

JUVENILE JUSTICE REVISIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karianne Lisonbee

Senate Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the State Board of Education to provide a report on certain law enforcement and disciplinary actions on school grounds to the State Commission on Criminal and Juvenile Justice;
- ▶ creates a juvenile crime prevention and intervention program to be administered by the State Board of Education;
- ▶ modifies requirements related to referrals for offenses committed by minors on school property;
- ▶ amends the requirements for the Criminal Justice Database;
- ▶ removes a repeal date relating to referrals for offenses committed by minors on school property;
- ▶ modifies the duties of the State Commission on Criminal and Juvenile Justice in regards to juvenile justice;
- ▶ makes it a crime for a minor to possess an auto sear;
- ▶ enacts data collection and reporting requirements for the State Commission on Criminal and Juvenile Justice and the Administrative Office of the Courts in regards



to offenses committed, or allegedly committed, by minors;

- amends provisions related to the detention of a child in a holding room if the child is alleged to have committed an act that would be an offense if committed by an adult;

- clarifies provisions relating to a nonjudicial adjustment;
- modifies the eligibility requirements for a nonjudicial adjustment; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-516, as last amended by Laws of Utah 2022, Chapter 399

53E-9-305, as last amended by Laws of Utah 2021, Chapter 262

53F-2-208, as last amended by Laws of Utah 2022, Chapter 1

53G-6-203, as last amended by Laws of Utah 2021, Chapter 359

53G-8-211, as last amended by Laws of Utah 2021, Chapters 262, 359 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 359

63A-16-1001, as enacted by Laws of Utah 2022, Chapter 390

63A-16-1002, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390

63I-1-253, as last amended by Laws of Utah 2022, Chapters 10, 30, 31, 172, 173, 194, 218, 224, 229, 236, 254, 274, and 414

63M-7-208, as last amended by Laws of Utah 2021, Chapter 262

63M-7-218, as enacted by Laws of Utah 2022, Chapter 390 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 390

76-5-401.3, as last amended by Laws of Utah 2022, Chapter 181

76-10-105, as last amended by Laws of Utah 2021, Chapter 262

76-10-501, as last amended by Laws of Utah 2015, Chapters 212, 406

76-10-509.4, as last amended by Laws of Utah 2013, Chapter 301

59 **78A-6-210**, as last amended by Laws of Utah 2021, Chapter 261
60 **80-6-204**, as renumbered and amended by Laws of Utah 2021, Chapter 261
61 **80-6-302**, as last amended by Laws of Utah 2022, Chapter 155
62 **80-6-303**, as last amended by Laws of Utah 2022, Chapter 155
63 **80-6-304**, as last amended by Laws of Utah 2022, Chapter 430
64 **80-6-305**, as renumbered and amended by Laws of Utah 2021, Chapter 261

65 ENACTS:

66 **80-6-104**, Utah Code Annotated 1953
67 **80-6-303.5**, Utah Code Annotated 1953
68 **80-6-304.5**, Utah Code Annotated 1953

69 REPEALS AND REENACTS:

70 **53F-2-410**, as repealed and reenacted by Laws of Utah 2021, Chapter 319

71

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

73 Section 1. Section **53E-3-516** is amended to read:

74 **53E-3-516. School disciplinary and law enforcement action report -- Rulemaking**
75 **authority.**

76 (1) As used in this section:

77 (a) "Disciplinary action" means an action by a public school meant to formally
78 discipline a student of that public school that includes a suspension or expulsion.
79 (b) "Law enforcement agency" means the same as that term is defined in Section
80 **77-7a-103**.

81 (c) "Minor" means the same as that term is defined in Section **53G-6-201**.

82 (d) "Other law enforcement activity" means a significant law enforcement interaction
83 with a minor that does not result in an arrest, including:

84 (i) a search and seizure by an SRO;
85 (ii) issuance of a criminal citation;
86 (iii) issuance of a ticket or summons;
87 (iv) filing a delinquency petition; or
88 (v) referral to a probation officer.
89 (e) "School is in session" means the hours of a day during which a public school

conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(g) "Student resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities; and

(c) disciplinary actions.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:
(i) the reason for the disciplinary action; and
(ii) the type of disciplinary action;
(d) the number of SROs employed; and
(e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation.

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

- (a) age;
- (b) grade level;
- (c) race;
- (d) sex; and
- (e) disability status.

(6) Information included in the annual report described in Subsection (2) shall comply with:

- (a) Chapter 9, Part 3, Student Data Protection;
- (b) Chapter 9, Part 2, Student Privacy; and
- (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2):

(a) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year[:]; and

(b) to the State Commission on Criminal and Juvenile Justice before July 1 of each year for incidents that occurred during the previous school year.

Section 2. Section 53E-9-305 is amended to read:

53E-9-305. Collecting student data -- Prohibition -- Student data collection notice -- Written consent.

(1) An education entity may not collect a student's:

- (a) social security number; or
- (b) except as required in Section 80-6-103, criminal record.

(2) Except as provided in Subsection (3), an education entity that collects student data shall, in accordance with this section, prepare and distribute to parents and students a student data collection notice statement that:

(a) is a prominent, stand-alone document;

(b) is annually updated and published on the education entity's website;

(c) states the student data that the education entity collects;

(d) states that the education entity will not collect the student data described in Subsection (1);

(e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;

(f) includes the following statement:

"The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";

(g) describes in general terms how the education entity stores and protects student data; and

(h) states a student's rights under this part.

(3) The state board may publicly post the state board's collection notice described in Subsection (2).

(4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:

(a) the student, if the student is an adult student; or

(b) the student's parent, if the student is not an adult student.

(5) An education entity may collect optional student data if the education entity:

(a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:

(i) the optional student data to be collected; and

(ii) how the education entity will use the optional student data; and

(b) obtains written consent to collect the optional student data from an individual described in Subsection (4).

(6) An education entity may collect a student's biometric identifier or biometric

information if the education entity:

(a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:

- (i) the biometric identifier or biometric information to be collected;
- (ii) the purpose of collecting the biometric identifier or biometric information; and
- (iii) how the education entity will use and store the biometric identifier or biometric information; and

(b) obtains written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).

(7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an evidence-based alternative intervention described in ~~[Subsection 53G-8-211(3)]~~ Section 53G-8-211 without written consent.

(8) Nothing in this section prohibits an education entity from including additional information related to student and parent privacy in the notice described in Subsection (2).

Section 3. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

- (i) education for youth in custody, described in Section 53E-3-503;
- (ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units);
- (iii) the Adult Education Program, described in Section 53F-2-401;
- (iv) state support of pupil transportation, described in Section 53F-2-402;
- (v) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;
- (vi) the Concurrent Enrollment Program, described in Section 53F-2-409; and
- (vii) the ~~[gang prevention and intervention]~~ juvenile crime prevention and intervention program, described in Section 53F-2-410; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year,

the current fiscal year's ongoing state tax fund appropriations to the following programs:

- (i) a program described in Subsection (1)(a);
- (ii) educator salary adjustments, described in Section 53F-2-405;
- (iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;
- (iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and
- (v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

- (i) the cost of the inflation adjustment described in Subsection (1)(a); and
 - (ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).
- (b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

Section 4. Section 53F-2-410 is repealed and reenacted to read:

53F-2-410. Juvenile crime prevention and intervention program -- Funding.

(1) Subject to appropriations by the Legislature, the state board shall:

(a) create a juvenile crime prevention and intervention program that is designed to help students at risk for criminal involvement stay in school; and

(b) distribute money under the program to school districts and charter schools through the distribution formula described in Subsection (2).

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

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

- (i) use the data reported to the state board under Section 80-6-104; and
 - (ii) prioritizes school districts and charter schools based on the prevalence of crimes committed by minors within the boundaries of each municipality where a school is located;
- (b) annually adjusts the distribution of program funding using the data reported to the state board under Section 80-6-104; and

(c) establish baseline performance standards that school districts or charter schools are required to meet in order to receive funding under the program.

(3) (a) A school district or charter school seeking program funding shall submit a proposal to the state board describing how the school district or charter school intends to use the funds.

(b) The school board shall allocate funding on a per student basis to prioritized school districts and charter schools that submit a successful proposal under Subsection (3)(a).

