

**JUVENILE JUSTICE AMENDMENTS**

2021 FIRST SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: Todd D. Weiler

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**LONG TITLE**

**General Description:**

This bill amends provisions related to juvenile justice.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that certain offenses are not subject to the presumptive time periods for termination and parole supervision for juvenile offenders;
- ▶ amends definitions related to minors who are adjudicated for certain kidnap or sexual offenses;
- ▶ requires that a minor who is under the jurisdiction of the district court for an offense be held in a juvenile detention facility;
- ▶ requires a minor who is committed to prison by the district court be provisionally housed with the Division of Juvenile Justice Services until the minor is 21 years old; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

29 AMENDS:

30 **62A-7-404.5 (Superseded 09/01/21)**, as enacted by Laws of Utah 2020, Chapter 214

31 **77-41-102**, as last amended by Laws of Utah 2020, Chapter 108

32 **78A-6-105 (Superseded 09/01/21)**, as last amended by Laws of Utah 2021, Chapter

33 231

34 **78A-6-703.1 (Superseded 09/01/21)**, as enacted by Laws of Utah 2020, Chapter 214

35 **78A-6-703.2 (Superseded 09/01/21)**, as enacted by Laws of Utah 2020, Chapter 214

36 **78A-6-703.5 (Superseded 09/01/21)**, as enacted by Laws of Utah 2020, Chapter 214

37 **78A-6-703.6 (Superseded 09/01/21)**, as enacted by Laws of Utah 2020, Chapter 214

38 **78A-6-705 (Superseded 09/01/21)**, as last amended by Laws of Utah 2020, Chapter

39 214

40 **80-1-102 (Effective 09/01/21)**, as last amended by Laws of Utah 2021, Chapter 231 and

41 renumbered and amended by Laws of Utah 2021, Chapter 261

42 **80-6-501 (Effective 09/01/21)**, as renumbered and amended by Laws of Utah 2021,

43 Chapter 261

44 **80-6-502 (Effective 09/01/21)**, as renumbered and amended by Laws of Utah 2021,

45 Chapter 261

46 **80-6-504 (Effective 09/01/21)**, as renumbered and amended by Laws of Utah 2021,

47 Chapter 261

48 **80-6-505 (Effective 09/01/21)**, as renumbered and amended by Laws of Utah 2021,

49 Chapter 261

50 **80-6-507 (Effective 09/01/21)**, as renumbered and amended by Laws of Utah 2021,

51 Chapter 261

52 **80-6-804 (Effective 09/01/21)**, as renumbered and amended by Laws of Utah 2021,

53 Chapter 261

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

56 Section 1. Section **62A-7-404.5 (Superseded 09/01/21)** is amended to read:

57 **62A-7-404.5 (Superseded 09/01/21). Review and termination of commitment.**

58 (1) If a juvenile offender has been committed to a secure facility, the juvenile offender  
59 shall appear before the authority within 45 days after the day on which the juvenile offender is  
60 committed to a secure facility for review of a treatment plan and to establish parole release  
61 guidelines.

62 (2) (a) If a juvenile offender is committed to a secure facility, the authority shall set a  
63 presumptive term of commitment for the juvenile offender that does not exceed three to six  
64 months.

65 (b) The authority shall release the juvenile offender on parole at the end of the  
66 presumptive term of commitment unless at least one the following circumstances exists:

- 67 (i) termination would interrupt the completion of a necessary treatment program; or
- 68 (ii) the juvenile offender commits a new misdemeanor or felony offense.

69 (c) The authority shall determine whether a juvenile offender has completed a program  
70 under Subsection (2)(b)(i) by considering the recommendations of the licensed service  
71 provider, the juvenile offender's consistent attendance record, and the juvenile offender's  
72 completion of the goals of the necessary treatment program.

73 (d) The authority may extend the length of commitment and delay parole release for the  
74 time needed to address the specific circumstance if one of the circumstances under Subsection  
75 (2)(b) exists.

76 (e) The authority shall:

- 77 (i) record the length of the extension and the grounds for the extension; and
- 78 (ii) report annually the length and grounds of extension to the commission.

79 (3) (a) If a juvenile offender is committed to a secure facility, the authority shall set a  
80 presumptive term of parole supervision that does not exceed three to four months.

81 (b) If the authority determines that a juvenile offender is unable to return home  
82 immediately upon release, the juvenile offender may serve the term of parole in the home of a

83 qualifying relative or guardian or at an independent living program contracted or operated by  
84 the division.

85 (c) The authority shall release a juvenile offender from parole and terminate  
86 jurisdiction at the end of the presumptive term of parole, unless at least one the following  
87 circumstances exists:

- 88 (i) termination would interrupt the completion of a necessary treatment program;
- 89 (ii) the juvenile offender commits a new misdemeanor or felony offense; or
- 90 (iii) restitution has not been completed.

91 (d) The authority shall determine whether a juvenile offender has completed a program  
92 under Subsection (2)(c) by considering the recommendations of the licensed service provider,  
93 the juvenile offender's consistent attendance record, and the juvenile offender's completion of  
94 the goals of the necessary treatment program.

95 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay  
96 parole release only for the time needed to address the specific circumstance.

97 (f) The authority shall:

- 98 (i) record the grounds for extension of the presumptive length of parole and the length  
99 of the extension; and
- 100 (ii) report annually the extension and the length of the extension to the commission.

101 (g) In the event of an unauthorized leave lasting more than 24 hours, the term of parole  
102 shall toll until the juvenile offender returns.

103 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to a secure  
104 facility for ~~[a felony violation of]~~:

- 105 (a) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;
- 106 (b) Section [76-5-202](#), aggravated murder or attempted aggravated murder;
- 107 (c) Section [76-5-203](#), murder or attempted murder;
- 108 (d) Section [76-5-205](#), manslaughter;
- 109 (e) Section [76-5-206](#), negligent homicide;

- 110            (f) Section 76-5-207, automobile homicide;
- 111            (g) Section 76-5-207.5, automobile homicide involving a handheld wireless
- 112 communication device;
- 113            (h) Section 76-5-208, child abuse homicide;
- 114            (i) Section 76-5-209, homicide by assault;
- 115            ~~[(d)]~~ (j) Section 76-5-302, aggravated kidnapping;
- 116            ~~[(e)]~~ (k) Section 76-5-405, aggravated sexual assault;
- 117            ~~[(f)]~~ (l) a felony violation of Section 76-6-103, aggravated arson;
- 118            ~~[(g)]~~ (m) Section 76-6-203, aggravated burglary;
- 119            ~~[(h)]~~ (n) Section 76-6-302, aggravated robbery;
- 120            ~~[(i)]~~ (o) Section 76-10-508.1, felony discharge of a firearm;
- 121            ~~[(j) an offense other than an offense listed in Subsections (4)(a) through (i) involving~~
- 122 ~~the use of a dangerous weapon;]~~
- 123            ~~[(i) if the offense would be a felony had an adult committed the offense; and]~~
- 124            ~~[(ii) the juvenile offender has been previously adjudicated or convicted of an offense~~
- 125 ~~involving the use of a dangerous weapon that would have been a felony had an adult committed~~
- 126 ~~the offense; or]~~
- 127            (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)
- 128 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and
- 129            (ii) the juvenile offender has been previously adjudicated or convicted of an offense
- 130 involving the use of a dangerous weapon, as defined in Section 76-1-601; or
- 131            ~~[(k)]~~ (q) an offense other than an offense listed in Subsections (4)(a) through [(j)] (p)
- 132 and the [minor] juvenile offender has been previously committed to the custody of the Division
- 133 of Juvenile Justice Services for secure confinement.
- 134            (5) (a) The division may continue to have responsibility over a juvenile offender, who
- 135 is discharged under this section from parole, to participate in a specific educational or
- 136 rehabilitative program:

137 (i) until the juvenile offender is:  
138 (A) if the juvenile offender is a youth offender, 21 years old; or  
139 (B) if the juvenile offender is a serious youth offender, 25 years old; and  
140 (ii) under an agreement by the division and the juvenile offender that the program has  
141 certain conditions.

142 (b) The division and the juvenile offender may terminate participation in a program  
143 under Subsection (5)(a) at any time.

144 (c) The division shall offer an educational or rehabilitative program before a juvenile  
145 offender's discharge date in accordance with this section.

146 (d) A juvenile offender may request the services described in this Subsection (5), even  
147 if the offender has been previously declined services or services were terminated for  
148 noncompliance.

149 (e) Notwithstanding Subsection (5)(c), the division:

150 (i) shall consider a request by a juvenile offender under Subsection (5)(d) for the  
151 services described in this Subsection (5) for up to 365 days after the juvenile offender's  
152 effective date of discharge, even if the juvenile offender has previously declined services or  
153 services were terminated for noncompliance; and

154 (ii) may reach an agreement with the juvenile offender to provide the services  
155 described in this Subsection (5) until the juvenile offender is:

156 (A) if the juvenile offender is a youth offender, 21 years old; or

157 (B) if the juvenile offender is a serious youth offender, 25 years old.

158 (f) The division and the juvenile offender may terminate an agreement for services  
159 under this Subsection (5) at any time.

160 Section 2. Section **77-41-102** is amended to read:

161 **77-41-102. Definitions.**

162 As used in this chapter:

163 (1) "Bureau" means the Bureau of Criminal Identification of the Department of Public

164 Safety established in section 53-10-201.

165 (2) "Business day" means a day on which state offices are open for regular business.

166 (3) "Certificate of eligibility" means a document issued by the Bureau of Criminal  
167 Identification showing that the offender has met the requirements of Section 77-41-112.

168 (4) "Department" means the Department of Corrections.

169 (5) "Division" means the Division of Juvenile Justice Services.

170 (6) "Employed" or "carries on a vocation" includes employment that is full time or part  
171 time, whether financially compensated, volunteered, or for the purpose of government or  
172 educational benefit.

173 (7) "Indian Country" means:

174 (a) all land within the limits of any Indian reservation under the jurisdiction of the  
175 United States government, regardless of the issuance of any patent, and includes rights-of-way  
176 running through the reservation;

177 (b) all dependent Indian communities within the borders of the United States whether  
178 within the original or subsequently acquired territory, and whether or not within the limits of a  
179 state; and

180 (c) all Indian allotments, including the Indian allotments to which the Indian titles have  
181 not been extinguished, including rights-of-way running through the allotments.

182 (8) "Jurisdiction" means any state, Indian Country, United States Territory, or any  
183 property under the jurisdiction of the United States military, Canada, the United Kingdom,  
184 Australia, or New Zealand.

185 (9) "Kidnap offender" means any individual, other than a natural parent of the victim  
186 [~~who~~]:

187 (a) who has been convicted in this state of a violation of:

188 (i) Subsection 76-5-301(1)(c) or (d), kidnapping;

189 (ii) Section 76-5-301.1, child kidnapping;

190 (iii) Section 76-5-302, aggravated kidnapping;

- 191 (iv) Section 76-5-308, human trafficking for labor and human smuggling;
- 192 (v) Section 76-5-308, human smuggling, when the individual smuggled is under 18
- 193 years ~~[of age]~~ old;
- 194 (vi) Section 76-5-308.5, human trafficking of a child for labor;
- 195 (vii) Section 76-5-310, aggravated human trafficking and aggravated human
- 196 smuggling, on or after May 10, 2011;
- 197 (viii) Section 76-5-311, human trafficking of a vulnerable adult for labor; or
- 198 (ix) attempting, soliciting, or conspiring to commit any felony offense listed in
- 199 Subsections (9)(a)(i) through (iii);
- 200 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy
- 201 to commit a crime in another jurisdiction, including any state, federal, or military court that is
- 202 substantially equivalent to the offenses listed in Subsection (9)(a); and
- 203 (ii) who is:
- 204 ~~[(i)]~~ (A) a Utah resident; or
- 205 ~~[(ii)]~~ (B) not a Utah resident, but who, in any 12-month period, is in this state for a
- 206 total of 10 or more days, regardless of whether or not the offender intends to permanently
- 207 reside in this state;
- 208 (c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of
- 209 original conviction[;];
- 210 (B) who is required to register as a kidnap offender by any state, federal, or military
- 211 court[;]; or
- 212 (C) who would be required to register as a kidnap offender if residing in the
- 213 jurisdiction of the conviction regardless of the date of the conviction or any previous
- 214 registration requirements; and
- 215 (ii) in any 12-month period, who is in this state for a total of 10 or more days,
- 216 regardless of whether or not the offender intends to permanently reside in this state;
- 217 (d) (i) (A) who is a nonresident regularly employed or working in this state[;]; or



218           (B) who is a student in this state<sup>[7]</sup>; and  
219           (ii) (A) who was convicted of one or more offenses listed in Subsection (9), or any  
220 substantially equivalent offense in another jurisdiction<sup>[7]</sup>; or  
221           (B) as a result of the conviction, who is required to register in the individual's state of  
222 residence;  
223           (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction  
224 of one or more offenses listed in Subsection (9); or  
225           (f) (i) who is adjudicated [~~delinquent based on~~] under Section 78A-6-117 for one or  
226 more offenses listed in Subsection (9)(a); and  
227           (ii) who has been committed to the division for secure confinement for that offense  
228 and:  
229           (A) the individual remains in the division's custody [~~30 days prior to~~] until 30 days  
230 before the individual's 21st birthday; or  
231           (B) if the juvenile court extended the juvenile court's jurisdiction over the individual  
232 under Section 78A-6-703.4, the individual remains in the division's custody until 30 days  
233 before the individual's 25th birthday.  
234           (10) "Natural parent" means a minor's biological or adoptive parent, and includes the  
235 minor's noncustodial parent.  
236           (11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender  
237 as defined in Subsection (17).  
238           (12) "Online identifier" or "Internet identifier":  
239           (a) means any electronic mail, chat, instant messenger, social networking, or similar  
240 name used for Internet communication; and  
241           (b) does not include date of birth, social security number, PIN number, or Internet  
242 passwords.  
243           (13) "Primary residence" means the location where the offender regularly resides, even  
244 if the offender intends to move to another location or return to another location at any future

245 date.

