy of the expungement order to any affected agency or official identified in the  
1228 juvenile record.
- 1229 (b) An individual who is the subject of an expungement order may deliver copies of the  
1230 expungement order to all agencies and officials affected by the expungement order.
- 1231 (4) (a) Upon receipt of an expungement order, an agency shall:
- 1232 (i) to avoid destruction or expungement of records in whole or in part, expunge only  
1233 the references to the individual's name in the records relating to the individual's  
1234 adjudication, nonjudicial adjustment, petition, arrest, investigation, or detention  
1235 for which expungement is ordered; and
- 1236 (ii) destroy all photographs and records created under Section 80-6-608, except that a  
1237 record of a minor's fingerprints may not be destroyed by an agency.
- 1238 (b) ~~[An agency that]~~ Within 60 days after the day on which an agency receives a copy of  
1239 an expungement order, the agency shall mail an affidavit to the individual who is the  
1240 subject of the expungement order, or the individual's attorney, that the agency has  
1241 complied with the expungement order.
- 1242 (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the Department of  
1243 Corrections:
- 1244 (a) may not disclose records expunged in an expungement order unless required by law;
- 1245 (b) are not required to destroy any photograph or record created under Section 80-6-608;
- 1246 (c) may use an expunged record for purposes related to incarceration and supervision of  
1247 an individual under the jurisdiction of the Board of Pardons and Parole, including for  
1248 the purpose of making decisions about:
- 1249 (i) the treatment and programming of the individual;
- 1250 (ii) housing of the individual;
- 1251 (iii) applicable guidelines regarding the individual; or

- 1252 (iv) supervision conditions for the individual;
- 1253 (d) are not prohibited from disclosing or sharing any information in an expunged record
- 1254 with another agency that uses the same record management system as the Board of
- 1255 Pardons and Parole or the Department of Corrections; and
- 1256 (e) are not required to mail an affidavit under Subsection (4)(b).
- 1257 (6) Upon entry of an expungement order:
- 1258 (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a
- 1259 detention for which the record is expunged is considered to have never occurred; and
- 1260 (b) the individual, who is the subject of the expungement order, may reply to an inquiry
- 1261 on the matter as though there never was an adjudication, a nonjudicial adjustment, a
- 1262 petition, an arrest, an investigation, or a detention.
- 1263 (7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4,
- 1264 or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject of the
- 1265 record.

1266 Section 13. **Effective date.**

1267 This bill takes effect on May 1, 2024.