(4) The state board may not distribute funds to a school district or charter school that fails to meet performance standards described in Subsection (2)(c).

(5) A school district or charter school that is awarded funds under this section shall submit a report to the state board that includes:

(a) how the school district or charter school used the funds; and

(b) details on the school district's, or the charter school's, compliance with the performance standards described in Subsection (2)(c).

Section 5. Section **53G-6-203** is amended to read:

53G-6-203. Truancy -- Notice of truancy -- Failure to cooperate with school authorities.

(1) Except as provided in Section **53G-6-204** or **53G-6-702**, a school-age child who is enrolled in a public school shall attend the public school in which the school-age child is enrolled.

(2) ~~[Except during the period between the effective date of this bill and June 1, 2022,]~~
In accordance with Section **53G-8-211**, a local school board, charter school governing board, or school district may impose administrative penalties on a school-age child who is:

(a) in grade 7 or above, unless the school-age child is less than 12 years old; and

(b) truant.

(3) A local school board or charter school governing board:

(a) may authorize a school administrator, a designee of a school administrator, a law enforcement officer acting as a school resource officer, or a truancy specialist to issue a notice of truancy in accordance with Subsection (4); and

(b) shall establish a procedure for a school-age child, or the school-age child's parents, to contest a notice of truancy.

(4) A notice of truancy described in Subsection (3):

(a) may not be issued until a school-age child has been truant at least five times during the school year;

(b) may not be issued to a school-age child who is less than 12 years old or in a grade below grade 7;

(c) may not be issued to a school-age child exempt from school attendance as provided in Section 53G-6-204 or 53G-6-702;

(d) shall direct the school-age child who receives the notice of truancy and the parent of the school-age child to:

(i) meet with school authorities to discuss the school-age child's truancies; and

(ii) cooperate with the local school board, charter school governing board, or school district in securing regular attendance by the school-age child; and

(e) shall be mailed to, or served on, the school-age child's parent.

(5) (a) Except as provided in Subsection (5)(b), nothing in this part prohibits a local school board, charter school governing board, or school district from taking action to resolve a truancy problem with a school-age child who has been truant fewer than five times, provided that the action does not conflict with the requirements of this part.

(b) A local school board, charter school governing board, or school district may not take punitive action to resolve a truancy problem with a school-age child during the period described in Subsection (2).

(6) Notwithstanding this section, during the period described in Subsection (2), a school administrator, designee of a school administrator, law enforcement officer acting as a school resource officer, or truancy specialist may not issue or otherwise enforce a notice of truancy.

Section 6. Section 53G-8-211 is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

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

(iii) been approved by the state board.

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

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

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

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

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

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

(d) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(e) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(58)(b) and (c).

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(g) "School administrator" means a principal of a school.

(h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(j) "School-age child" means the same as that term is defined in Section 53G-6-201.

(k) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school,

or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(l) (i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense ~~[at the school where the student is enrolled: (a)]~~ on school property where the student is enrolled:

~~[(i)] (a)~~ when school is in session; or

~~[(ii)] (b)~~ during a school-sponsored activity~~[-or]~~.

~~[(b) except during the period between March 17, 2021 and June 1, 2022, that is truancy.]~~

(3) Except as provided in Subsection (4), if a minor is alleged to have committed an offense on school property that is a misdemeanor, an infraction, or a status offense, the school administrator, the school administrator's designee, or a school resource officer may refer the minor:

(a) to a court or a law enforcement agency; or

(b) to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center as defined in Section [80-5-102](#);

(iii) a youth court or comparable restorative justice program;

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

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities,

the Department of Health and Human Services.

(4) If a minor is alleged to have committed an offense that is truancy, the school administrator, the school administrator's designee, a school resource officer, or a law enforcement officer or agency:

(a) may not refer the minor to a prosecuting attorney or court for the offense, except as provided in Subsection (6); and

(b) may refer the minor to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center as defined in Section 80-5-102;

(iii) a youth court or comparable restorative justice program;

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

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services.

(5) A school administrator, the school administrator's designee, or a school resource officer shall refer a minor for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice Services for allegedly being a habitual truant if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (4)(b).

(6) A school administrator, the school administrator's designee, or a school resource officer may refer a minor to a court or a law enforcement officer or agency for allegedly being a habitual truant if the minor:

(a) refuses to participate in an evidence-based alternative intervention under Subsection (4)(b); and

(b) fails to participate in prevention and early intervention youth services provided by the Division of Juvenile Justice Services under Subsection (5).

~~[(3)(a) Except as provided in Subsections (3)(c) and (5), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy:]~~

~~[(i) a school district or school may not refer the minor to a law enforcement officer or~~

agency or a court; and]

~~[(ii) a law enforcement officer or agency may not refer the minor to a prosecuting attorney or a court.]~~

~~[(b) Except as provided in Subsection (3)(e), if a minor is alleged to have committed an offense that is a class C misdemeanor, an infraction, a status offense on school property, or an offense that is truancy, a school district, school, or law enforcement officer or agency may refer the minor to evidence-based alternative interventions, including:]~~

~~[(i) a mobile crisis outreach team;]~~

~~[(ii) a youth services center as defined in Section 80-5-102;]~~

~~[(iii) a youth court or comparable restorative justice program;]~~

~~[(iv) evidence-based interventions created and developed by the school or school district; and]~~

~~[(v) other evidence-based interventions that may be jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health, or the Department of Human Services.]~~

~~[(c)] (7) [Notwithstanding Subsection (3)(a), a] A school resource officer may:~~

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

~~[(ii)] (b) consult with school administration about the conduct of a minor enrolled in a school;~~

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

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

~~[(v)] (e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.~~

~~[(d) Notwithstanding other provisions of this section, if a law enforcement officer has cause to believe a minor has committed an offense on school property when school is not in session and not during a school-sponsored activity, the law enforcement officer may refer the minor to:]~~

~~[(i) a prosecuting attorney or a court; or]~~

431 ~~[(ii) evidence-based alternative interventions at the discretion of the law enforcement~~
432 ~~officer:]~~

433 ~~[(c) If a minor is alleged to have committed a traffic offense that is an infraction, a~~
434 ~~school district, a school, or a law enforcement officer or agency may refer the minor to a~~
435 ~~prosecuting attorney or a court for the traffic offense.]~~

436 ~~[(4) A school district or school shall refer a minor for prevention and early intervention~~
437 ~~youth services, as described in Section 80-5-201, by the Division of Juvenile Justice Services~~
438 ~~for a class C misdemeanor committed on school property or for being a habitual truant if the~~
439 ~~minor refuses to participate in an evidence-based alternative intervention described in~~
440 ~~Subsection (3)(b):]~~

441 ~~[(5) A school district or school may refer a minor to a court or a law enforcement~~
442 ~~officer or agency for an alleged class C misdemeanor committed on school property or for~~
443 ~~allegedly being a habitual truant if the minor:]~~

444 ~~[(a) refuses to participate in an evidence-based alternative intervention under~~
445 ~~Subsection (3)(b); and]~~

446 ~~[(b) fails to participate in prevention and early intervention youth services provided by~~
447 ~~the Division of Juvenile Justice Services under Subsection (4):]~~

448 ~~[(6)]~~ (8) (a) If a minor is referred to a court or a law enforcement officer or agency
449 under ~~[Subsection (5)]~~ this section, the school shall appoint a school representative to continue
450 to engage with the minor and the minor's family through the court process.

451 (b) A school representative appointed under Subsection ~~[(6)(a)]~~ (8)(a) may not be a
452 school resource officer.

453 (c) A school district or school shall include the following in the school district's or
454 school's referral to the court or the law enforcement officer or agency:

455 (i) attendance records for the minor;

456 (ii) a report of evidence-based alternative interventions used by the school before the
457 referral, including outcomes;

458 (iii) the name and contact information of the school representative assigned to actively
459 participate in the court process with the minor and the minor's family;

460 (iv) if the referral is for habitual truancy, a report from the Division of Juvenile Justice
461 Services that demonstrates the minor's failure to complete or participate in prevention and early

intervention youth services under Subsection [(4)] (5); and

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

~~[(d) A minor referred to a court under Subsection (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353, when the underlying offense is a class C misdemeanor occurring on school property or habitual truancy.]~~

~~[(e) If a minor is referred to a court under Subsection (5), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.]~~

~~[(7) If the alleged offense is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a juvenile court or to the evidence-based alternative interventions in Subsection (3)(b).]~~

Section 7. Section **63A-16-1001** is amended to read:

Part 10. Criminal and Juvenile Justice Database

63A-16-1001. Definitions.