246 (14) "Register" means to comply with the requirements of this chapter and  
247 administrative rules of the department made under this chapter.

248 (15) "Registration website" means the Sex and Kidnap Offender Notification and  
249 Registration website described in Section 77-41-110 and the information on the website.

250 (16) "Secondary residence" means any real property that the offender owns or has a  
251 financial interest in, or any location where, in any 12-month period, the offender stays  
252 overnight a total of 10 or more nights when not staying at the offender's primary residence.

253 (17) "Sex offender" means any individual:

254 (a) convicted in this state of:

255 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

256 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10,  
257 2011;

258 (iii) Section 76-5-308, human trafficking for sexual exploitation;

259 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

260 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

261 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

262 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in  
263 Subsection 76-5-401(3)(b) or (c);

264 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection  
265 76-5-401.1(3);

266 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

267 (x) Section 76-5-402, rape;

268 (xi) Section 76-5-402.1, rape of a child;

269 (xii) Section 76-5-402.2, object rape;

270 (xiii) Section 76-5-402.3, object rape of a child;

271 (xiv) a felony violation of Section 76-5-403, forcible sodomy;

- 272 (xv) Section 76-5-403.1, sodomy on a child;
- 273 (xvi) Section 76-5-404, forcible sexual abuse;
- 274 (xvii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a  
275 child;
- 276 (xviii) Section 76-5-405, aggravated sexual assault;
- 277 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is  
278 younger than 18 years ~~[of age]~~ old, if the offense is committed on or after May 10, 2011;
- 279 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 280 (xxi) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 281 (xxii) Section 76-7-102, incest;
- 282 (xxiii) Section 76-9-702, lewdness, if the individual has been convicted of the offense  
283 four or more times;
- 284 (xxiv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the  
285 offense four or more times;
- 286 (xxv) any combination of convictions of Section 76-9-702, lewdness, and of Section  
287 76-9-702.1, sexual battery, that total four or more convictions;
- 288 (xxvi) Section 76-9-702.5, lewdness involving a child;
- 289 (xxvii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 290 (xxviii) Section 76-10-1306, aggravated exploitation of prostitution; or
- 291 (xxix) attempting, soliciting, or conspiring to commit any felony offense listed in this  
292 Subsection (17)(a);
- 293 (b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy  
294 to commit a crime in another jurisdiction, including any state, federal, or military court that is  
295 substantially equivalent to the offenses listed in Subsection (17)(a); and
- 296 (ii) who is:
- 297 ~~[(†)]~~ (A) a Utah resident; or
- 298 ~~[(††)]~~ (B) not a Utah resident, but who, in any 12-month period, is in this state for a

299 total of 10 or more days, regardless of whether the offender intends to permanently reside in  
300 this state;

301 (c) (i) (A) who is required to register as a sex offender in any other jurisdiction of  
302 original conviction[;];

303 (B) who is required to register as a sex offender by any state, federal, or military  
304 court[;]; or

305 (C) who would be required to register as a sex offender if residing in the jurisdiction of  
306 the original conviction regardless of the date of the conviction or any previous registration  
307 requirements; and

308 (ii) who, in any 12-month period, is in the state for a total of 10 or more days,  
309 regardless of whether or not the offender intends to permanently reside in this state;

310 (d) (i) (A) who is a nonresident regularly employed or working in this state;₂

311 (B) who is a student in this state; and

312 (ii) (A) who was convicted of one or more offenses listed in Subsection (17)(a), or any  
313 substantially equivalent offense in any jurisdiction[;]; or

314 (B) who is, as a result of the conviction, [~~is~~] required to register in the individual's  
315 jurisdiction of residence;

316 (e) who is found not guilty by reason of insanity in this state, or in any other  
317 jurisdiction of one or more offenses listed in Subsection (17)(a); or

318 (f) (i) who is adjudicated [~~delinquent based on~~] under Section 78A-6-117 for one or  
319 more offenses listed in Subsection (17)(a);₂ and

320 (ii) who has been committed to the division for secure confinement for that offense  
321 and;

322 (A) the individual remains in the division's custody [~~30 days prior to~~] until 30 days  
323 before the individual's 21st birthday; or

324 (B) if the juvenile court extended the juvenile court's jurisdiction over the individual  
325 under Section 78A-6-703.4, the individual remains in the division's custody until 30 days

326 before the individual's 25th birthday.

327 (18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5,  
328 Driving Under the Influence and Reckless Driving.

329 (19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in  
330 any jurisdiction.

331 Section 3. Section **78A-6-105 (Superseded 09/01/21)** is amended to read:

332 **78A-6-105 (Superseded 09/01/21). Definitions.**

333 As used in this chapter:

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

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

336 (B) threatened harm of a child;

337 (C) sexual exploitation;

338 (D) sexual abuse; or

339 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or

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

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

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

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

347 (b) "Abuse" does not include:

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

349 (ii) conduct described in Section [76-2-401](#); or

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

351 (A) in self-defense;

352 (B) in defense of others;

- 353 (C) to protect the child; or
- 354 (D) to remove a weapon in the possession of a child for any of the reasons described in
- 355 Subsections (1)(b)(iii)(A) through (C).
- 356 (2) "Abused child" means a child who has been subjected to abuse.
- 357 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the
- 358 facts alleged in the petition have been proved.
- 359 (b) "Adjudication" does not mean a finding of not competent to proceed in accordance
- 360 with Section [78A-6-1302](#).
- 361 (4) (a) "Adult" means an individual who is 18 years old or older.
- 362 (b) "Adult" does not include an individual:
- 363 (i) who is 18 years old or older; and
- 364 (ii) whose case is under the continuing jurisdiction of the juvenile court in accordance
- 365 with Section [78A-6-120](#).
- 366 (5) "Board" means the Board of Juvenile Court Judges.
- 367 (6) "Child" means an individual who is under 18 years old.
- 368 (7) "Child placement agency" means:
- 369 (a) a private agency licensed to receive a child for placement or adoption under this
- 370 code; or
- 371 (b) a private agency that receives a child for placement or adoption in another state,
- 372 which agency is licensed or approved where such license or approval is required by law.
- 373 (8) "Clandestine laboratory operation" means the same as that term is defined in
- 374 Section [58-37d-3](#).
- 375 (9) "Commit" means, unless specified otherwise:
- 376 (a) with respect to a child, to transfer legal custody; and
- 377 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 378 (10) "Court" means the juvenile court.
- 379 (11) "Criminogenic risk factors" means evidence-based factors that are associated with

380 a minor's likelihood of reoffending.

381 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if  
382 committed by an adult.

383 (13) "Department" means the Department of Human Services created in Section  
384 62A-1-102.

385 (14) "Dependent child" includes a child who is homeless or without proper care  
386 through no fault of the child's parent, guardian, or custodian.

387 (15) "Deprivation of custody" means transfer of legal custody by the court from a  
388 parent or the parents or a previous legal custodian to another person, agency, or institution.

389 (16) "Detention" means home detention and secure detention as defined in Section  
390 62A-7-101 for the temporary care of a minor who requires secure custody in a physically  
391 restricting facility:

392 (a) pending court disposition or transfer to another jurisdiction; or

393 (b) while the minor's case is under the continuing jurisdiction of the court.

394 (17) "Detention risk assessment tool" means an evidence-based tool established under  
395 Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in  
396 court or reoffending pre-adjudication and designed to assist in making detention  
397 determinations.

398 (18) "Developmental immaturity" means incomplete development in one or more  
399 domains which manifests as a functional limitation in the minor's present ability to consult with  
400 counsel with a reasonable degree of rational understanding and have a rational as well as  
401 factual understanding of the proceedings.

402 (19) "Division" means the Division of Child and Family Services.

403 (20) "Educational neglect" means that, after receiving a notice of compulsory education  
404 violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to  
405 ensure that the child receives an appropriate education.

406 (21) "Educational series" means an evidence-based instructional series:

- 407 (a) obtained at a substance abuse program that is approved by the Division of  
408 Substance Abuse and Mental Health in accordance with Section [62A-15-105](#); and
- 409 (b) designed to prevent substance use or the onset of a mental health disorder.
- 410 (22) "Evidence-based" means a program or practice that has had multiple randomized  
411 control studies or a meta-analysis demonstrating that the program or practice is effective for a  
412 specific population or has been rated as effective by a standardized program evaluation tool.
- 413 (23) "Forensic evaluator" means the same as that term is defined in Section [77-15-2](#).
- 414 (24) "Formal probation" means a minor is under field supervision by the probation  
415 department or other agency designated by the court and subject to return to the court in  
416 accordance with Section [78A-6-123](#) on and after July 1, 2018.
- 417 (25) "Formal referral" means a written report from a peace officer or other person  
418 informing the court that a minor is, or appears to be, within the court's jurisdiction and that the  
419 minor's case must be reviewed by the court's probation department or a prosecuting attorney.
- 420 (26) "Group rehabilitation therapy" means psychological and social counseling of one  
421 or more individuals in the group, depending upon the recommendation of the therapist.
- 422 (27) "Guardianship of the person" includes the authority to consent to:
- 423 (a) marriage;
- 424 (b) enlistment in the armed forces;
- 425 (c) major medical, surgical, or psychiatric treatment; or
- 426 (d) legal custody, if legal custody is not vested in another individual, agency, or  
427 institution.
- 428 (28) "Habitual truant" means the same as that term is defined in Section [53G-6-201](#).
- 429 (29) "Harm" means:
- 430 (a) physical or developmental injury or damage;
- 431 (b) emotional damage that results in a serious impairment in the child's growth,  
432 development, behavior, or psychological functioning;
- 433 (c) sexual abuse; or



434 (d) sexual exploitation.

435 (30) (a) "Incest" means engaging in sexual intercourse with an individual whom the  
436 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,  
437 nephew, niece, or first cousin.

438 (b) The relationships described in Subsection (30)(a) include:

439 (i) blood relationships of the whole or half blood, without regard to legitimacy;

440 (ii) relationships of parent and child by adoption; and

441 (iii) relationships of stepparent and stepchild while the marriage creating the  
442 relationship of a stepparent and stepchild exists.

443 (31) "Intake probation" means a period of court monitoring that does not include field  
444 supervision, but is overseen by a juvenile probation officer, during which a minor is subject to  
445 return to the court in accordance with Section [78A-6-123](#) on and after July 1, 2018.

446 (32) "Intellectual disability" means a significant subaverage general intellectual  
447 functioning existing concurrently with deficits in adaptive behavior that constitutes a  
448 substantial limitation to the individual's ability to function in society.

