

JUVENILE SENTENCING AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig Hall

Senate Sponsor: Karen Mayne

Cosponsors: Mike Winder

V. Lowry Snow

LONG TITLE

General Description:

This bill addresses the sentencing of individuals who are committed to the custody of the Division of Juvenile Justice Services.

Highlighted Provisions:

This bill:

- defines terms;
- addresses the termination of certain juvenile dispositions when a defendant is convicted and sentenced by the court;
- allows a court to order a sentence to run consecutively or concurrently to certain juvenile dispositions;
- provides factors for the court to consider when determining whether a defendant's sentence runs concurrently or consecutively to certain juvenile dispositions;
- requires clarification by the court if the court fails to determine whether a sentence runs concurrently or consecutively to certain juvenile dispositions;
- if a court determines that a sentence for imprisonment in a secure correctional facility or a county jail runs concurrently to a juvenile disposition for secure confinement in a secure facility, requires a defendant to remain in the secure facility until the Youth Parole Authority terminates the juvenile disposition;
- upon termination of a defendant's juvenile disposition for secure confinement in a

secure facility, requires the Division of Juvenile Justice Services to notify and facilitate the transfer or release of the defendant;

- requires the court and the Division of Juvenile Justice Services to notify the Board of Pardons and Parole when the defendant is sentenced to imprisonment in a secure correctional facility; and

- provides that the Board of Pardons and Parole has authority for certain purposes over a defendant whose sentence for imprisonment in a secure correctional facility runs concurrently with a juvenile disposition for secure confinement in a secure facility.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-3-401.5, Utah Code Annotated 1953

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

Section 1. Section **76-3-401.5** is enacted to read:

76-3-401.5. Concurrent or consecutive sentence with a juvenile disposition.

(1) As used in this section:

(a) "Authority" means the Youth Parole Authority created in Section [62A-7-501](#).

(b) "Board" means the Board of Pardons and Parole created in Section [77-27-2](#).

(c) "Division" means the Division of Juvenile Justice Services created in Section [62A-7-102](#).

(d) (i) "Juvenile disposition" means an order for commitment to the custody of the division under Subsection [78A-6-117\(2\)\(c\)](#).

(ii) "Juvenile disposition" includes an order for commitment to the custody of the

division for secure confinement in a secure facility under Subsection [78A-6-117\(2\)\(e\)](#).

(e) "Secure correctional facility" means the same as that term is defined in Section [64-13-1](#).

(f) "Secure facility" means the same as that term is defined in Section [78A-6-105](#).

(2) If a defendant who is 18 years old or older is serving a juvenile disposition, a court may not terminate the juvenile disposition for the defendant when:

(a) the defendant is convicted of an offense; and

(b) the court imposes a sentence under Section [76-3-201](#) for the offense.

(3) (a) If a defendant who is 18 years old or older is convicted and sentenced for an offense and the defendant is serving a juvenile disposition at the time of sentencing, the court shall determine whether the sentence is to run concurrently or consecutively to the juvenile disposition.

(b) The court shall state on the record and in the order of judgment and commitment whether the sentence imposed is to run concurrently or consecutively with the juvenile disposition.

(c) In determining whether a sentence is to run concurrently or consecutively with a juvenile disposition, the court shall consider:

(i) the gravity and circumstances of the offense for which the defendant is convicted;

(ii) the number of victims; and

(iii) the history, character, and rehabilitative needs of the defendant.

(d) If an order of judgment and commitment does not clearly state whether the sentence is to run consecutively or concurrently with the juvenile disposition, the division shall request clarification from the court.

(e) Upon receipt of the request under Subsection (3)(d), the court shall enter a clarified order of judgment and commitment stating whether the sentence is to run concurrently or consecutively to the juvenile disposition.

(4) If a court orders a sentence for imprisonment to run concurrently with a juvenile disposition for secure confinement in a secure facility under Subsection [78A-6-117\(2\)\(e\)](#), the

defendant shall serve the sentence in the secure facility until the juvenile disposition is terminated by the authority in accordance with Section [62A-7-404.5](#).

(5) If a court orders a sentence for imprisonment in a county jail to run concurrently with a juvenile disposition for secure confinement in a secure facility under Subsection [78A-6-117\(2\)\(e\)](#) and the disposition is terminated before the defendant's sentence for imprisonment in the county jail is terminated, the division shall:

(a) notify the county jail at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from the secure facility; and

(b) facilitate the transfer or release of the defendant in accordance with the order of judgment and commitment imposed by the court.

(6) (a) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure confinement in a secure facility under Subsection [78A-6-117\(2\)\(e\)](#):

(i) the board has authority over the defendant for purposes of ordering parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, restitution, and any other authority granted by law; and

(ii) the court and the division shall immediately notify the board that the defendant will remain in a secure facility as described in Subsection (4) for the board to schedule a hearing for the defendant in accordance with board procedures.

(b) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure confinement in a secure facility under Subsection [78A-6-117\(2\)\(e\)](#) and the juvenile disposition is terminated before the defendant's sentence is terminated, the division shall:

(i) notify the board and the Department of Corrections at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from the secure facility; and

(ii) facilitate a release or transfer of the defendant in accordance with the order of judgment and commitment imposed by the court.