As used in this part:

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

(2) "Criminal justice agency" means an agency or institution directly involved in the apprehension, prosecution, and incarceration of an individual involved in criminal activity, including law enforcement, correctional facilities, jails, courts, probation, and parole.

(3) "Database" means the ~~[Criminal Justice Database]~~ criminal and juvenile justice database created in this part.

(4) "Division" means the Division of Technology Services created in Section **63A-16-103**.

Section 8. Section **63A-16-1002** is amended to read:

63A-16-1002. Criminal and juvenile justice database.

(1) The commission shall oversee the creation and management of a ~~[Criminal Justice Database]~~ criminal and juvenile justice database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies

493 in the state.

494 (2) The division shall assist with the development and management of the database.

495 (3) The division, in collaboration with the commission, shall create:

496 (a) master standards and formats for information submitted to the database;

497 (b) a portal, bridge, website, or other method for reporting entities to provide the
498 information;

499 (c) a master data management index or system to assist in the retrieval of information
500 in the database;

501 (d) a protocol for accessing information in the database that complies with state
502 privacy regulations; and

503 (e) a protocol for real-time audit capability of all data accessed through the portal by
504 participating data source, data use entities, and regulators.

505 (4) Each criminal justice agency charged with reporting information to the commission
506 shall provide the data or information to the database in a form prescribed by the commission.

507 (5) The database shall be the repository for the statutorily required data described in:

508 (a) Section 13-53-111, recidivism reporting requirements;

509 (b) Section 17-22-32, county jail reporting requirements;

510 (c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

511 (d) Section 24-4-118, forfeiture reporting requirements;

512 (e) Section 41-6a-511, courts to collect and maintain data;

513 (f) Section 63M-7-214, law enforcement agency grant reporting;

514 (g) Section 63M-7-216, prosecutorial data collection;

515 (h) Section 64-13-21, supervision of sentenced offenders placed in community;

516 (i) Section 64-13-25, standards for programs;

517 (j) Section 64-13-45, department reporting requirements;

518 (k) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

519 (l) Section 77-7-8.5, use of tactical groups;

520 (m) Section 77-20-103, release data requirements;

521 (n) Section 77-22-2.5, court orders for criminal investigations;

522 (o) Section 78A-2-109.5, court demographics reporting;

523 (p) Section 80-6-104, data collection on offenses committed by minors; and

524 ~~[(p)]~~ (q) any other statutes which require the collection of specific data and the
525 reporting of that data to the commission.

526 (6) The commission shall report:

527 (a) progress on the database, including creation, configuration, and data entered, to the
528 Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

529 (b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal
530 Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing
531 Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing
532 Committee not later than January 16, 2023.

533 Section 9. Section **63I-1-253** is amended to read:

534 **63I-1-253. Repeal dates: Titles 53 through 53G.**

535 (1) Section **53-2a-105**, which creates the Emergency Management Administration
536 Council, is repealed July 1, 2027.

537 (2) Sections **53-2a-1103** and **53-2a-1104**, which create the Search and Rescue Advisory
538 Board, are repealed July 1, 2027.

539 (3) Section **53-5-703**, which creates the Concealed Firearm Review Board, is repealed
540 July 1, 2023.

541 (4) Section **53B-6-105.5**, which creates the Technology Initiative Advisory Board, is
542 repealed July 1, 2024.

543 (5) Section **53B-7-709**, regarding five-year performance goals for the Utah System of
544 Higher Education is repealed July 1, 2027.

545 (6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

546 (7) Section **53B-17-1203**, which creates the SafeUT and School Safety Commission, is
547 repealed January 1, 2025.

548 (8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

549 (9) Subsection **53C-3-203**(4)(b)(vii), which provides for the distribution of money
550 from the Land Exchange Distribution Account to the Geological Survey for test wells and other
551 hydrologic studies in the West Desert, is repealed July 1, 2030.

552 (10) ~~[Subsection]~~ Subsections **53E-3-503**(5) and (6), which create coordinating
553 councils for youth in custody, are repealed July 1, 2027.

554 (11) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(12) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(14) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(15) Section 53F-5-203 is repealed July 1, 2024.

(16) Section 53F-5-213 is repealed July 1, 2023.

(17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(19) Section 53F-5-219, which creates the Local ~~Innovations~~ Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(20) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(21) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

~~[(22) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2027.]~~

~~[(23)]~~ (22) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

~~[(24)]~~ (23) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 10. Section 63M-7-208 is amended to read:

63M-7-208. Juvenile justice oversight -- Delegation -- Effective dates.

(1) The State Commission on Criminal and Juvenile Justice shall:

(a) support implementation and expansion of evidence-based juvenile justice programs and practices, including assistance regarding implementation fidelity, quality assurance, and ongoing evaluation;

(b) examine and make recommendations on the use of third-party entities or an intermediary organization to assist with implementation and to support the performance-based contracting system authorized in Subsection (1)(m);

(c) oversee the development of performance measures to track juvenile justice reforms, and ensure early and ongoing stakeholder engagement in identifying the relevant performance measures;

(d) evaluate currently collected data elements throughout the juvenile justice system and contract reporting requirements to streamline reporting, reduce redundancies, eliminate inefficiencies, and ensure a focus on recidivism reduction;

(e) review averted costs from reductions in out-of-home placements for juvenile justice youth placed with the Division of Juvenile Justice Services and the Division of Child and Family Services, and make recommendations to prioritize the reinvestment and realignment of resources into community-based programs for youth living at home, including the following:

(i) statewide expansion of:

(A) juvenile receiving centers, as defined in Section 80-1-102;

(B) mobile crisis outreach teams, as defined in Section 62A-15-102;

(C) youth courts; and

(D) victim-offender mediation;

(ii) statewide implementation of nonresidential diagnostic assessment;

(iii) statewide availability of evidence-based programs and practices including cognitive behavioral and family therapy programs for minors assessed by a validated risk and needs assessment as moderate or high risk;

(iv) implementation and infrastructure to support the sustainability and fidelity of evidence-based juvenile justice programs, including resources for staffing, transportation, and flexible funds; and

(v) early intervention programs such as family strengthening programs, family wraparound services, and proven truancy interventions;

(f) assist the Administrative Office of the Courts in the development of a statewide

617 sliding scale for the assessment of fines, fees, and restitution, based on the ability of the minor's
618 family to pay;

619 (g) analyze the alignment of resources and the roles and responsibilities of agencies,
620 such as the operation of early intervention services, receiving centers, and diversion, and make
621 recommendations to reallocate functions as appropriate, in accordance with Section [80-5-401](#);

622 (h) comply with the data collection and reporting requirements under Section
623 [80-6-104](#);

624 ~~[(h) ensure that data reporting is expanded and routinely review data in additional~~
625 ~~areas, including;]~~

626 ~~[(i) referral and disposition data by judicial district;]~~

627 ~~[(ii) data on the length of time minors spend in the juvenile justice system, including~~
628 ~~the total time spent under court jurisdiction, on community supervision, and in each~~
629 ~~out-of-home placement;]~~

630 ~~[(iii) recidivism data for minors who are diverted to a nonjudicial adjustment under~~
631 ~~Section [80-6-304](#) and minors for whom dispositions are ordered under Section [80-6-701](#),~~
632 ~~including tracking minors into the adult corrections system;]~~

633 ~~[(iv) change in aggregate risk levels from the time minors receive services, are under~~
634 ~~supervision, and are in out-of-home placement; and]~~

635 ~~[(v) dosage of programming;]~~

636 (i) develop a reasonable timeline within which all programming delivered to minors in
637 the juvenile justice system must be evidence-based or consist of practices that are rated as
638 effective for reducing recidivism by a standardized program evaluation tool;

639 (j) provide guidelines to be considered by the Administrative Office of the Courts and
640 the Division of Juvenile Justice Services in developing tools considered by the Administrative
641 Office of the Courts and the Division of Juvenile Justice Services in developing or selecting
642 tools to be used for the evaluation of juvenile justice programs;

643 (k) develop a timeline to support improvements to juvenile justice programs to achieve
644 reductions in recidivism and review reports from relevant state agencies on progress toward
645 reaching that timeline;

646 (l) subject to Subsection (2), assist in the development of training for juvenile justice
647 stakeholders, including educators, law enforcement officers, probation staff, judges, Division

of Juvenile Justice Services staff, Division of Child and Family Services staff, and program providers;

(m) subject to Subsection (3), assist in the development of a performance-based contracting system, which shall be developed by the Administrative Office of the Courts and the Division of Juvenile Justice Services for contracted services in the community and contracted out-of-home placement providers;

(n) assist in the development of a validated detention risk assessment tool that ~~shall be~~ is developed or adopted and validated by the Administrative Office of the Courts and the Division of Juvenile Justice Services as provided in Section 80-5-203 ~~[on and after July 1, 2018]~~; and

(o) annually issue and make public a report to the governor, president of the Senate, speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the progress of the reforms and any additional areas in need of review.