449 (33) "Legal custody" means a relationship embodying the following rights and duties:

450 (a) the right to physical custody of the minor;

451 (b) the right and duty to protect, train, and discipline the minor;

452 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary  
453 medical care;

454 (d) the right to determine where and with whom the minor shall live; and

455 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

456 (34) "Material loss" means an uninsured:

457 (a) property loss;

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

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

- 461 (d) medical expense.
- 462 (35) "Mental illness" means:
- 463 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,  
464 behavioral, or related functioning; or
- 465 (b) the same as that term is defined in:
- 466 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders  
467 published by the American Psychiatric Association; or
- 468 (ii) the current edition of the International Statistical Classification of Diseases and  
469 Related Health Problems.
- 470 (36) "Minor" means, except as provided in Section [78A-6-703.1](#):
- 471 (a) for the purpose of juvenile delinquency:
- 472 (i) a child; or
- 473 (ii) an individual:
- 474 (A) who is at least 18 years old and younger than 25 years old; and
- 475 (B) whose case is under the jurisdiction of the juvenile court; and
- 476 (b) for all other purposes in this chapter:
- 477 (i) a child; or
- 478 (ii) an individual:
- 479 (A) who is at least 18 years old and younger than 21 years old; and
- 480 (B) whose case is under the jurisdiction of the juvenile court.
- 481 (37) "Mobile crisis outreach team" means a crisis intervention service for a minor or  
482 the family of a minor experiencing a behavioral health or psychiatric emergency.
- 483 (38) "Molestation" means that an individual, with the intent to arouse or gratify the  
484 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,  
485 or the breast of a female child, or takes indecent liberties with a child as defined in Section  
486 [76-5-416](#).
- 487 (39) (a) "Natural parent" means a minor's biological or adoptive parent.

- 488 (b) "Natural parent" includes the minor's noncustodial parent.
- 489 (40) (a) "Neglect" means action or inaction causing:
- 490 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
- 491 Relinquishment of a Newborn Child;
- 492 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
- 493 guardian, or custodian;
- 494 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
- 495 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or
- 496 well-being;
- 497 (iv) a child to be at risk of being neglected or abused because another child in the same
- 498 home is neglected or abused;
- 499 (v) abandonment of a child through an unregulated custody transfer; or
- 500 (vi) educational neglect.
- 501 (b) "Neglect" does not include:
- 502 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
- 503 reason, does not provide specified medical treatment for a child;
- 504 (ii) a health care decision made for a child by the child's parent or guardian, unless the
- 505 state or other party to a proceeding shows, by clear and convincing evidence, that the health
- 506 care decision is not reasonable and informed;
- 507 (iii) a parent or guardian exercising the right described in Section [78A-6-301.5](#); or
- 508 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
- 509 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,
- 510 including:
- 511 (A) traveling to and from school, including by walking, running, or bicycling;
- 512 (B) traveling to and from nearby commercial or recreational facilities;
- 513 (C) engaging in outdoor play;
- 514 (D) remaining in a vehicle unattended, except under the conditions described in

515 Subsection [76-10-2202](#)(2);

516 (E) remaining at home unattended; or

517 (F) engaging in a similar independent activity.

518 (41) "Neglected child" means a child who has been subjected to neglect.

519 (42) "Nonjudicial adjustment" means closure of the case by the assigned probation

520 officer without judicial determination upon the consent in writing of:

521 (a) the assigned probation officer; and

522 (b) (i) the minor; or

523 (ii) the minor and the minor's parent, legal guardian, or custodian.

524 (43) "Not competent to proceed" means that a minor, due to a mental illness,

525 intellectual disability or related condition, or developmental immaturity, lacks the ability to:

526 (a) understand the nature of the proceedings against the minor or of the potential

527 disposition for the offense charged; or

528 (b) consult with counsel and participate in the proceedings against the minor with a

529 reasonable degree of rational understanding.

530 (44) "Physical abuse" means abuse that results in physical injury or damage to a child.

531 (45) "Probation" means a legal status created by court order following an adjudication

532 on the ground of a violation of law or under Section [78A-6-103](#), whereby the minor is

533 permitted to remain in the minor's home under prescribed conditions.

534 (46) "Prosecuting attorney" means:

535 (a) the attorney general and any assistant attorney general;

536 (b) any district attorney or deputy district attorney;

537 (c) any county attorney or assistant county attorney; and

538 (d) any other attorney authorized to commence an action on behalf of the state.

539 (47) "Protective supervision" means a legal status created by court order following an

540 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to

541 remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or

542 dependency is provided by the probation department or other agency designated by the court.

543 (48) (a) "Related condition" means a condition that:

544 (i) is found to be closely related to intellectual disability;

545 (ii) results in impairment of general intellectual functioning or adaptive behavior

546 similar to that of an intellectually disabled individual;

547 (iii) is likely to continue indefinitely; and

548 (iv) constitutes a substantial limitation to the individual's ability to function in society.

549 (b) "Related condition" does not include mental illness, psychiatric impairment, or

550 serious emotional or behavioral disturbance.

551 (49) (a) "Residual parental rights and duties" means those rights and duties remaining

552 with the parent after legal custody or guardianship, or both, have been vested in another person

553 or agency, including:

554 (i) the responsibility for support;

555 (ii) the right to consent to adoption;

556 (iii) the right to determine the child's religious affiliation; and

557 (iv) the right to reasonable parent-time unless restricted by the court.

558 (b) If no guardian has been appointed, "residual parental rights and duties" includes the

559 right to consent to:

560 (i) marriage;

561 (ii) enlistment; and

562 (iii) major medical, surgical, or psychiatric treatment.

563 (50) "Secure facility" means any facility operated by or under contract with the

564 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for

565 youth offenders committed to the division for custody and rehabilitation in accordance with

566 Subsection [78A-6-117\(2\)\(d\)](#).

567 (51) "Severe abuse" means abuse that causes or threatens to cause serious harm to a

568 child.

569 (52) "Severe neglect" means neglect that causes or threatens to cause serious harm to a  
570 child.

571 (53) "Sexual abuse" means:

572 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an  
573 adult directed towards a child;

574 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation  
575 committed by a child towards another child if:

576 (i) there is an indication of force or coercion;

577 (ii) the children are related, as described in Subsection (30), including siblings by  
578 marriage while the marriage exists or by adoption;

579 (iii) there have been repeated incidents of sexual contact between the two children,  
580 unless the children are 14 years old or older; or

581 (iv) there is a disparity in chronological age of four or more years between the two  
582 children;

583 (c) engaging in any conduct with a child that would constitute an offense under any of  
584 the following, regardless of whether the individual who engages in the conduct is actually  
585 charged with, or convicted of, the offense:

586 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the  
587 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

588 (ii) child bigamy, Section 76-7-101.5;

589 (iii) incest, Section 76-7-102;

590 (iv) lewdness, Section 76-9-702;

591 (v) sexual battery, Section 76-9-702.1;

592 (vi) lewdness involving a child, Section 76-9-702.5; or

593 (vii) voyeurism, Section 76-9-702.7; or

594 (d) subjecting a child to participate in or threatening to subject a child to participate in  
595 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural

596 marriage.

597 (54) "Sexual exploitation" means knowingly:

598 (a) employing, using, persuading, inducing, enticing, or coercing any child to:

599 (i) pose in the nude for the purpose of sexual arousal of any individual; or

600 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,  
601 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

602 (b) displaying, distributing, possessing for the purpose of distribution, or selling  
603 material depicting a child:

604 (i) in the nude, for the purpose of sexual arousal of any individual; or

605 (ii) engaging in sexual or simulated sexual conduct; or

606 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,  
607 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct  
608 is actually charged with, or convicted of, the offense.

609 (55) "Shelter" means the temporary care of a child in a physically unrestricted facility  
610 pending court disposition or transfer to another jurisdiction.

611 (56) "Single criminal episode" means the same as that term is defined in Section  
612 76-1-401.

613 (57) "Status offense" means a violation of the law that would not be a violation but for  
614 the age of the offender.

615 (58) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or  
616 substances.

617 (59) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

618 (60) "Supported" means the same as that term is defined in Section 62A-4a-101.

619 (61) "Termination of parental rights" means the permanent elimination of all parental  
620 rights and duties, including residual parental rights and duties, by court order.

621 (62) "Therapist" means:

622 (a) an individual employed by a state division or agency for the purpose of conducting

623 psychological treatment and counseling of a minor in its custody; or

624 (b) any other individual licensed or approved by the state for the purpose of conducting  
625 psychological treatment and counseling.

626 (63) "Threatened harm" means actions, inactions, or credible verbal threats, indicating  
627 that the child is at an unreasonable risk of harm or neglect.

628 (64) "Unregulated custody transfer" means the placement of a child:

629 (a) with an individual who is not the child's parent, step-parent, grandparent, adult  
630 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with  
631 whom the child is familiar, or a member of the child's federally recognized tribe;

632 (b) with the intent of severing the child's existing parent-child or guardian-child  
633 relationship; and

634 (c) without taking:

635 (i) reasonable steps to ensure the safety of the child and permanency of the placement;  
636 and

637 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or  
638 guardianship to the individual taking custody of the child.

639 (65) "Unsupported" means the same as that term is defined in Section [62A-4a-101](#).

640 (66) "Unsubstantiated" means the same as that term is defined in Section [62A-4a-101](#).

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

643 (68) (a) "Victim" means a person that the court determines has suffered a material loss  
644 as a result of a minor's wrongful act or conduct.

645 (b) "Victim" includes the Utah Office for Victims of Crime.

646 (69) "Without merit" means the same as that term is defined in Section [62A-4a-101](#).

647 Section 4. Section **78A-6-703.1 (Superseded 09/01/21)** is amended to read:

648 **78A-6-703.1 (Superseded 09/01/21). Definitions.**

649 As used in this part:



650           (1) "Minor" means:

651           (a) an individual:

652           (i) who is at least 18 years old and younger than 25 years old; and

653           (ii) whose case is under the continuing jurisdiction of the juvenile court; or

654           (b) an individual:

655           (i) who is younger than 21 years old;

656           (ii) who is charged with, or convicted of, an offense under Section [78A-6-703.2](#) or

657 [78A-6-703.3](#); and

658           (iii) whose case is under the jurisdiction of the district court.

659           ~~[(1)]~~ (2) "Qualifying offense" means an offense described in Subsection

660 [78A-6-703.3](#)(1) or (2)(b).

661           ~~[(2)]~~ (3) "Separate offense" means any offense that is not a qualifying offense.

662           Section 5. Section **78A-6-703.2 (Superseded 09/01/21)** is amended to read:

663           **78A-6-703.2 (Superseded 09/01/21). Criminal information for a minor in district**

664 **court.**

665           (1) If a prosecuting attorney charges a minor with aggravated murder under Section

666 [76-5-202](#) or murder under Section [76-5-203](#), the prosecuting attorney shall file a criminal

667 information in the district court if the minor was the principal actor in an offense and the

668 criminal information alleges:

669           (a) the minor was 16 or 17 years old at the time of the offense; and

670           (b) the offense for which the minor is being charged is:

671           (i) Section [76-5-202](#), aggravated murder; or

672           (ii) Section [76-5-203](#), murder.

673           (2) If the prosecuting attorney files a criminal information in the district court in

674 accordance with Subsection (1), the district court shall try the minor as an adult, except:

675           (a) the minor is not subject to a sentence of death in accordance with Subsection

676 [76-3-206](#)(2)(b); and

677 (b) the minor is not subject to a sentence of life without parole in accordance with  
678 Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

679 (3) (a) Except for a minor who is subject to the authority of the Board of Pardons and  
680 Parole, a minor shall be held in a juvenile detention facility [~~until the district court determines~~  
681 ~~where the minor will be held until the time of trial if:~~].

682 [~~(a) the minor is 16 or 17 years old; and]~~

683 [~~(b) the minor is arrested for aggravated murder or murder.]~~

684 [~~(4) In considering where a minor will be detained until the time of trial, the district~~  
685 ~~court shall consider:]~~

686 [~~(a) the age of the minor;]~~

687 [~~(b) the nature, seriousness, and circumstances of the alleged offense;]~~

688 [~~(c) the minor's history of prior criminal acts;]~~

689 [~~(d) whether detention in a juvenile detention facility will adequately serve the need for~~  
690 ~~community protection pending the outcome of any criminal proceedings;]~~

691 [~~(e) the relative ability of the facility to meet the needs of the minor and protect the~~  
692 ~~public;]~~

693 [~~(f) the physical maturity of the minor;]~~

694 [~~(g) the current mental state of the minor as evidenced by relevant mental health or a~~  
695 ~~psychological assessment or screening that is made available to the court; and]~~

696 [~~(h) any other factors that the court considers relevant.]~~

697 [(5)] (b) A minor [~~ordered to a juvenile detention facility under Subsection (4)] held in  
698 a juvenile detention facility under Subsection (3)(a) shall remain in the juvenile detention  
699 facility:~~

700 [(a)] (i) until released by the district court; or

701 [(b)] (ii) if convicted, until sentencing.

702 [(6)] (4) If a minor is held in a juvenile detention facility under Subsection [(4)] (3)(a),  
703 the court shall:

704 (a) advise the minor of the right to bail; and  
705 (b) set initial bail in accordance with Title 77, Chapter 20, Bail.  
706 [(7)] (5) If [~~the minor ordered to~~] a minor held in a juvenile detention facility under  
707 Subsection [(4)] (3)(a) attains the age of [~~18~~] 21 years old, the minor shall be transferred within  
708 30 days to an adult jail until:  
709 (a) released by the district court judge; or  
710 (b) if convicted, sentencing.  
711 [(8)] (6) If a minor is [~~ordered to~~] held in a juvenile detention facility under Subsection  
712 [(4)] (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the  
713 juvenile detention facility, the court may find that the minor shall be detained in another place  
714 of confinement considered appropriate by the court, including a jail or an adult facility for  
715 pretrial confinement.  
716 [(9)] (7) If a minor is charged for aggravated murder or murder in the district court  
717 under this section, and all charges for aggravated murder or murder result in an acquittal, a  
718 finding of not guilty, or a dismissal:  
719 (a) the juvenile court gains jurisdiction over all other offenses committed by the minor;  
720 and  
721 (b) the Division of Juvenile Justice Services gains jurisdiction over the minor.  
722 Section 6. Section **78A-6-703.5 (Superseded 09/01/21)** is amended to read:  
723 **78A-6-703.5 (Superseded 09/01/21). Preliminary hearing.**  
724 (1) If a prosecuting attorney files a criminal information in accordance with Section  
725 **78A-6-703.3**, the court shall conduct a preliminary hearing to determine whether a minor  
726 should be bound over to the district court for a qualifying offense.  
727 (2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have  
728 the burden of establishing:  
729 (a) probable cause to believe that a qualifying offense was committed and the minor  
730 committed that offense; and

731 (b) by a preponderance of the evidence, that it is contrary to the best interests of the  
732 minor and the public for the juvenile court to retain jurisdiction over the offense.

733 (3) In making a determination under Subsection (2)(b), the court shall consider and  
734 make findings on:

735 (a) the seriousness of the qualifying offense and whether the protection of the  
736 community requires that the minor is detained beyond the amount of time allowed under  
737 Subsection 78A-6-117(2)(h), or beyond the age of continuing jurisdiction that the court may  
738 exercise under Section 78A-6-703.4;

739 (b) the extent to which the minor's actions in the qualifying offense were committed in  
740 an aggressive, violent, premeditated, or willful manner;

741 (c) the minor's mental, physical, educational, trauma, and social history;

742 (d) the criminal record or history of the minor; and

743 (e) the likelihood of the minor's rehabilitation by the use of services and facilities that  
744 are available to the court.

745 (4) The amount of weight that each factor in Subsection (3) is given is in the court's  
746 discretion.

747 (5) (a) The court may consider any written report or other material that relates to the  
748 minor's mental, physical, educational, trauma, and social history.

749 (b) Upon request by the minor, the minor's parent, guardian, or other interested party,  
750 the court shall require the person preparing the report, or other material, under Subsection  
751 (5)(a) to appear and be subject to direct and cross-examination.

752 (6) At the preliminary hearing under Subsection (1), a minor may testify under oath,  
753 call witnesses, cross-examine witnesses, and present evidence on the factors described in  
754 Subsection (3).

755 (7) (a) A proceeding before the court related to a charge filed under this part shall be  
756 conducted in conformity with the Utah Rules of Juvenile Procedure.

757 (b) Title 78B, Chapter 22, Indigent Defense Act, and Section 78A-6-115 are applicable

758 to the preliminary hearing under this section.

759 (8) If the court finds that the prosecuting attorney has met the burden of proof under  
760 Subsection (2), the court shall bind the minor over to the district court to be held for trial.

761 (9) (a) If the court finds that a qualifying offense has been committed by a minor, but  
762 the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the court  
763 shall:

764 (i) proceed upon the criminal information as if the information were a petition under  
765 Section [78A-6-602.5](#);

766 (ii) release or detain the minor in accordance with Section [78A-6-113](#); and

767 (iii) proceed with an adjudication for the minor in accordance with this chapter.

768 (b) If the court finds that the prosecuting attorney has not met the burden under  
769 Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a  
770 motion to extend the court's continuing jurisdiction over the minor's case until the minor is 25  
771 years old in accordance with Section [78A-6-703.4](#).

772 (10) (a) A prosecuting attorney may charge a minor with a separate offense in the same  
773 criminal information as the qualifying offense if the qualifying offense and separate offense  
774 arise from a single criminal episode.

775 (b) If the prosecuting attorney charges a minor with a separate offense as described in  
776 Subsection (10)(a):

777 (i) the prosecuting attorney shall have the burden of establishing probable cause to  
778 believe that the separate offense was committed and the minor committed the separate offense;  
779 and

780 (ii) if the prosecuting attorney establishes probable cause for the separate offense under  
781 Subsection (10)(b)(i) and the court binds the minor over to the district court for the qualifying  
782 offense, the court shall also bind the minor over for the separate offense to the district court.

783 (11) If a grand jury indicts a minor for a qualifying offense:

784 (a) the prosecuting attorney does not need to establish probable cause under Subsection

785 (2)(a) for the qualifying offense and any separate offense included in the indictment; and  
786 (b) the court shall proceed with determining whether the minor should be bound over  
787 to the district court for the qualifying offense and any separate offense included in the  
788 indictment in accordance with Subsections (2)(b) and (3).

789 (12) If a minor is bound over to the district court, the court shall:

790 (a) issue a criminal warrant of arrest for the minor to be held in a juvenile detention  
791 facility;

792 (b) advise the minor of the right to bail; and

793 (c) set initial bail in accordance with Title 77, Chapter 20, Bail.

794 ~~[(13) (a) At the time that a minor is bound over to the district court, the court shall~~  
795 ~~make an initial determination on where the minor is held until the time of trial.]~~

796 ~~[(b) In determining where a minor is held until the time of trial, the court shall~~  
797 ~~consider:]~~

798 ~~[(i) the age of the minor;]~~

799 ~~[(ii) the minor's history of prior criminal acts;]~~

800 ~~[(iii) whether detention in a juvenile detention facility will adequately serve the need~~  
801 ~~for community protection pending the outcome of any criminal proceedings;]~~

802 ~~[(iv) the relative ability of the facility to meet the needs of the minor and protect the~~  
803 ~~public;]~~

804 ~~[(v) the physical maturity of the minor;]~~

805 ~~[(vi) the current mental state of the minor as evidenced by relevant mental health or~~  
806 ~~psychological assessments or screenings that are made available to the court; and]~~

807 ~~[(vii) any other factors that the court considers relevant.]~~

808 ~~[(14) If the court orders a minor to be detained in a juvenile detention facility under~~  
809 ~~Subsection (13), the minor shall remain in the facility:]~~

810 (13) If the court orders a minor to be detained until the time of trial:

811 (a) the minor shall be held in a juvenile detention facility, except that a minor who is

812 subject to the authority of the Board of Pardons and Parole may not be held in a juvenile  
813 detention facility; and

814 (b) the minor shall remain in the juvenile detention facility:

815 ~~[(a)]~~ (i) until released by a district court; or

816 ~~[(b)]~~ (ii) if convicted, until sentencing.

817 ~~[(15)]~~ (14) If ~~[the court orders the minor to be detained]~~ a minor is held in a juvenile  
818 detention facility under Subsection (13) and the minor attains the age of ~~[18]~~ 21 years old while  
819 detained at ~~[the]~~ a juvenile detention facility, the minor shall be transferred within 30 days to  
820 an adult jail to remain:

821 (a) until released by the district court; or

822 (b) if convicted, until sentencing.

823 ~~[(16)]~~ (15) Except as provided in Subsection ~~[(17)]~~ (16) and Section 78A-6-705, if a  
824 minor is bound over to the district court under this section, the jurisdiction of the Division of  
825 Juvenile Justice Services and the juvenile court over the minor is terminated for the qualifying  
826 offense and any other separate offense for which the minor is bound over.

827 ~~[(17)]~~ (16) If a minor is bound over to the district court for a qualifying offense and the  
828 qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:

829 (a) the juvenile court regains jurisdiction over any separate offense committed by the  
830 minor; and

831 (b) the Division of Juvenile Justice Services regains jurisdiction over the minor.

832 Section 7. Section 78A-6-703.6 (Superseded 09/01/21) is amended to read:

833 **78A-6-703.6 (Superseded 09/01/21). Criminal proceedings for a minor bound**  
834 **over to district court.**

835 (1) If the juvenile court binds a minor over to the district court in accordance with  
836 Section 78A-6-703.5, the prosecuting attorney shall try the minor as if the minor is an adult in  
837 the district court except:

838 (a) the minor is not subject to a sentence of death in accordance with Subsection

839 76-3-206(2)(b); and

840 (b) the minor is not subject to a sentence of life without parole in accordance with  
841 Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

842 (2) A minor who is bound over to the district court to answer as an adult is not entitled  
843 to a preliminary hearing in the district court.

844 ~~[(3)(a) If a minor is bound over to the district court by the juvenile court, the district  
845 court may reconsider the juvenile court's decision under Subsection 78A-6-703.5(13) as to  
846 where the minor is being held until trial.]~~

847 ~~[(b) If the district court reconsiders the juvenile court's decision as to where the minor  
848 is held, the district court shall consider and make findings on:]~~

849 ~~[(i) the age of the minor;]~~

850 ~~[(ii) the minor's history of prior criminal acts;]~~

851 ~~[(iii) whether detention in a juvenile detention facility will adequately serve the need  
852 for community protection pending the outcome of any criminal proceedings;]~~

853 ~~[(iv) the relative ability of the facility to meet the needs of the minor and protect the  
854 public;]~~

855 ~~[(v) the physical maturity of the minor;]~~

856 ~~[(vi) the current mental state of the minor as evidenced by relevant mental health or  
857 psychological assessments or screenings that are made available to the court; and]~~

858 ~~[(vii) any other factors the court considers relevant.]~~

859 ~~[(4) A minor who is ordered to a juvenile detention facility under Subsection (3) shall  
860 remain in the facility:]~~

861 ~~[(a) until released by a district court; or]~~

862 ~~[(b) if convicted, until sentencing.]~~

863 ~~[(5) If the district court orders the minor to be detained in a juvenile detention facility  
864 under Subsection (3) and the minor attains the age of 18 while detained at the facility, the  
865 minor shall be transferred within 30 days to an adult jail to remain:]~~



866 ~~[(a) until released by the district court; or]~~

867 ~~[(b) if convicted, until sentencing.]~~

868 ~~[(6)]~~ (3) If a minor is bound over to the district court and detained in a juvenile  
 869 detention facility, the district court may order the minor be detained in another place of  
 870 confinement that is considered appropriate by the district court, including a jail or other place  
 871 of pretrial confinement for adults if the minor's conduct or condition endangers the safety and  
 872 welfare of others in the juvenile detention facility.

873 ~~[(7)]~~ (4) If the district court obtains jurisdiction over a minor under Section  
 874 78A-6-703.5, the district court is not divested of jurisdiction for a qualifying offense or a  
 875 separate offense listed in the criminal information when the minor is allowed to enter a plea to,  
 876 or is found guilty of, another offense in the same criminal information.

877 Section 8. Section **78A-6-705 (Superseded 09/01/21)** is amended to read:

878 **78A-6-705 (Superseded 09/01/21). Youth prison commitment.**

879 ~~[(1) (a) Before sentencing a minor, who was bound over to the district court under~~  
 880 ~~Section 78A-6-703.5 to be tried as an adult, to prison the district court shall request a report~~  
 881 ~~from the Division of Juvenile Justice Services regarding the potential risk to other minors if the~~  
 882 ~~minor were to be committed to the custody of the Division of Juvenile Justice Services.]~~

883 ~~[(b) The Division of Juvenile Justice Services shall submit the requested report to the~~  
 884 ~~district court as part of the pre-sentence report or as a separate report.]~~

885 ~~[(2) If, after receiving the report described in Subsection (1);]~~ (1) When sentencing a  
 886 minor, if the district court determines that probation is not appropriate and commitment to  
 887 prison is an appropriate sentence~~;~~:

888 (a) the district court shall order the minor committed to prison; and

889 (b) the minor shall be provisionally housed in a secure facility operated by the Division  
 890 of Juvenile Justice Services until the minor reaches ~~[18]~~ 21 years old, unless released earlier  
 891 from incarceration by the Board of Pardons and Parole.