(2) Training described in Subsection (1)(l) should include instruction on evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity, and fidelity, and shall be supplemented by the following topics:

- (a) adolescent development;
- (b) identifying and using local behavioral health resources;
- (c) implicit bias;
- (d) cultural competency;
- (e) graduated responses;
- (f) Utah juvenile justice system data and outcomes; and
- (g) gangs.

(3) The system described in Subsection (1)(m) shall provide incentives for:

(a) the use of evidence-based juvenile justice programs and practices rated as effective by the tools selected in accordance with Subsection (1)(j);

(b) the use of three-month timelines for program completion; and

(c) evidence-based programs and practices for minors living at home in rural areas.

(4) The State Commission on Criminal and Juvenile Justice may delegate the duties imposed under this section to a subcommittee or board established by the State Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204(2).

679 ~~[(5) Subsections (1)(a) through (c) take effect August 1, 2017. The remainder of this~~
680 ~~section takes effect July 1, 2018.]~~

681 Section 11. Section **63M-7-218** is amended to read:

682 **63M-7-218. State grant requirements.**

683 Beginning July 1, 2023, the commission may not award any grant of state funds to any
684 entity subject to, and not in compliance with, the reporting requirements in Subsections
685 **63A-16-1002**(5)(a) through ~~[(t)]~~ (p).

686 Section 12. Section **76-5-401.3** is amended to read:

687 **76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.**

688 (1) (a) As used in this section, "adolescent" means an individual in the transitional
689 phase of human physical and psychological growth and development between childhood and
690 adulthood who is 12 years old or older, but younger than 18 years old.

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

692 (2) Under circumstances not amounting to an offense listed in Subsection (4), an actor
693 commits unlawful sexual activity if the actor:

694 (a) is an adolescent; and

695 (b) has sexual activity with another adolescent.

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

697 (a) third degree felony if an actor who is 17 years old engages in unlawful adolescent
698 sexual activity with an adolescent who is 12 or 13 years old;

699 (b) third degree felony if an actor who is 16 years old engages in unlawful adolescent
700 sexual activity with an adolescent who is 12 years old;

701 (c) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent
702 sexual activity with an adolescent who is 13 years old;

703 (d) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful
704 adolescent sexual activity with an adolescent who is 12 years old;

705 (e) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent
706 sexual activity with an adolescent who is 14 years old;

707 (f) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent
708 sexual activity with an adolescent who is 13 years old;

709 (g) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful

adolescent sexual activity with an adolescent who is 12 or 13 years old; and

(h) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(4) The offenses referred to in Subsection (2) are:

(a) rape, in violation of Section 76-5-402;

(b) rape of a child, in violation of Section 76-5-402.1;

(c) object rape, in violation of Section 76-5-402.2;

(d) object rape of a child, in violation of Section 76-5-402.3;

(e) forcible sodomy, in violation of Section 76-5-403;

(f) sodomy on a child, in violation of Section 76-5-403.1;

(g) sexual abuse of a child, in violation of Section 76-5-404;

(h) aggravated sexual assault, in violation of Section 76-5-405;

(i) incest, in violation of Section 76-7-102; or

(j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).

(5) An offense under this section is not eligible for a nonjudicial adjustment under Section ~~[80-6-304]~~ 80-6-303.5 or a referral to a youth court under Section 80-6-902.

(6) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

(7) An offense under this section is not subject to registration under Subsection 77-41-102(17).

Section 13. Section 76-10-105 is amended to read:

76-10-105. Buying or possessing a tobacco product or an electronic cigarette product by a minor -- Penalty -- Compliance officer authority -- Juvenile court jurisdiction.

(1) An individual who is 18 years old or older, but younger than 21 years old, and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine product is:

(a) guilty of an infraction; and

(b) subject to:

(i) a minimum fine or penalty of \$60; and
(ii) participation in a court-approved tobacco education or cessation program, which may include a participation fee.

(2) (a) An individual who is under 18 years old and who buys or attempts to buy, accepts, or has in the individual's possession a tobacco product, an electronic cigarette product, or a nicotine product is subject to a citation under Section 80-6-302~~[, unless the violation is committed on school property under Section 53G-8-211].~~

(b) If a violation under this section is adjudicated under Section 80-6-701, the minor may be subject to the following:

(i) a fine or penalty, in accordance with Section 80-6-709; and
(ii) participation in a court-approved tobacco education program, which may include a participation fee.

(3) ~~[(a)]~~ A compliance officer appointed by a board of education under Section 53G-4-402 may not issue a citation for a violation of this section committed on school property.

~~[(b) A cited violation committed on school property shall be addressed in accordance with Section 53G-8-211.]~~

Section 14. Section 76-10-501 is amended to read:

76-10-501. Definitions.

As used in this part:

(1) (a) "Antique firearm" means:

(i) any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898; or

(ii) a firearm that is a replica of any firearm described in this Subsection (1)(a), if the replica:

(A) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) uses rimfire or centerfire fixed ammunition which is:

(I) no longer manufactured in the United States; and

(II) is not readily available in ordinary channels of commercial trade; or

(iii) (A) that is a muzzle loading rifle, shotgun, or pistol; and

(B) is designed to use black powder, or a black powder substitute, and cannot use fixed ammunition.

(b) "Antique firearm" does not include:

(i) a weapon that incorporates a firearm frame or receiver;

(ii) a firearm that is converted into a muzzle loading weapon; or

(iii) a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the:

(A) barrel;

(B) bolt;

(C) breechblock; or

(D) any combination of Subsection (1)(b)(iii)(A), (B), or (C).

(2) "Auto sear" means a part designed and intended to convert a firearm into a fully automatic weapon.

~~[(2)]~~ (3) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

~~[(3)]~~ (4) (a) "Concealed firearm" means a firearm that is:

(i) covered, hidden, or secreted in a manner that the public would not be aware of its presence; and

(ii) readily accessible for immediate use.

(b) A firearm that is unloaded and securely encased is not a concealed firearm for the purposes of this part.

~~[(4)]~~ (5) "Criminal history background check" means a criminal background check conducted by a licensed firearms dealer on every purchaser of a handgun, except a Federal Firearms Licensee, through the bureau or the local law enforcement agency where the firearms dealer conducts business.

~~[(5)]~~ (6) "Curio or relic firearm" means a firearm that:

(a) is of special interest to a collector because of a quality that is not associated with firearms intended for:

(i) sporting use;

(ii) use as an offensive weapon; or

(iii) use as a defensive weapon;

803 (b) (i) was manufactured at least 50 years before the current date; and
804 (ii) is not a replica of a firearm described in Subsection ~~[(5)(b)(i)]~~ (6)(b)(i);
805 (c) is certified by the curator of a municipal, state, or federal museum that exhibits
806 firearms to be a curio or relic of museum interest;
807 (d) derives a substantial part of its monetary value:
808 (i) from the fact that the firearm is:
809 (A) novel;
810 (B) rare; or
811 (C) bizarre; or
812 (ii) because of the firearm's association with an historical:
813 (A) figure;
814 (B) period; or
815 (C) event; and
816 (e) has been designated as a curio or relic firearm by the director of the United States
817 Treasury Department Bureau of Alcohol, Tobacco, and Firearms under 27 C.F.R. Sec. 478.11.
818 ~~[(6)]~~ (7) (a) "Dangerous weapon" means:
819 (i) a firearm; or
820 (ii) an object that in the manner of its use or intended use is capable of causing death or
821 serious bodily injury.
822 (b) The following factors are used in determining whether any object, other than a
823 firearm, is a dangerous weapon:
824 (i) the location and circumstances in which the object was used or possessed;
825 (ii) the primary purpose for which the object was made;
826 (iii) the character of the wound, if any, produced by the object's unlawful use;
827 (iv) the manner in which the object was unlawfully used;
828 (v) whether the manner in which the object is used or possessed constitutes a potential
829 imminent threat to public safety; and
830 (vi) the lawful purposes for which the object may be used.
831 (c) "Dangerous weapon" does not include an explosive, chemical, or incendiary device
832 as defined by Section 76-10-306.
833 ~~[(7)]~~ (8) "Dealer" means a person who is:

(a) licensed under 18 U.S.C. Sec. 923; and

(b) engaged in the business of selling, leasing, or otherwise transferring a handgun, whether the person is a retail or wholesale dealer, pawnbroker, or otherwise.

~~[(8)]~~ (9) "Enter" means intrusion of the entire body.

~~[(9)]~~ (10) "Federal Firearms Licensee" means a person who:

(a) holds a valid Federal Firearms License issued under 18 U.S.C. Sec. 923; and

(b) is engaged in the activities authorized by the specific category of license held.

~~[(10)]~~ (11) (a) "Firearm" means a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive.

(b) As used in Sections 76-10-526 and 76-10-527, "firearm" does not include an antique firearm.

~~[(11)]~~ (12) "Firearms transaction record form" means a form created by the bureau to be completed by a person purchasing, selling, or transferring a handgun from a dealer in the state.

~~[(12)]~~ (13) "Fully automatic weapon" means a firearm which fires, is designed to fire, or can be readily restored to fire, automatically more than one shot without manual reloading by a single function of the trigger.

~~[(13)]~~ (14) (a) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which a shot, bullet, or other missile can be discharged, the length of which, not including any revolving, detachable, or magazine breech, does not exceed 12 inches.

(b) As used in Sections 76-10-520, 76-10-521, and 76-10-522, "handgun" and "pistol or revolver" do not include an antique firearm.

~~[(14)]~~ (15) "House of worship" means a church, temple, synagogue, mosque, or other building set apart primarily for the purpose of worship in which religious services are held and the main body of which is kept for that use and not put to any other use inconsistent with its primary purpose.

~~[(15)]~~ (16) "Prohibited area" means a place where it is unlawful to discharge a firearm.

~~[(16)]~~ (17) "Readily accessible for immediate use" means that a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.

[~~(17)~~] (18) "Residence" means an improvement to real property used or occupied as a primary or secondary residence.

[~~(18)~~] (19) "Securely encased" means not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container, whether or not locked, or in a trunk or other storage area of a motor vehicle, not including a glove box or console box.

[~~(19)~~] (20) "Short barreled shotgun" or "short barreled rifle" means a shotgun having a barrel or barrels of fewer than 18 inches in length, or in the case of a rifle, having a barrel or barrels of fewer than 16 inches in length, or a dangerous weapon made from a rifle or shotgun by alteration, modification, or otherwise, if the weapon as modified has an overall length of fewer than 26 inches.

[~~(20)~~] (21) "Shotgun" means a smooth bore firearm designed to fire cartridges containing pellets or a single slug.

[~~(21)~~] (22) "Shoulder arm" means a firearm that is designed to be fired while braced against the shoulder.

[~~(22)~~] (23) "Slug" means a single projectile discharged from a shotgun shell.

[~~(23)~~] (24) "State entity" means a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

[~~(24)~~] (25) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 15. Section **76-10-509.4** is amended to read:

76-10-509.4. Prohibition of possession of certain weapons by minors.

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

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

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

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

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

(d) an auto sear.

(3) [~~Any person~~] An individual who violates Subsection (1) is guilty of:

- 896 (a) a class B misdemeanor upon the first offense; and
897 (b) a class A misdemeanor for each subsequent offense.
898 (4) ~~[Any person]~~ An individual who violates Subsection (2) is guilty of a third degree
899 felony.

900 Section 16. Section **78A-6-210** is amended to read:

901 **78A-6-210. Fines -- Fees -- Deposit with state treasurer -- Restricted account.**

902 (1) There is created a restricted account in the General Fund known as the "Nonjudicial
903 Adjustment Account."

904 (2) (a) The account shall be funded from the financial penalty established under
905 ~~[Subsection 80-6-304(6)(a)]~~ Section 80-6-304.

906 (b) The court shall deposit all money collected as a result of penalties assessed as part
907 of the nonjudicial adjustment of a case into the account.

908 (c) The account shall be used to pay the expenses of juvenile compensatory service,
909 victim restitution, and diversion programs.

910 (3) (a) Except under Subsection (3)(b) or (4) and as otherwise provided by law, the
911 juvenile court shall pay all fines, fees, penalties, and forfeitures imposed and collected by the
912 juvenile court to the state treasurer for deposit into the General Fund.

913 (b) No more than 50% of any fine or forfeiture collected may be paid to a state
914 rehabilitative employment program for a minor adjudicated under Section 80-6-701 that
915 provides for employment of the minor in the county of the minor's residence if:

916 (i) reimbursement for the minor's labor is paid to the victim of the offense or wrongful
917 act committed by the minor;

918 (ii) the amount earned and paid is set by court order;

919 (iii) the minor is not paid more than the hourly minimum wage; and

920 (iv) no payments to victims are made without the minor's involvement in a
921 rehabilitative work program.

922 (c) Fines withheld under Subsection (3)(b) and any private contributions to the
923 rehabilitative employment program are accounted for separately and are subject to audit at any
924 time by the state auditor.

925 (d) (i) Funds withheld under Subsection (3)(b) and private contributions are
926 nonlapsing.

(ii) The board shall establish policies for the use of the funds described in this Subsection (3)(d).

(4) For fines and forfeitures collected by the court for a violation of Section [41-6a-1302](#) in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section [41-6a-1310](#), the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 80% to the General Fund.

(5) A state or local public officer may not charge a fee for the service of process in any proceedings initiated by a public agency.

Section 17. Section **80-6-104** is enacted to read:

80-6-104. Data collection on offenses committed by minors -- Reporting requirement.

(1) As used in this section:

(a) "Firearm" means the same as that term is defined in Section [76-10-501](#).

(b) "Firearm-related offense" means a criminal offense involving a firearm.

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

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

(2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:

(a) the number of referrals to the juvenile court;

(b) the number of minors diverted to a nonjudicial adjustment;

(c) the number of minors that satisfy the conditions of a nonjudicial adjustment;

(d) the number of minors for whom a petition for an offense is filed in the juvenile court;

(e) the number of minors for whom an information is filed in the juvenile court;

(f) the number of minors bound over to the district court by the juvenile court;

(g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;

(h) the number of adjudications in the juvenile court for offenses committed by minors;

958 (i) the number of guilty pleas entered into by minors in the juvenile court;
959 (j) the number of dispositions resulting in secure care, community-based placement,
960 formal probation, and intake probation; and
961 (k) for each minor charged in the juvenile court with a firearm-related offense:
962 (i) the minor's age at the time the offense was committed or allegedly committed;
963 (ii) the minor's zip code at the time that the offense was referred to the juvenile court;
964 (iii) whether the minor is a restricted person under Subsection [76-10-503\(1\)\(a\)\(iv\)](#) or
965 (1)(b)(ii);
966 (iv) the type of offense for which the minor is charged;
967 (v) the outcome of the minor's case in juvenile court, including whether the minor was
968 bound over to the district court or adjudicated by the juvenile court; and
969 (vi) if a disposition was entered by the juvenile court, whether the disposition resulted
970 in secure care, community-based placement, formal probation, or intake probation.
971 (3) The State Commission on Criminal and Juvenile Justice shall track the disposition
972 of a case resulting from a firearm-related offense committed, or allegedly committed, by a
973 minor when the minor is found in possession of a firearm while school is in session or during a
974 school-sponsored activity.
975 (4) In collaboration with the Administrative Office of the Courts, the division, and
976 other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the
977 preceding calendar year on:
978 (a) the length of time that minors spend in the juvenile justice system, including the
979 total amount of time minors spend under juvenile court jurisdiction, on community
980 supervision, and in each out-of-home placement;
981 (b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for
982 whom dispositions are ordered by the juvenile court, including tracking minors into the adult
983 corrections system;
984 (c) changes in aggregate risk levels from the time minors receive services, are under
985 supervision, and are in out-of-home placement; and
986 (d) dosages of programming.
987 (5) On and before October 1 of each year, the State Commission on Criminal and
988 Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee

and the Law Enforcement and Criminal Justice Interim Committee that includes:

(a) data collected by the State Commission on Criminal and Juvenile Justice under this section;

(b) data collected by the State Board of Education under Section 53E-3-516; and

(c) recommendations for legislative action with respect to the data described in this Subsection (5).