892 ~~[(3) The district court may order the minor committed directly to the custody of the~~

893 ~~Department of Corrections if the court finds that:]~~

894  ~~[(a) the minor would present an unreasonable risk to others while in the custody of the~~  
895  ~~Division of Juvenile Justice Services;]~~

896  ~~[(b) the minor has previously been committed to a prison for adult offenders; or]~~

897  ~~[(c) housing the minor in a secure facility operated by the Division of Juvenile Justice~~  
898  ~~Services would be contrary to the interests of justice.]~~

899  ~~[(4)]~~ (2) (a) The Division of Juvenile Justice Services shall adopt procedures by rule, in  
900 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the  
901 transfer of a minor provisionally housed in a division facility under Subsection ~~[(2)]~~ (1) to the  
902 physical custody of the Department of Corrections.

903 (b) If, in accordance with the rules adopted under Subsection ~~[(4)]~~ (2)(a), the Division  
904 of Juvenile Justice Services determines that housing the minor in a division facility presents an  
905 unreasonable risk to others or that it is not in the best interest of the minor, the Division of  
906 Juvenile Justice Services shall transfer the physical custody of the minor to the Department of  
907 Corrections.

908 ~~[(5)]~~ (3) (a) When a minor is committed to prison but ~~[ordered by a district court to be]~~  
909 provisionally housed in a Division of Juvenile Justice Services facility under this section, the  
910 district court and the Division of Juvenile Justice Services shall immediately notify the Board  
911 of Pardons and Parole so that the minor may be scheduled for a hearing according to board  
912 procedures.

913 (b) If a minor who is provisionally housed in a Division of Juvenile Justice Services  
914 facility under this section has not been paroled or otherwise released from incarceration by the  
915 time the minor reaches ~~[18]~~ 21 years old, the Division of Juvenile Justice Services shall as soon  
916 as reasonably possible, but not later than when the minor reaches ~~[18]~~ 21 years and 6 months  
917 old, transfer the minor to the physical custody of the Department of Corrections.

918 ~~[(6)]~~ (4) Upon the commitment of a minor to the custody of the Division of Juvenile  
919 Justice Services or the Department of Corrections under this section, the Board of Pardons and

920 Parole has authority over the minor for purposes of parole, pardon, commutation, termination  
921 of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes  
922 authorized by law.

923 [~~(7)~~] (5) The Youth Parole Authority [may] shall:

924 (a) hold hearings, receive reports, or otherwise keep informed of the progress of a  
925 minor in the custody of the Division of Juvenile Justice Services under this section; and [may]

926 (b) forward to the Board of Pardons and Parole any information or recommendations  
927 concerning the minor.

928 [~~(8)~~] (6) Commitment of a minor under this section is a prison commitment for all  
929 sentencing purposes.

930 Section 9. Section **80-1-102 (Effective 09/01/21)** is amended to read:

931 **80-1-102 (Effective 09/01/21). Juvenile code definitions.**

932 As used in this title:

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

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

935 (B) threatened harm of a child;

936 (C) sexual exploitation;

937 (D) sexual abuse; or

938 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or

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

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

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

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

946 (b) "Abuse" does not include:

- 947 (i) reasonable discipline or management of a child, including withholding privileges;  
948 (ii) conduct described in Section 76-2-401; or  
949 (iii) the use of reasonable and necessary physical restraint or force on a child:  
950 (A) in self-defense;  
951 (B) in defense of others;  
952 (C) to protect the child; or  
953 (D) to remove a weapon in the possession of a child for any of the reasons described in  
954 Subsections (1)(b)(iii)(A) through (C).
- 955 (2) "Abused child" means a child who has been subjected to abuse.
- 956 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the  
957 facts alleged in the petition have been proved.
- 958 (b) "Adjudication" does not mean a finding of not competent to proceed in accordance  
959 with Section 80-6-402.
- 960 (4) (a) "Adult" means an individual who is 18 years old or older.
- 961 (b) "Adult" does not include an individual:  
962 (i) who is 18 years old or older; and  
963 (ii) who is a minor.
- 964 (5) "Attorney guardian ad litem" means the same as that term is defined in Section  
965 78A-2-801.
- 966 (6) "Board" means the Board of Juvenile Court Judges.
- 967 (7) "Child" means an individual who is under 18 years old.
- 968 (8) "Child and family plan" means a written agreement between a child's parents or  
969 guardian and the Division of Child and Family Services as described in Section 62A-4a-205.
- 970 (9) "Child placement agency" means:  
971 (a) a private agency licensed to receive a child for placement or adoption under this  
972 code; or  
973 (b) a private agency that receives a child for placement or adoption in another state,

974 which is licensed or approved where such license or approval is required by law.

975 (10) "Clandestine laboratory operation" means the same as that term is defined in  
976 Section 58-37d-3.

977 (11) "Commit" or "committed" means, unless specified otherwise:

978 (a) with respect to a child, to transfer legal custody; and

979 (b) with respect to a minor who is at least 18 years old, to transfer custody.

980 (12) "Community-based program" means a nonsecure residential or nonresidential  
981 program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least  
982 restrictive setting, consistent with public safety, and operated by or under contract with the  
983 Division of Juvenile Justice Services.

984 (13) "Community placement" means placement of a minor in a community-based  
985 program described in Section 80-5-402.

986 (14) "Correctional facility" means:

987 (a) a county jail; or

988 (b) a secure correctional facility as defined in Section 64-13-1.

989 (15) "Criminogenic risk factors" means evidence-based factors that are associated with  
990 a minor's likelihood of reoffending.

991 (16) "Department" means the Department of Human Services created in Section  
992 62A-1-102.

993 (17) "Dependent child" or "dependency" means a child who is without proper care  
994 through no fault of the child's parent, guardian, or custodian.

995 (18) "Deprivation of custody" means transfer of legal custody by the juvenile court  
996 from a parent or a previous custodian to another person, agency, or institution.

997 (19) "Detention" means home detention or secure detention.

998 (20) "Detention risk assessment tool" means an evidence-based tool established under  
999 Section 80-5-203 that:

1000 (a) assesses a minor's risk of failing to appear in court or reoffending before

1001 adjudication; and

1002 (b) is designed to assist in making a determination of whether a minor shall be held in  
1003 detention.

1004 (21) "Developmental immaturity" means incomplete development in one or more  
1005 domains that manifests as a functional limitation in the minor's present ability to:

1006 (a) consult with counsel with a reasonable degree of rational understanding; and

1007 (b) have a rational as well as factual understanding of the proceedings.

1008 (22) "Disposition" means an order by a juvenile court, after the adjudication of a  
1009 minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

1010 (23) "Educational neglect" means that, after receiving a notice of compulsory education  
1011 violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to  
1012 ensure that the child receives an appropriate education.

1013 (24) "Educational series" means an evidence-based instructional series:

1014 (a) obtained at a substance abuse program that is approved by the Division of  
1015 Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

1016 (b) designed to prevent substance use or the onset of a mental health disorder.

1017 (25) "Emancipated" means the same as that term is defined in Section 80-7-102.

1018 (26) "Evidence-based" means a program or practice that has had multiple randomized  
1019 control studies or a meta-analysis demonstrating that the program or practice is effective for a  
1020 specific population or has been rated as effective by a standardized program evaluation tool.

1021 (27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

1022 (28) "Formal probation" means a minor is:

1023 (a) supervised in the community by, and reports to, a juvenile probation officer or an  
1024 agency designated by the juvenile court; and

1025 (b) subject to return to the juvenile court in accordance with Section 80-6-607.

1026 (29) "Group rehabilitation therapy" means psychological and social counseling of one  
1027 or more individuals in the group, depending upon the recommendation of the therapist.

1028 (30) "Guardian" means a person appointed by a court to make decisions regarding a  
1029 minor, including the authority to consent to:

1030 (a) marriage;

1031 (b) enlistment in the armed forces;

1032 (c) major medical, surgical, or psychiatric treatment; or

1033 (d) legal custody, if legal custody is not vested in another individual, agency, or  
1034 institution.

1035 (31) "Guardian ad litem" means the same as that term is defined in Section [78A-2-801](#).

1036 (32) "Harm" means:

1037 (a) physical or developmental injury or damage;

1038 (b) emotional damage that results in a serious impairment in the child's growth,  
1039 development, behavior, or psychological functioning;

1040 (c) sexual abuse; or

1041 (d) sexual exploitation.

1042 (33) "Home detention" means placement of a minor:

1043 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the  
1044 consent of the minor's parent, guardian, or custodian, under terms and conditions established by  
1045 the Division of Juvenile Justice Services or the juvenile court; or

1046 (b) if after a disposition, and in accordance with Section [78A-6-353](#) or [80-6-704](#), in the  
1047 minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or  
1048 custodian, under terms and conditions established by the Division of Juvenile Justice Services  
1049 or the juvenile court.

1050 (34) (a) "Incest" means engaging in sexual intercourse with an individual whom the  
1051 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,  
1052 nephew, niece, or first cousin.

1053 (b) "Incest" includes:

1054 (i) blood relationships of the whole or half blood, without regard to legitimacy;

- 1055 (ii) relationships of parent and child by adoption; and  
1056 (iii) relationships of stepparent and stepchild while the marriage creating the  
1057 relationship of a stepparent and stepchild exists.
- 1058 (35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.  
1059 (36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.  
1060 (37) "Indigent defense service provider" means the same as that term is defined in  
1061 Section [78B-22-102](#).
- 1062 (38) "Indigent defense services" means the same as that term is defined in Section  
1063 [78B-22-102](#).
- 1064 (39) "Indigent individual" means the same as that term is defined in Section  
1065 [78B-22-102](#).
- 1066 (40) (a) "Intake probation" means a minor is:  
1067 (i) monitored by a juvenile probation officer; and  
1068 (ii) subject to return to the juvenile court in accordance with Section [80-6-607](#).  
1069 (b) "Intake probation" does not include formal probation.
- 1070 (41) "Intellectual disability" means a significant subaverage general intellectual  
1071 functioning existing concurrently with deficits in adaptive behavior that constitutes a  
1072 substantial limitation to the individual's ability to function in society.
- 1073 (42) "Juvenile offender" means:  
1074 (a) a serious youth offender; or  
1075 (b) a youth offender.
- 1076 (43) "Juvenile probation officer" means a probation officer appointed under Section  
1077 [78A-6-205](#).
- 1078 (44) "Juvenile receiving center" means a nonsecure, nonresidential program established  
1079 by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile  
1080 Justice Services, that is responsible for minors taken into temporary custody under Section  
1081 [80-6-201](#).



- 1082 (45) "Legal custody" means a relationship embodying:  
1083 (a) the right to physical custody of the minor;  
1084 (b) the right and duty to protect, train, and discipline the minor;  
1085 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary  
1086 medical care;  
1087 (d) the right to determine where and with whom the minor shall live; and  
1088 (e) the right, in an emergency, to authorize surgery or other extraordinary care.  
1089 (46) "Mental illness" means:  
1090 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,  
1091 behavioral, or related functioning; or  
1092 (b) the same as that term is defined in:  
1093 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders  
1094 published by the American Psychiatric Association; or  
1095 (ii) the current edition of the International Statistical Classification of Diseases and  
1096 Related Health Problems.  
1097 (47) "Minor" means, except as provided in Sections [~~80-6-901~~] [80-6-501](#), [80-6-901](#),  
1098 and [80-7-102](#):  
1099 (a) a child; or  
1100 (b) an individual:  
1101 (i) (A) who is at least 18 years old and younger than 21 years old; and  
1102 (B) for whom the Division of Child and Family Services has been specifically ordered  
1103 by the juvenile court to provide services because the individual was an abused, neglected, or  
1104 dependent child or because the individual was adjudicated for an offense; or  
1105 (ii) (A) who is at least 18 years old and younger than 25 years old; and  
1106 (B) whose case is under the continuing jurisdiction of the juvenile court under Chapter  
1107 6, Juvenile Justice.  
1108 (48) "Mobile crisis outreach team" means the same as that term is defined in Section

1109 [62A-15-102](#).

1110 (49) "Molestation" means that an individual, with the intent to arouse or gratify the  
1111 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,  
1112 or the breast of a female child, or takes indecent liberties with a child as defined in Section  
1113 [76-5-416](#).

1114 (50) (a) "Natural parent" means a minor's biological or adoptive parent.

1115 (b) "Natural parent" includes the minor's noncustodial parent.

1116 (51) (a) "Neglect" means action or inaction causing:

1117 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe  
1118 Relinquishment of a Newborn Child;

1119 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,  
1120 guardian, or custodian;

1121 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary  
1122 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or  
1123 well-being;

1124 (iv) a child to be at risk of being neglected or abused because another child in the same  
1125 home is neglected or abused;

1126 (v) abandonment of a child through an unregulated custody transfer; or

1127 (vi) educational neglect.

1128 (b) "Neglect" does not include:

1129 (i) a parent or guardian legitimately practicing religious beliefs and who, for that  
1130 reason, does not provide specified medical treatment for a child;

1131 (ii) a health care decision made for a child by the child's parent or guardian, unless the  
1132 state or other party to a proceeding shows, by clear and convincing evidence, that the health  
1133 care decision is not reasonable and informed;

1134 (iii) a parent or guardian exercising the right described in Section [80-3-304](#); or

1135 (iv) permitting a child, whose basic needs are met and who is of sufficient age and

1136 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,  
1137 including:

- 1138 (A) traveling to and from school, including by walking, running, or bicycling;
- 1139 (B) traveling to and from nearby commercial or recreational facilities;
- 1140 (C) engaging in outdoor play;
- 1141 (D) remaining in a vehicle unattended, except under the conditions described in

1142 Subsection [76-10-2202\(2\)](#);

- 1143 (E) remaining at home unattended; or
- 1144 (F) engaging in a similar independent activity.

1145 (52) "Neglected child" means a child who has been subjected to neglect.

1146 (53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile  
1147 probation officer, without an adjudication of the minor's case under Section [80-6-701](#), upon the  
1148 consent in writing of:

- 1149 (a) the assigned juvenile probation officer; and
- 1150 (b) (i) the minor; or
- 1151 (ii) the minor and the minor's parent, legal guardian, or custodian.

1152 (54) "Not competent to proceed" means that a minor, due to a mental illness,  
1153 intellectual disability or related condition, or developmental immaturity, lacks the ability to:

- 1154 (a) understand the nature of the proceedings against the minor or of the potential  
1155 disposition for the offense charged; or
- 1156 (b) consult with counsel and participate in the proceedings against the minor with a  
1157 reasonable degree of rational understanding.

1158 (55) "Parole" means a conditional release of a juvenile offender from residency in  
1159 secure care to live outside of secure care under the supervision of the Division of Juvenile  
1160 Justice Services, or another person designated by the Division of Juvenile Justice Services.

1161 (56) "Physical abuse" means abuse that results in physical injury or damage to a child.

1162 (57) (a) "Probation" means a legal status created by court order, following an

1163 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's  
1164 home under prescribed conditions.

1165 (b) "Probation" includes intake probation or formal probation.

1166 (58) "Prosecuting attorney" means:

1167 (a) the attorney general and any assistant attorney general;

1168 (b) any district attorney or deputy district attorney;

1169 (c) any county attorney or assistant county attorney; and

1170 (d) any other attorney authorized to commence an action on behalf of the state.

1171 (59) "Protective custody" means the shelter of a child by the Division of Child and  
1172 Family Services from the time the child is removed from the home until the earlier of:

1173 (a) the day on which the shelter hearing is held under Section 80-3-301; or

1174 (b) the day on which the child is returned home.

1175 (60) "Protective supervision" means a legal status created by court order, following an  
1176 adjudication on the ground of abuse, neglect, or dependency, whereby:

1177 (a) the minor is permitted to remain in the minor's home; and

1178 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided  
1179 by an agency designated by the juvenile court.

1180 (61) (a) "Related condition" means a condition that:

1181 (i) is found to be closely related to intellectual disability;

1182 (ii) results in impairment of general intellectual functioning or adaptive behavior  
1183 similar to that of an intellectually disabled individual;

1184 (iii) is likely to continue indefinitely; and

1185 (iv) constitutes a substantial limitation to the individual's ability to function in society.

1186 (b) "Related condition" does not include mental illness, psychiatric impairment, or  
1187 serious emotional or behavioral disturbance.

1188 (62) (a) "Residual parental rights and duties" means the rights and duties remaining  
1189 with a parent after legal custody or guardianship, or both, have been vested in another person or

1190 agency, including:

1191 (i) the responsibility for support;

1192 (ii) the right to consent to adoption;

1193 (iii) the right to determine the child's religious affiliation; and

1194 (iv) the right to reasonable parent-time unless restricted by the court.

1195 (b) If no guardian has been appointed, "residual parental rights and duties" includes the  
1196 right to consent to:

1197 (i) marriage;

1198 (ii) enlistment; and

1199 (iii) major medical, surgical, or psychiatric treatment.

1200 (63) "Runaway" means a child, other than an emancipated child, who willfully leaves  
1201 the home of the child's parent or guardian, or the lawfully prescribed residence of the child,  
1202 without permission.

1203 (64) "Secure care" means placement of a minor, who is committed to the Division of  
1204 Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the  
1205 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the  
1206 minor.

1207 (65) "Secure care facility" means a facility, established in accordance with Section  
1208 [80-5-503](#), for juvenile offenders in secure care.

1209 (66) "Secure detention" means temporary care of a minor who requires secure custody  
1210 in a physically restricting facility operated by, or under contract with, the Division of Juvenile  
1211 Justice Services:

1212 (a) before disposition of an offense that is alleged to have been committed by the  
1213 minor; or

1214 (b) under Section [80-6-704](#).

1215 (67) "Serious youth offender" means an individual who:

1216 (a) is at least 14 years old, but under 25 years old;

1217 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction  
1218 of the juvenile court was extended over the individual's case until the individual was 25 years  
1219 old in accordance with Section 80-6-605; and

1220 (c) is committed by the juvenile court to the Division of Juvenile Justice Services for  
1221 secure care under Sections 80-6-703 and 80-6-705.

1222 (68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a  
1223 child.

1224 (69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a  
1225 child.

1226 (70) "Sexual abuse" means:

1227 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an  
1228 adult directed towards a child;

1229 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation  
1230 committed by a child towards another child if:

1231 (i) there is an indication of force or coercion;

1232 (ii) the children are related, as described in Subsection (34), including siblings by  
1233 marriage while the marriage exists or by adoption;

1234 (iii) there have been repeated incidents of sexual contact between the two children,  
1235 unless the children are 14 years old or older; or

1236 (iv) there is a disparity in chronological age of four or more years between the two  
1237 children;

1238 (c) engaging in any conduct with a child that would constitute an offense under any of  
1239 the following, regardless of whether the individual who engages in the conduct is actually  
1240 charged with, or convicted of, the offense:

1241 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the  
1242 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

1243 (ii) child bigamy, Section 76-7-101.5;

- 1244 (iii) incest, Section 76-7-102;
- 1245 (iv) lewdness, Section 76-9-702;
- 1246 (v) sexual battery, Section 76-9-702.1;
- 1247 (vi) lewdness involving a child, Section 76-9-702.5; or
- 1248 (vii) voyeurism, Section 76-9-702.7; or
- 1249 (d) subjecting a child to participate in or threatening to subject a child to participate in
- 1250 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
- 1251 marriage.
- 1252 (71) "Sexual exploitation" means knowingly:
- 1253 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 1254 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 1255 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
- 1256 filming, recording, or displaying in any way the sexual or simulated sexual conduct;
- 1257 (b) displaying, distributing, possessing for the purpose of distribution, or selling
- 1258 material depicting a child:
- 1259 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 1260 (ii) engaging in sexual or simulated sexual conduct; or
- 1261 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
- 1262 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct
- 1263 is actually charged with, or convicted of, the offense.
- 1264 (72) "Shelter" means the temporary care of a child in a physically unrestricted facility
- 1265 pending a disposition or transfer to another jurisdiction.
- 1266 (73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.
- 1267 (74) "Single criminal episode" means the same as that term is defined in Section
- 1268 76-1-401.
- 1269 (75) "Status offense" means an offense that would not be an offense but for the age of
- 1270 the offender.

1271 (76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or  
1272 substances.

1273 (77) "Substantiated" means the same as that term is defined in Section [62A-4a-101](#).

1274 (78) "Supported" means the same as that term is defined in Section [62A-4a-101](#).

1275 (79) "Termination of parental rights" means the permanent elimination of all parental  
1276 rights and duties, including residual parental rights and duties, by court order.

1277 (80) "Therapist" means:

1278 (a) an individual employed by a state division or agency for the purpose of conducting  
1279 psychological treatment and counseling of a minor in the division's or agency's custody; or

1280 (b) any other individual licensed or approved by the state for the purpose of conducting  
1281 psychological treatment and counseling.

1282 (81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating  
1283 that the child is at an unreasonable risk of harm or neglect.

1284 (82) "Ungovernable" means a child in conflict with a parent or guardian, and the  
1285 conflict:

1286 (a) results in behavior that is beyond the control or ability of the child, or the parent or  
1287 guardian, to manage effectively;

1288 (b) poses a threat to the safety or well-being of the child, the child's family, or others;

1289 or

1290 (c) results in the situations described in Subsections (82)(a) and (b).

1291 (83) "Unregulated custody transfer" means the placement of a child:

1292 (a) with an individual who is not the child's parent, step-parent, grandparent, adult  
1293 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with  
1294 whom the child is familiar, or a member of the child's federally recognized tribe;

1295 (b) with the intent of severing the child's existing parent-child or guardian-child  
1296 relationship; and

1297 (c) without taking:



1298 (i) reasonable steps to ensure the safety of the child and permanency of the placement;  
1299 and

1300 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or  
1301 guardianship to the individual taking custody of the child.

1302 (84) "Unsupported" means the same as that term is defined in Section [62A-4a-101](#).

1303 (85) "Unsubstantiated" means the same as that term is defined in Section [62A-4a-101](#).

1304 (86) "Validated risk and needs assessment" means an evidence-based tool that assesses  
1305 a minor's risk of reoffending and a minor's criminogenic needs.

1306 (87) "Without merit" means the same as that term is defined in Section [62A-4a-101](#).

1307 (88) "Youth offender" means an individual who is:

1308 (a) at least 12 years old, but under 21 years old; and

1309 (b) committed by the juvenile court to the Division of Juvenile Justice Services for  
1310 secure care under Sections [80-6-703](#) and [80-6-705](#).

1311 Section 10. Section **80-6-501 (Effective 09/01/21)** is amended to read:

1312 **80-6-501 (Effective 09/01/21). Definitions.**

1313 As used in this part:

1314 (1) "Minor" means:

1315 (a) an individual:

1316 (i) who is at least 18 years old and younger than 25 years old; and

1317 (ii) whose case is under the continuing jurisdiction of the juvenile court; or

1318 (b) an individual:

1319 (i) who is younger than 21 years old;

1320 (ii) who is charged with, or convicted of, an offense under Section [80-6-502](#) or

1321 [80-6-503](#); and

1322 (iii) whose case is under the jurisdiction of the district court.

1323 [(+)] (2) "Qualifying offense" means an offense described in Subsection [80-6-503](#)(1) or

1324 (2)(b).

1325           ~~[(2)]~~ (3) "Separate offense" means any offense that is not a qualifying offense.

1326           Section 11. Section **80-6-502 (Effective 09/01/21)** is amended to read:

1327           **80-6-502 (Effective 09/01/21). Criminal information for a minor in district court.**

1328           (1) If a prosecuting attorney charges a minor with aggravated murder under Section

1329 [76-5-202](#) or murder under Section [76-5-203](#), the prosecuting attorney shall file a criminal

1330 information in the district court if the minor was the principal actor in an offense and the

1331 criminal information alleges:

1332           (a) the minor was 16 or 17 years old at the time of the offense; and

1333           (b) the offense for which the minor is being charged is:

1334           (i) Section [76-5-202](#), aggravated murder; or

1335           (ii) Section [76-5-203](#), murder.