Section 18. Section 80-6-204 is amended to read:

80-6-204. Detention or confinement of a minor -- Restrictions.

(1) Except as provided in Subsection (2) or this chapter, if a child is apprehended by a peace officer, or brought before a court for examination under state law, the child may not be confined:

(a) in a jail, lockup, or cell used for an adult who is charged with a crime; or

(b) in secure care.

(2) (a) The division shall detain a child in accordance with Sections 80-6-502, 80-6-504, and 80-6-505 if:

(i) the child is charged with an offense under Section 80-6-502 or 80-6-503;

(ii) the district court has obtained jurisdiction over the offense because the child is bound over to the district court under Section 80-6-504; and

(iii) the juvenile or district court orders the detention of the child.

(b) (i) If a child is detained before a detention hearing, or a preliminary hearing under Section 80-6-504 if a criminal information is filed for the child under Section 80-6-503, the child may only be held in certified juvenile detention accommodations in accordance with rules made by the commission.

(ii) The commission's rules shall include rules for acceptable sight and sound separation from adult inmates.

(iii) The commission shall certify that a correctional facility is in compliance with the commission's rules.

(iv) This Subsection (2)(b) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).

(3) (a) In an area of low density population, the commission may, by rule, approve a juvenile detention accommodation within a correctional facility that has acceptable sight and

1020 sound separation.

1021 (b) An accommodation described in Subsection (3)(a) shall be used only:

1022 (i) for short-term holding of a child who is alleged to have committed an act that would
1023 be a criminal offense if committed by an adult; and

1024 (ii) for a maximum confinement period of six hours.

1025 (c) A child may only be held in an accommodation described in Subsection (3)(a) for:

1026 (i) identification;

1027 (ii) notification of a juvenile court official;

1028 (iii) processing; and

1029 (iv) allowance of adequate time for evaluation of needs and circumstances regarding
1030 the release or transfer of the child to a shelter or detention facility.

1031 (d) This Subsection (3) does not apply to a child held in a correctional facility in
1032 accordance with Subsection (2)(a).

1033 (4) (a) If a child is alleged to have committed an act that would be [~~a criminal offense~~]
1034 a misdemeanor or infraction offense if committed by an adult, the child may be detained in a
1035 holding room in a local law enforcement agency facility for a maximum of two hours:

1036 [~~(i) for a maximum of two hours; and~~]

1037 [~~(ii)-(A)~~] (i) for identification or interrogation; or

1038 [~~(B)~~] (ii) while awaiting release to a parent or other responsible adult.

1039 (b) If a child is alleged to have committed an act that would be a felony offense if
1040 committed by an adult, the child may be detained in a holding room in a local law enforcement
1041 agency facility for a maximum of four hours:

1042 (i) for identification or interrogation; or

1043 (ii) while awaiting release to a parent or other responsible adult.

1044 (c) A holding room described in [~~Subsection (4)(a)~~] Subsections (4)(a) and (b) shall be
1045 certified by the commission in accordance with the commission's rules.

1046 [~~(c)~~] (d) The commission's rules shall include provisions for constant supervision and
1047 for sight and sound separation from adult inmates.

1048 (5) Willful failure to comply with this section is a class B misdemeanor.

1049 (6) (a) The division is responsible for the custody and detention of:

1050 (i) a child who requires detention before trial or examination, or is placed in secure

1051 detention after an adjudication under Section 80-6-704; and

1052 (ii) a juvenile offender under Subsection 80-6-806(7).

1053 (b) Subsection (6)(a) does not apply to a child held in a correctional facility in
1054 accordance with Subsection (2)(a).

1055 (c) (i) The commission shall provide standards for custody or detention under
1056 Subsections (2)(b), (3), and (4).

1057 (ii) The division shall determine and set standards for conditions of care and
1058 confinement of children in detention facilities.

1059 (d) (i) The division, or a public or private agency willing to undertake temporary
1060 custody or detention upon agreed terms in a contract with the division, shall provide all other
1061 custody or detention in suitable premises distinct and separate from the general jails, lockups,
1062 or cells used in law enforcement and corrections systems.

1063 (ii) This Subsection (6)(d) does not apply to a child held in a correctional facility in
1064 accordance with Subsection (2)(a).

1065 (7) Except as otherwise provided by this chapter, if an individual who is, or appears to
1066 be, under 18 years old is received at a correctional facility, the sheriff, warden, or other official,
1067 in charge of the correctional facility shall:

1068 (a) immediately notify the juvenile court of the individual; and

1069 (b) make arrangements for the transfer of the individual to a detention facility, unless
1070 otherwise ordered by the juvenile court.

1071 Section 19. Section 80-6-302 is amended to read:

1072 **80-6-302. Citation -- Procedure -- Time limits -- Failure to appear.**

1073 (1) A petition is not required to commence a proceeding against a minor for an
1074 adjudication of an alleged offense if a citation is issued for an offense for which the juvenile
1075 court has jurisdiction over and the offense listed in the citation is for:

1076 (a) a violation of a wildlife law;

1077 (b) a violation of a boating law;

1078 (c) a class B or C misdemeanor or an infraction other than a misdemeanor or
1079 infraction:

1080 (i) for a traffic violation; or

1081 (ii) designated as a citable offense by general order of the Board of Juvenile Court

1082 Judges;

1083 (d) a class B misdemeanor or infraction for a traffic violation where the individual is
1084 15 years old or younger at the time the offense was alleged to have occurred;

1085 (e) an infraction or misdemeanor designated as a citable offense by a general order of
1086 the Board of Juvenile Court Judges; or

1087 (f) a violation of Subsection 76-10-105(2).

1088 (2) Except as provided in Subsection (6) and Section 80-6-301, a citation for an offense
1089 listed in Subsection (1) shall be submitted to the juvenile court within five days of issuance to a
1090 minor.

1091 (3) A copy of the citation shall contain:

1092 (a) the name and address of the juvenile court before which the minor may be required
1093 to appear;

1094 (b) the name of the minor cited;

1095 (c) the statute or local ordinance that the minor is alleged to have violated;

1096 (d) a brief description of the offense charged;

1097 (e) the date, time, and location at which the offense is alleged to have occurred;

1098 (f) the date the citation was issued;

1099 (g) the name and badge or identification number of the peace officer or public official
1100 who issued the citation;

1101 (h) the name of the arresting person if an arrest was made by a private party and the
1102 citation was issued in lieu of taking the minor into temporary custody as provided in Section
1103 80-6-201;

1104 (i) a statement that the minor and the minor's parent or guardian are to appear when
1105 notified by the juvenile court; and

1106 (j) the signature of the minor and the minor's parent or guardian, if present, agreeing to
1107 appear at the juvenile court when notified by the court.

1108 (4) A copy of the citation shall contain space for the following information to be
1109 entered if known:

1110 (a) the minor's address;

1111 (b) the minor's date of birth;

1112 (c) the name and address of the child's custodial parent or guardian, if different from

the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

(5) A citation received by the juvenile court beyond the time designated in Subsection (2) shall include a written explanation for the delay.

(6) ~~[A minor offense, as defined in Section 80-6-901,]~~ An offense alleged to have been committed by an enrolled child on school property, or related to school attendance, may only be referred to the prosecuting attorney or the juvenile court in accordance with Section 53G-8-211.