1336           (2) If the prosecuting attorney files a criminal information in the district court in

1337 accordance with Subsection (1), the district court shall try the minor as an adult, except:

1338           (a) the minor is not subject to a sentence of death in accordance with Subsection

1339 [76-3-206\(2\)\(b\)](#); and

1340           (b) the minor is not subject to a sentence of life without parole in accordance with

1341 Subsection [76-3-206\(2\)\(b\)](#) or [76-3-207.5\(3\)](#) or Section [76-3-209](#).

1342           (3) (a) Except for a minor who is subject to the authority of the Board of Pardons and

1343 Parole, a minor shall be held in a detention facility [~~until the district court determines where the~~

1344 ~~minor will be held until the time of trial if:].~~

1345           ~~[(a) the minor is 16 or 17 years old; and]~~

1346           ~~[(b) the minor is arrested for aggravated murder or murder.]~~

1347           ~~[(4) In considering where a minor will be detained until the time of trial, the district~~

1348 ~~court shall consider:]~~

1349           ~~[(a) the age of the minor;]~~

1350           ~~[(b) the nature, seriousness, and circumstances of the alleged offense;]~~

1351           ~~[(c) the minor's history of prior criminal acts;]~~

1352 ~~[(d) whether the minor being detained in a detention facility will adequately serve the~~  
 1353 ~~need for community protection pending the outcome of any criminal proceedings;]~~

1354 ~~[(e) the relative ability of the facility to meet the needs of the minor and protect the~~  
 1355 ~~public;]~~

1356 ~~[(f) the physical maturity of the minor;]~~

1357 ~~[(g) the current mental state of the minor as evidenced by relevant mental health or a~~  
 1358 ~~psychological assessment or screening that is made available to the district court; and]~~

1359 ~~[(h) any other factors that the district court considers relevant.]~~

1360 ~~[(5)] (b) A minor [ordered to a detention facility under Subsection (4)] held in a~~

1361 detention facility under Subsection (3)(a) shall remain in the facility:

1362 ~~[(a)] (i) until released by the district court; or~~

1363 ~~[(b)] (ii) if convicted, until sentencing.~~

1364 ~~[(6)] (4) If a minor is held in a detention facility under Subsection [(4)] (3)(a), the~~  
 1365 ~~district court shall:~~

1366 (a) advise the minor of the right to bail; and

1367 (b) set initial bail in accordance with Title 77, Chapter 20, Bail.

1368 ~~[(7) If the minor ordered to]~~ (5) If a minor held in a detention facility under Subsection  
 1369 ~~[(4)] (3)(a)~~ attains the age of ~~[(18)]~~ 21 years old, the minor shall be transferred within 30 days to  
 1370 an adult jail until:

1371 (a) released by the district court; or

1372 (b) if convicted, sentencing.

1373 ~~[(8)] (6) If a minor is [ordered to]~~ held in a detention facility under Subsection ~~[(4)]~~

1374 (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the  
 1375 detention facility, the district court may find that the minor shall be detained in another place of  
 1376 confinement considered appropriate by the district court, including a jail or an adult facility for  
 1377 pretrial confinement.

1378 ~~[(9)] (7) If a minor is charged for aggravated murder or murder in the district court~~

1379 under this section, and all charges for aggravated murder or murder result in an acquittal, a  
1380 finding of not guilty, or a dismissal:

1381 (a) the juvenile court gains jurisdiction over all other offenses committed by the minor;

1382 and

1383 (b) the division gains jurisdiction over the minor.

1384 Section 12. Section **80-6-504 (Effective 09/01/21)** is amended to read:

1385 **80-6-504 (Effective 09/01/21). Preliminary hearing -- Grounds for transfer --**

1386 **Detention of a minor bound over to the district court.**

1387 (1) If a prosecuting attorney files a criminal information in accordance with Section  
1388 **80-6-503**, the juvenile court shall conduct a preliminary hearing to determine whether a minor  
1389 should be bound over to the district court for a qualifying offense.

1390 (2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have  
1391 the burden of establishing:

1392 (a) probable cause to believe that a qualifying offense was committed and the minor  
1393 committed that offense; and

1394 (b) by a preponderance of the evidence, that it is contrary to the best interests of the  
1395 minor and the public for the juvenile court to retain jurisdiction over the offense.

1396 (3) In making a determination under Subsection (2)(b), the juvenile court shall consider  
1397 and make findings on:

1398 (a) the seriousness of the qualifying offense and whether the protection of the  
1399 community requires that the minor is detained beyond the amount of time allowed under  
1400 Subsection **80-6-802(1)**, or beyond the age of continuing jurisdiction that the juvenile court  
1401 may exercise under Section **80-6-605**;

1402 (b) the extent to which the minor's actions in the qualifying offense were committed in  
1403 an aggressive, violent, premeditated, or willful manner;

1404 (c) the minor's mental, physical, educational, trauma, and social history;

1405 (d) the criminal record or history of the minor; and

1406 (e) the likelihood of the minor's rehabilitation by the use of services and facilities that  
1407 are available to the juvenile court.

1408 (4) The amount of weight that each factor in Subsection (3) is given is in the juvenile  
1409 court's discretion.

1410 (5) (a) The juvenile court may consider any written report or other material that relates  
1411 to the minor's mental, physical, educational, trauma, and social history.

1412 (b) Upon request by the minor, the minor's parent, guardian, or other interested party,  
1413 the juvenile court shall require the person preparing the report, or other material, under  
1414 Subsection (5)(a) to appear and be subject to direct and cross-examination.

1415 (6) At the preliminary hearing under Subsection (1), a minor may testify under oath,  
1416 call witnesses, cross-examine witnesses, and present evidence on the factors described in  
1417 Subsection (3).

1418 (7) (a) A proceeding before the juvenile court related to a charge filed under this part  
1419 shall be conducted in conformity with the Utah Rules of Juvenile Procedure.

1420 (b) Sections 80-6-602, 80-6-603, and 80-6-604 are applicable to the preliminary  
1421 hearing under this section.

1422 (8) If the juvenile court finds that the prosecuting attorney has met the burden of proof  
1423 under Subsection (2), the juvenile court shall bind the minor over to the district court to be held  
1424 for trial.

1425 (9) (a) If the juvenile court finds that a qualifying offense has been committed by a  
1426 minor, but the prosecuting attorney has not met the burden of proof under Subsection (2)(b),  
1427 the juvenile court shall:

1428 (i) proceed upon the criminal information as if the information were a petition under  
1429 Section 80-6-305;

1430 (ii) release or detain the minor in accordance with Section 80-6-207; and

1431 (iii) proceed with an adjudication for the minor in accordance with this chapter.

1432 (b) If the juvenile court finds that the prosecuting attorney has not met the burden

1433 under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file  
1434 a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the  
1435 minor is 25 years old in accordance with Section 80-6-605.

1436 (10) (a) A prosecuting attorney may charge a minor with a separate offense in the same  
1437 criminal information as the qualifying offense if the qualifying offense and separate offense  
1438 arise from a single criminal episode.

1439 (b) If the prosecuting attorney charges a minor with a separate offense as described in  
1440 Subsection (10)(a):

1441 (i) the prosecuting attorney shall have the burden of establishing probable cause to  
1442 believe that the separate offense was committed and the minor committed the separate offense;  
1443 and

1444 (ii) if the prosecuting attorney establishes probable cause for the separate offense under  
1445 Subsection (10)(b)(i) and the juvenile court binds the minor over to the district court for the  
1446 qualifying offense, the juvenile court shall also bind the minor over for the separate offense to  
1447 the district court.

1448 (11) If a grand jury indicts a minor for a qualifying offense:

1449 (a) the prosecuting attorney does not need to establish probable cause under Subsection  
1450 (2)(a) for the qualifying offense and any separate offense included in the indictment; and

1451 (b) the juvenile court shall proceed with determining whether the minor should be  
1452 bound over to the district court for the qualifying offense and any separate offense included in  
1453 the indictment in accordance with Subsections (2)(b) and (3).

1454 (12) If a minor is bound over to the district court, the juvenile court shall:

1455 (a) issue a criminal warrant of arrest for the minor to be held in a detention facility;

1456 (b) advise the minor of the right to bail; and

1457 (c) set initial bail in accordance with Title 77, Chapter 20, Bail.

1458 ~~[(13) (a) At the time that a minor is bound over to the district court, the juvenile court~~  
1459 ~~shall make an initial determination on where the minor is held until the time of trial.]~~

1460 ~~[(b) In determining where a minor is held until the time of trial, the juvenile court shall~~  
1461 ~~consider:]~~

1462 ~~[(i) the age of the minor;]~~

1463 ~~[(ii) the minor's history of prior criminal acts;]~~

1464 ~~[(iii) whether the minor being detained in a detention facility will adequately serve the~~  
1465 ~~need for community protection pending the outcome of any criminal proceedings;]~~

1466 ~~[(iv) the relative ability of the facility to meet the needs of the minor and protect the~~  
1467 ~~public;]~~

1468 ~~[(v) the physical maturity of the minor;]~~

1469 ~~[(vi) the current mental state of the minor as evidenced by relevant mental health or~~  
1470 ~~psychological assessments or screenings that are made available to the juvenile court; and]~~

1471 ~~[(vii) any other factors that the court considers relevant.]~~

1472 ~~[(14) If the juvenile court orders a minor to be detained in a detention facility under~~  
1473 ~~Subsection (13), the minor shall remain in the detention facility:]~~

1474 (13) If the juvenile court orders the minor to be detained until the time of trial:

1475 (a) the minor shall be held in a detention facility, except that a minor who is subject to  
1476 the authority of the Board of Pardons and Parole may not be held in a detention facility; and

1477 (b) the minor shall remain in the detention facility:

1478 ~~[(a)]~~ (i) until released by a district court; or

1479 ~~[(b)]~~ (ii) if convicted, until sentencing.

1480 ~~[(15)]~~ (14) If ~~[the juvenile court orders the minor to be detained]~~ a minor is held in a  
1481 detention facility under Subsection (13) and the minor attains the age of [18] 21 years old while  
1482 detained at the detention facility, the minor shall be transferred within 30 days to an adult jail  
1483 to remain:

1484 (a) until released by the district court; or

1485 (b) if convicted, until sentencing.

1486 ~~[(16)]~~ (15) Except as provided in Subsection ~~[(17)]~~ (16) and Section 80-6-507, if a

1487 minor is bound over to the district court under this section, the jurisdiction of the division and  
1488 the juvenile court over the minor is terminated for the qualifying offense and any other separate  
1489 offense for which the minor is bound over.

1490 ~~[(17)]~~ (16) If a minor is bound over to the district court for a qualifying offense and the  
1491 qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:

1492 (a) the juvenile court regains jurisdiction over any separate offense committed by the  
1493 minor; and

1494 (b) the division regains jurisdiction over the minor.

1495 Section 13. Section **80-6-505 (Effective 09/01/21)** is amended to read:

1496 **80-6-505 (Effective 09/01/21). Criminal proceedings for a minor bound over to**  
1497 **district court.**

1498 (1) If the juvenile court binds a minor over to the district court in accordance with  
1499 Section **80-6-504**, the prosecuting attorney shall try the minor as if the minor is an adult in the  
1500 district court except:

1501 (a) the minor is not subject to a sentence of death in accordance with Subsection  
1502 **76-3-206(2)(b)**; and

1503 (b) the minor is not subject to a sentence of life without parole in accordance with  
1504 Subsection **76-3-206(2)(b)** or **76-3-207.5(3)** or Section **76-3-209**.

1505 (2) A minor who is bound over to the district court to answer as an adult is not entitled  
1506 to a preliminary hearing in the district court.

1507 ~~[(3) (a) If a minor is bound over to the district court by the juvenile court, the district  
1508 court may reconsider the juvenile court's decision under Subsection **80-6-504(13)** as to where  
1509 the minor is being held until trial.]~~

1510 ~~[(b) If the district court reconsiders the juvenile court's decision as to where the minor  
1511 is held, the district court shall consider and make findings on:]~~

1512 ~~[(i) the age of the minor;]~~

1513 ~~[(ii) the minor's history of prior criminal acts;]~~



1514           ~~[(iii) whether the minor being detained in a detention facility will adequately serve the~~  
1515 ~~need for community protection pending the outcome of any criminal proceedings;]~~

1516           ~~[(iv) the relative ability of the detention facility to meet the needs of the minor and~~  
1517 ~~protect the public;]~~

1518           ~~[(v) the physical maturity of the minor;]~~

1519           ~~[(vi) the current mental state of the minor as evidenced by relevant mental health or~~  
1520 ~~psychological assessments or screenings that are made available to the district court; and]~~

1521           ~~[(vii) any other factors the district court considers relevant.]~~

1522           ~~[(4) A minor who is ordered to a detention facility under Subsection (3) shall remain in~~  
1523 ~~the facility:]~~

1524           ~~[(a) until released by a district court; or]~~

1525           ~~[(b) if convicted, until sentencing.]~~

1526           ~~[(5) If the district court orders the minor to be detained in a detention facility under~~  
1527 ~~Subsection (3) and the minor attains the age of 18 while detained at the detention facility, the~~  
1528 ~~minor shall be transferred within 30 days to an adult jail to remain:]~~

1529           ~~[(a) until released by the district court; or]~~

1530           ~~[(b) if convicted, until sentencing.]~~

1531           ~~[(6)]~~ (3) If a minor is bound over to the district court and detained in a detention  
1532 facility, the district court may order the minor be detained in another place of confinement that  
1533 is considered appropriate by the district court, including a jail or other place of pretrial  
1534 confinement for adults if the minor's conduct or condition endangers the safety and welfare of  
1535 others in the detention facility.