(7) If a juvenile court receives a citation described in Subsection (1), a juvenile probation officer shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection ~~[80-6-304(5)]~~ 80-6-303.5(4).

(8) (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:

(i) the minor is not eligible for, or does not complete, a nonjudicial adjustment ~~[in accordance with Section 80-6-304]~~; and

(ii) the prosecuting attorney conducts an inquiry under Subsection (9).

(b) Except as provided in Subsection 80-6-305(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.

(9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:

(a) the charge listed in the citation is supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at the juvenile court at a date and time established by the juvenile court.

(11) If a minor willfully fails to appear before the juvenile court for a proceeding under Subsection (8)(a), the juvenile court may:

(a) find the minor in contempt of court; and

(b) proceed against the minor as provided in Section 78A-6-353.

(12) If a proceeding is commenced under this section, the minor may remit a fine without a personal appearance before the juvenile court with the consent of:

(a) the juvenile court; and

(b) if the minor is a child, the parent or guardian of the child cited.

Section 20. Section 80-6-303 is amended to read:

80-6-303. Criminal proceedings involving minors -- Transfer to juvenile court -- Exception.

(1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that an individual being charged is under 21 years old and was younger than 18 years old at the time of committing the alleged offense, the district court or justice court shall transfer the case to the juvenile court with all the papers, documents, and transcripts of any testimony.

(b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:

(A) filed in the district court in accordance with Section 80-6-502; or

(B) transferred to the district court in accordance with Section 80-6-504.

(ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an offense for which the justice court has original jurisdiction under Subsection 78A-7-106(2).

(2) (a) Except as provided in Subsection (2)(b), the district court or justice court making the transfer shall:

(i) order the individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court; or

(ii) release the individual to the custody of the individual's parent or guardian or other person legally responsible for the individual, to be brought before the juvenile court at a time designated by the juvenile court.

(b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:

(i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the

individual;

(ii) the juvenile court shall treat the transfer as a referral under Section 80-6-301; and

(iii) a juvenile probation officer shall make a preliminary inquiry to determine whether the individual is eligible for a nonjudicial adjustment in accordance with Section [80-6-304]

80-6-303.

(c) If the case is transferred to the juvenile court under this section, the juvenile court shall then proceed in accordance with this chapter.

(3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with Sections 78A-5-102 and 78A-7-106.

Section 21. Section 80-6-303.5 is enacted to read:

80-6-303.5. Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.

(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, a juvenile probation officer shall make a preliminary inquiry in accordance with this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(3) (a) The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor

1206 shall:

1207 (i) undergo a drug and alcohol screening;

1208 (ii) if found appropriate by the screening, participate in an assessment; and

1209 (iii) if warranted by the screening and assessment, follow the recommendations of the

1210 assessment.

1211 (4) Except for an offense that is not eligible under Subsection (8), the juvenile

1212 probation officer shall offer a nonjudicial adjustment to a minor if:

1213 (a) the minor:

1214 (i) is referred for an offense that is a misdemeanor, infraction, or status offense;

1215 (ii) has no more than one prior adjudication; and

1216 (iii) has no more than one prior unsuccessful nonjudicial adjustment attempt; or

1217 (b) the minor is referred for an offense that is alleged to have occurred before the minor

1218 was 12 years old.

1219 (5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under

1220 Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single

1221 criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

1222 (6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under

1223 Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single

1224 criminal episode that resulted in one or more prior adjudications as a single adjudication.

1225 (7) Except for a referral that involves an offense described in Subsection (8), the

1226 juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the

1227 criteria described in Subsection (4)(a).

1228 (8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the

1229 referral involves:

1230 (a) an offense alleged to have occurred when the minor was 12 years old or older that

1231 is:

1232 (i) a felony offense; or

1233 (ii) a misdemeanor violation of:

1234 (A) Section [41-6a-502](#), driving under the influence;

1235 (B) Section [76-5-107](#), threat of violence;

1236 (C) Section [76-5-107.1](#), threats against schools;

(D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(E) Section 76-5-206, negligent homicide;

(F) Section 76-9-702.1, sexual battery;

(G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;

(H) Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;

(I) Section 76-10-507, possession of a deadly weapon with criminal intent;

(J) Section 76-10-509, possession of a dangerous weapon by a minor; or

(K) Section 76-10-509.4, prohibition of possession of certain weapons by minors; or

(b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:

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

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm.

(9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:

(a) the referral involves an offense described in Subsection (8); or

(b) the minor has a current suspended order for custody under Section 80-6-711.

Section 22. Section **80-6-304** is amended to read:

80-6-304. Nonjudicial adjustments.

~~[(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, a juvenile probation officer shall make a preliminary inquiry in accordance with Subsections (3), (4), and (5) to determine whether the~~

minor is eligible to enter into a nonjudicial adjustment.]

[~~(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.~~]

~~[(3) (a) The juvenile probation officer may:]~~

~~[(i) conduct a validated risk and needs assessment; and]~~

~~[(ii) request that a prosecuting attorney review a referral in accordance with Subsection (9) if:]~~

~~[(A) the results of the validated risk and needs assessment indicate the minor is high risk; or]~~

~~[(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions:]~~

~~[(b) If a minor violates Section 41-6a-502, the minor shall:]~~

~~[(i) undergo a drug and alcohol screening;]~~

~~[(ii) if found appropriate by the screening, participate in an assessment; and]~~

~~[(iii) if warranted by the screening and assessment, follow the recommendations of the assessment:]~~

~~[(4) Except as provided in Subsection (5)(b), the juvenile probation officer shall request that a prosecuting attorney review a referral in accordance with Subsection (9) if:]~~

~~[(a) the referral involves:]~~

~~[(i) a felony offense; or]~~

~~[(ii) a violation of:]~~

~~[(A) Section 41-6a-502, driving under the influence;]~~

~~[(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;]~~

~~[(C) Section 76-5-206, negligent homicide;]~~

~~[(D) Section 76-9-702.1, sexual battery;]~~

~~[(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or]~~

1299 ~~[(F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the~~
1300 ~~dangerous weapon is a firearm;]~~

1301 ~~[(b) the minor has a current suspended order for custody under Section 80-6-711; or]~~
1302 ~~[(c) the referral involves an offense alleged to have occurred before an individual was~~
1303 ~~12 years old and the offense is a felony violation of:]~~

1304 ~~[(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;]~~
1305 ~~[(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;]~~
1306 ~~[(iii) Section 76-5-203, murder or attempted murder;]~~
1307 ~~[(iv) Section 76-5-302, aggravated kidnapping;]~~
1308 ~~[(v) Section 76-5-405, aggravated sexual assault;]~~
1309 ~~[(vi) Section 76-6-103, aggravated arson;]~~
1310 ~~[(vii) Section 76-6-203, aggravated burglary;]~~
1311 ~~[(viii) Section 76-6-302, aggravated robbery; or]~~
1312 ~~[(ix) Section 76-10-508.1, felony discharge of a firearm.]~~

1313 ~~[(5)(a) Except as provided in Subsections (3) and (4), the juvenile probation officer~~
1314 ~~shall offer a nonjudicial adjustment to a minor if the minor:]~~

1315 ~~[(i) is referred for an offense that is a misdemeanor, infraction, or status offense;]~~
1316 ~~[(ii) has no more than two prior adjudications; and]~~
1317 ~~[(iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.]~~

1318 ~~[(b) If the juvenile court receives a referral for an offense that is alleged to have~~
1319 ~~occurred before an individual was 12 years old, the juvenile probation officer shall offer a~~
1320 ~~nonjudicial adjustment to the individual, unless the referral includes an offense described in~~
1321 ~~Subsection (4)(c).]~~

1322 ~~[(c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment~~
1323 ~~under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a~~
1324 ~~single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial~~
1325 ~~adjustment.]~~

1326 ~~[(ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment~~
1327 ~~under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a~~
1328 ~~single criminal episode that resulted in one or more prior adjudications as a single~~
1329 ~~adjudication.]~~

1330 ~~[(d) Except as provided in Subsection (4), the juvenile probation officer may offer a~~
1331 ~~nonjudicial adjustment to a minor who does not meet the criteria provided in Subsection~~
1332 ~~(5)(a).]~~

1333 ~~[(6)]~~ (1) For a nonjudicial adjustment, the juvenile probation officer may require a
1334 minor to:

1335 (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the
1336 terms established under Subsection ~~[(8)(c)]~~ (4);

1337 (b) pay restitution to any victim;

1338 (c) complete community or compensatory service;

1339 (d) attend counseling or treatment with an appropriate provider;

1340 (e) attend substance abuse treatment or counseling;

1341 (f) comply with specified restrictions on activities or associations;

1342 (g) attend victim-offender mediation if requested by the victim; and

1343 (h) comply with any other reasonable action that is in the interest of the minor, the
1344 community, or the victim.

1345 ~~[(7)]~~ (2) (a) Within seven days of receiving a referral that appears to be eligible for a
1346 nonjudicial adjustment in accordance with ~~[Subsection (5)]~~ Section 80-6-303.5, the juvenile
1347 probation officer shall provide an initial notice to reasonably identifiable and locatable victims
1348 of the offense contained in the referral.

1349 (b) The victim shall be responsible to provide to the juvenile probation officer upon
1350 request:

1351 (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and
1352 out-of-pocket loss;

1353 (ii) documentation and evidence of compensation or reimbursement from an insurance
1354 company or an agency of the state, any other state, or the federal government received as a
1355 direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

1356 (iii) proof of identification, including home and work address and telephone numbers.

1357 (c) The inability, failure, or refusal of the victim to provide all or part of the requested
1358 information shall result in the juvenile probation officer determining restitution based on the
1359 best information available.

1360 ~~[(8)]~~ (3) ~~[(a)]~~ The juvenile probation officer may not predicate acceptance of an offer

of a nonjudicial adjustment on an admission of guilt.

~~[(b)]~~ (4) (a) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection ~~[(6)]~~ (1).

~~[(c)]~~ (b) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection ~~[(6)]~~ (1) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.

~~[(d)]~~ (5) (a) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

~~[(e)(i)]~~ (b) ~~[Notwithstanding Subsection (8)(d), a]~~ A juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection ~~[(8)(d)]~~ (5)(a):

(i) for a minor who is:

(A) offered a nonjudicial adjustment ~~[under Subsection (5)(b)]~~ for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, ~~[or is]~~ that the minor committed before the minor was 12 years old; or

(B) referred ~~[under Subsection (9)(b)(ii)]~~ to a prosecuting attorney for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old~~[, if]~~; and

(ii) the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

~~[(i)]~~ (c) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection ~~[(8)(e)(i)]~~ (5)(b), the judge may extend the nonjudicial adjustment until the minor completes the ~~[treatment under this Subsection (8)(e)]~~ specific treatment, but the judge may only grant each extension for 90 days at a time.

~~[(f)]~~ (6) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

1392 ~~[(9) If a prosecuting attorney is requested to review a referral in accordance with~~
1393 ~~Subsection (3) or (4), a minor fails to substantially comply with a condition agreed upon as part~~
1394 ~~of the nonjudicial adjustment, or a minor is not offered or declines a nonjudicial adjustment in~~
1395 ~~accordance with Subsection (5), the prosecuting attorney shall:]~~

1396 ~~[(a) review the case; and]~~

1397 ~~[(b) (i) dismiss the case;]~~

1398 ~~[(ii) refer the case back to the juvenile probation officer for a new attempt at~~
1399 ~~nonjudicial adjustment; or]~~

1400 ~~[(iii) except as provided in Subsections (10)(b), (11), and 80-6-305(2), file a petition~~
1401 ~~with the juvenile court.]]~~

1402 ~~[(10) (a) A prosecuting attorney may file a petition only upon reasonable belief that:]~~

1403 ~~[(i) the charges are supported by probable cause;]~~

1404 ~~[(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable~~
1405 ~~doubt; and]~~

1406 ~~[(iii) the decision to charge is in the interests of justice.]]~~

1407 ~~[(b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under~~
1408 ~~Subsection (9)(b)(iii) if the minor has substantially complied with the other conditions agreed~~
1409 ~~upon in accordance with Subsection (6) or conditions imposed through any other court~~
1410 ~~diversion program.]]~~

1411 ~~[(11) A prosecuting attorney may not file a petition against a minor unless:]~~

1412 ~~[(a) the prosecuting attorney has statutory authority to file the petition under Section~~
1413 ~~80-6-305; and]~~

1414 ~~[(b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (5);]~~

1415 ~~[(ii) the minor declines a nonjudicial adjustment;]~~

1416 ~~[(iii) the minor fails to substantially comply with the conditions agreed upon as part of~~
1417 ~~the nonjudicial adjustment;]~~

1418 ~~[(iv) the minor fails to respond to the juvenile probation officer's inquiry regarding~~
1419 ~~eligibility for or an offer of a nonjudicial adjustment after being provided with notice for~~
1420 ~~preliminary inquiry; or]~~

1421 ~~[(v) the prosecuting attorney is acting under Subsection (9).]]~~

1422 ~~[(12) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is~~

commenced against a minor under Section ~~80-6-302~~, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment.]

Section 23. Section ~~80-6-304.5~~ is enacted to read:

80-6-304.5. Prosecutorial review of referral to juvenile court -- Filing a petition.

(1) A prosecuting attorney shall review a referral to the juvenile court for an offense committed by a minor if:

(a) the prosecuting attorney is requested to review the referral under Section ~~80-6-303.5~~;

(b) the minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment; or

(c) the minor is not offered or declines a nonjudicial adjustment.

(2) Upon review of a referral under Subsection (1), the prosecuting attorney shall:

(a) dismiss the referral;

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

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

(3) A prosecuting attorney may only file a petition under Subsection (2)(c) upon reasonable belief that:

(a) the charges are supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(4) If a minor has substantially complied with the other conditions of a nonjudicial adjustment or conditions imposed through any other court diversion program, the minor's failure to pay a fine or fee as a condition of the nonjudicial adjustment or program may not serve as a basis for filing of a petition.

(5) A prosecuting attorney may not file a petition against a minor unless:

(a) the prosecuting attorney has statutory authority to file the petition under Section ~~80-6-305~~; and

(b) (i) the minor is not eligible for a nonjudicial adjustment under Section ~~80-6-303.5~~;

(ii) the minor declines a nonjudicial adjustment;
(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment; or

(iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry.

(6) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section [80-6-302](#), the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment if the minor is eligible for a nonjudicial adjustment under Section [80-6-303.5](#).

Section 24. Section **80-6-305** is amended to read:

80-6-305. Petition for a delinquency proceeding -- Amending a petition -- Continuance.

(1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:

- (a) Subsection (2);
- (b) Section [80-6-302](#);
- (c) Section [80-6-502](#); and
- (d) Section [80-6-503](#).

(2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

- (a) the individual is alleged to have committed a felony violation of:
 - (i) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;
 - (ii) Section [76-5-202](#), aggravated murder or attempted aggravated murder;
 - (iii) Section [76-5-203](#), murder or attempted murder;
 - (iv) Section [76-5-302](#), aggravated kidnapping;
 - (v) Section [76-5-405](#), aggravated sexual assault;
 - (vi) Section [76-6-103](#), aggravated arson;
 - (vii) Section [76-6-203](#), aggravated burglary;

1485 (viii) Section [76-6-302](#), aggravated robbery; or
1486 (ix) Section [76-10-508.1](#), felony discharge of a firearm; or
1487 (b) an offer for a nonjudicial adjustment is made under Section [~~80-6-304~~] [80-6-303.5](#)
1488 and the minor:
1489 (i) declines to accept the offer for the nonjudicial adjustment; or
1490 (ii) fails to substantially comply with the conditions agreed upon as part of the
1491 nonjudicial adjustment.
1492 (3) A juvenile court may dismiss a petition under this section at any stage of the
1493 proceedings.
1494 (4) (a) When evidence is presented during any proceeding in a minor's case that points
1495 to material facts not alleged in the petition, the juvenile court may consider the additional or
1496 different material facts raised by the evidence if the parties consent.
1497 (b) The juvenile court, on a motion from any interested party or on the court's own
1498 motion, shall direct that the petition be amended to conform to the evidence.
1499 (c) If an amended petition under Subsection (4)(b) results in a substantial departure
1500 from the material facts originally alleged, the juvenile court shall grant a continuance as justice
1501 may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.