1536           ~~[(7)]~~ (4) If the district court obtains jurisdiction over a minor under Section [80-6-504](#),  
1537 the district court is not divested of jurisdiction for a qualifying offense or a separate offense  
1538 listed in the criminal information when the minor is allowed to enter a plea to, or is found  
1539 guilty of, another offense in the same criminal information.

1540           Section 14. Section **80-6-507 (Effective 09/01/21)** is amended to read:

1541 **80-6-507 (Effective 09/01/21). Commitment of a minor by a district court.**

1542 [~~(1)(a) Before sentencing a minor, who was bound over to the district court under~~  
1543 ~~Section 80-6-504 to be tried as an adult, to prison, the district court shall request a report from~~  
1544 ~~the division regarding the potential risk to other minors if the minor were to be committed to~~  
1545 ~~the division.]~~

1546 [~~(b) The division shall submit the requested report to the district court as part of the~~  
1547 ~~presentence report or as a separate report.]~~

1548 [~~(2) If, after receiving the report described in Subsection (1),]~~ (1) When sentencing a  
1549 minor, if the district court determines that probation is not appropriate and commitment to  
1550 prison is an appropriate sentence[;]:

1551 (a) the district court shall order the minor committed to prison; and

1552 (b) the minor shall be provisionally housed in a secure care facility until the minor  
1553 reaches [18] 21 years old, unless released earlier from incarceration by the Board of Pardons  
1554 and Parole.

1555 [~~(3) The district court may order the minor committed directly to the legal and physical~~  
1556 ~~custody of the Department of Corrections if the district court finds that:]~~

1557 [~~(a) the minor would present an unreasonable risk to others while in the custody of the~~  
1558 ~~division;]~~

1559 [~~(b) the minor has previously been committed to a prison for adult offenders; or]~~

1560 [~~(c) housing the minor in a secure care facility would be contrary to the interests of~~  
1561 ~~justice.]~~

1562 [~~(4)~~ (2) (a) The division shall adopt procedures by rule, in accordance with Title 63G,  
1563 Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor  
1564 provisionally housed in a secure care facility under Subsection [~~(2)~~ (1) to the physical custody  
1565 of the Department of Corrections.

1566 (b) If, in accordance with the rules adopted under Subsection [~~(4)~~ (2)(a), the division  
1567 determines that housing the minor in a secure care facility presents an unreasonable risk to

1568 others or that it is not in the best interest of the minor, the division shall transfer the physical  
1569 custody of the minor to the Department of Corrections.

1570 ~~[(5)]~~ (3) (a) When a minor is committed to prison but ~~[ordered by a district court to be]~~  
1571 provisionally housed in a secure care facility under this section, the district court and the  
1572 division shall immediately notify the Board of Pardons and Parole so that the minor may be  
1573 scheduled for a hearing according to board procedures.

1574 (b) If a minor who is provisionally housed in a secure care facility under this section  
1575 has not been paroled or otherwise released from incarceration by the time the minor reaches  
1576 ~~[+8]~~ 21 years old, the division shall as soon as reasonably possible, but not later than when the  
1577 minor reaches ~~[+8]~~ 21 years and 6 months old, transfer the minor to the physical custody of the  
1578 Department of Corrections.

1579 ~~[(6)]~~ (4) Upon the commitment of a minor to the custody of the division or the  
1580 Department of Corrections under this section, the Board of Pardons and Parole has authority  
1581 over the minor for purposes of parole, pardon, commutation, termination of sentence, remission  
1582 of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

1583 ~~[(7)]~~ (5) The authority ~~[may]~~ shall:

1584 (a) hold hearings, receive reports, or otherwise keep informed of the progress of a  
1585 minor in the custody of the division under this section; and ~~[may]~~

1586 (b) forward to the Board of Pardons and Parole any information or recommendations  
1587 concerning the minor.

1588 ~~[(8)]~~ (6) Commitment of a minor under this section is a prison commitment for all  
1589 sentencing purposes.

1590 Section 15. Section **80-6-804 (Effective 09/01/21)** is amended to read:

1591 **80-6-804 (Effective 09/01/21). Review and termination of secure care.**

1592 (1) If a juvenile offender is ordered to secure care under Section **80-6-705**, the juvenile  
1593 offender shall appear before the authority within 45 days after the day on which the juvenile  
1594 offender is ordered to secure care for review of a treatment plan and to establish parole release

1595 guidelines.

1596 (2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the  
1597 authority shall set a presumptive term of commitment for the juvenile offender from three to  
1598 six months, but the presumptive term may not exceed six months.

1599 (b) The authority shall release the juvenile offender on parole at the end of the  
1600 presumptive term of commitment unless:

1601 (i) termination would interrupt the completion of a treatment program determined to be  
1602 necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

1603 (ii) the juvenile offender commits a new misdemeanor or felony offense.

1604 (c) The authority shall determine whether a juvenile offender has completed a  
1605 treatment program under Subsection (2)(b)(i) by considering:

1606 (i) the recommendations of the licensed service provider for the treatment program;

1607 (ii) the juvenile offender's record in the treatment program; and

1608 (iii) the juvenile offender's completion of the goals of the treatment program.

1609 (d) The authority may extend the length of commitment and delay parole release for the  
1610 time needed to address the specific circumstance if one of the circumstances under Subsection  
1611 (2)(b) exists.

1612 (e) The authority shall:

1613 (i) record the length of the extension and the grounds for the extension; and

1614 (ii) report annually the length and grounds of extension to the commission.

1615 (f) Records under Subsection (2)(e) shall be tracked in the data system used by the  
1616 juvenile court and the division.

1617 (3) (a) If a juvenile offender is committed to secure care, the authority shall set a  
1618 presumptive term of parole supervision, including aftercare services, from three to four months,  
1619 but the presumptive term may not exceed four months.

1620 (b) If the authority determines that a juvenile offender is unable to return home  
1621 immediately upon release, the juvenile offender may serve the term of parole in the home of a

1622 qualifying relative or guardian or at an independent living program contracted or operated by  
1623 the division.

1624 (c) The authority shall release a juvenile offender from parole and terminate the  
1625 authority's jurisdiction at the end of the presumptive term of parole, unless:

1626 (i) termination would interrupt the completion of a treatment program that is  
1627 determined to be necessary by the results of a validated risk and needs assessment under  
1628 Section 80-6-606;

1629 (ii) the juvenile offender commits a new misdemeanor or felony offense; or

1630 (iii) restitution has not been completed.

1631 (d) The authority shall determine whether a juvenile offender has completed a  
1632 treatment program under Subsection (2)(c)(i) by considering:

1633 (i) the recommendations of the licensed service provider;

1634 (ii) the juvenile offender's record in the treatment program; and

1635 (iii) the juvenile offender's completion of the goals of the treatment program.

1636 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay  
1637 parole release only for the time needed to address the specific circumstance.

1638 (f) The authority shall:

1639 (i) record the grounds for extension of the presumptive length of parole and the length  
1640 of the extension; and

1641 (ii) report annually the extension and the length of the extension to the commission.

1642 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the  
1643 juvenile court and the division.

1644 (h) If a juvenile offender leaves parole supervision without authorization for more than  
1645 24 hours, the term of parole shall toll until the juvenile offender returns.

1646 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure  
1647 care for ~~a felony violation of~~:

1648 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

- 1649 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
- 1650 (c) Section 76-5-203, murder or attempted murder;
- 1651 (d) Section 76-5-205, manslaughter;
- 1652 (e) Section 76-5-206, negligent homicide;
- 1653 (f) Section 76-5-207, automobile homicide;
- 1654 (g) Section 76-5-207.5, automobile homicide involving a handheld wireless
- 1655 communication device;
- 1656 (h) Section 76-5-208, child abuse homicide;
- 1657 (i) Section 76-5-209, homicide by assault;
- 1658 ~~[(d)]~~ (j) Section 76-5-302, aggravated kidnapping;
- 1659 ~~[(e)]~~ (k) Section 76-5-405, aggravated sexual assault;
- 1660 ~~[(f)]~~ (l) a felony violation of Section 76-6-103, aggravated arson;
- 1661 ~~[(g)]~~ (m) Section 76-6-203, aggravated burglary;
- 1662 ~~[(h)]~~ (n) Section 76-6-302, aggravated robbery;
- 1663 ~~[(i)]~~ (o) Section 76-10-508.1, felony discharge of a firearm;
- 1664 ~~[(j) an offense other than an offense listed in Subsections (4)(a) through (i) involving~~
- 1665 ~~the use of a dangerous weapon:]~~
- 1666 ~~[(i) if the offense would be a felony had an adult committed the offense; and]~~
- 1667 ~~[(ii) the juvenile offender has been previously adjudicated or convicted of an offense~~
- 1668 ~~involving the use of a dangerous weapon that would have been a felony had an adult committed~~
- 1669 ~~the offense; or]~~
- 1670 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)
- 1671 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and
- 1672 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
- 1673 involving the use of a dangerous weapon, as defined in Section 76-1-601; or
- 1674 ~~[(k)]~~ (q) an offense other than an offense listed in Subsections (4)(a) through [(j)] (p)
- 1675 and the [minor] juvenile offender has been previously committed to the division for secure

1676 care.

1677 (5) (a) The division may continue to have responsibility over a juvenile offender, who  
1678 is discharged under this section from parole, to participate in a specific educational or  
1679 rehabilitative program:

1680 (i) until the juvenile offender is:

1681 (A) if the juvenile offender is a youth offender, 21 years old; or

1682 (B) if the juvenile offender is a serious youth offender, 25 years old; and

1683 (ii) under an agreement by the division and the juvenile offender that the program has  
1684 certain conditions.

1685 (b) The division and the juvenile offender may terminate participation in a program  
1686 under Subsection (5)(a) at any time.

1687 (c) The division shall offer an educational or rehabilitative program before a juvenile  
1688 offender's discharge date in accordance with this section.

1689 (d) A juvenile offender may request the services described in this Subsection (5), even  
1690 if the offender has been previously declined services or services were terminated for  
1691 noncompliance.

1692 (e) Notwithstanding Subsection (5)(c), the division:

1693 (i) shall consider a request by a juvenile offender under Subsection (5)(d) for the  
1694 services described in this Subsection (5) for up to 365 days after the juvenile offender's  
1695 effective date of discharge, even if the juvenile offender has previously declined services or  
1696 services were terminated for noncompliance; and

1697 (ii) may reach an agreement with the juvenile offender to provide the services  
1698 described in this Subsection (5) until the juvenile offender is:

1699 (A) if the juvenile offender is a youth offender, 21 years old; or

1700 (B) if the juvenile offender is a serious youth offender, 25 years old.

1701 (f) The division and the juvenile offender may terminate an agreement for services  
1702 under this Subsection (5) at any time.

1703 Section 16. **Effective date.**

1704 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members  
1705 elected to each house, this bill takes effect upon approval by the governor, or the day following  
1706 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's  
1707 signature, or in the case of a veto, the date of veto override.

1708 (2) The changes to the following sections take effect on September 1, 2021:

1709 (a) Section [80-1-102](#) (Effective 09/01/21);

1710 (b) Section [80-6-501](#) (Effective 09/01/21);

1711 (c) Section [80-6-502](#) (Effective 09/01/21);

1712 (d) Section [80-6-504](#) (Effective 09/01/21);

1713 (e) Section [80-6-505](#) (Effective 09/01/21);

1714 (f) Section [80-6-507](#) (Effective 09/01/21); and

1715 (g) Section [80-6-804](#) (Effective 09/01/21).

1716 Section 17. **Revisor instructions.**

1717 The Legislature intends that, on September 1, 2021, the Office of Legislative Research  
1718 and General Counsel prepare the Utah Code database for publication by:

1719 (1) replacing "secure confinement" with "secure care, as defined in Section [80-1-102](#),"  
1720 in Subsections [77-41-102](#)(9)(f)(ii) and (17)(f)(ii);

1721 (2) changing the cross-reference in Subsections [77-41-102](#)(9)(f)(i) and (17)(f)(i) from  
1722 Section [78A-6-117](#) to Section [80-6-701](#); and

1723 (3) changing the cross-reference in Subsections [77-41-102](#)(9)(f)(ii)(B) and  
1724 (17)(f)(ii)(B) from Section [78A-6-703.4](#) to Section [80-6-605](#).