

JUVENILE JUSTICE AMENDMENTS

2021 FIRST SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Todd D. Weiler

LONG TITLE**General Description:**

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

62A-7-404.5 (Superseded 09/01/21), as enacted by Laws of Utah 2020, Chapter 214

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

78A-6-703.2 (Superseded 09/01/21), as enacted by Laws of Utah 2020, Chapter 214

78A-6-703.5 (Superseded 09/01/21), as enacted by Laws of Utah 2020, Chapter 214

78A-6-703.6 (Superseded 09/01/21), as enacted by Laws of Utah 2020, Chapter 214

78A-6-705 (Superseded 09/01/21), as last amended by Laws of Utah 2020, Chapter

214

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

Chapter 261

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

Chapter 261

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

Chapter 261

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

Chapter 261

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

Chapter 261

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

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 Section **62A-7-404.5 (Superseded 09/01/21)** is amended to read:

62A-7-404.5 (Superseded 09/01/21).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

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

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

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

59 (i) termination would interrupt the completion of a necessary treatment program; or

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

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

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

68 (e) The authority shall:

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

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

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

73 (b) If the authority determines that a juvenile offender is unable to return home
74 immediately upon release, the juvenile offender may serve the term of parole in the home of a
75 qualifying relative or guardian or at an independent living program contracted or operated by
76 the division.

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

80 (i) termination would interrupt the completion of a necessary treatment program;

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

82 (iii) restitution has not been completed.

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

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

89 (f) The authority shall:

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

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

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

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

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

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

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

(d) Section 76-5-205, manslaughter;

(e) Section 75-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving a handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

~~[(d)]~~ (j) Section 76-5-302, aggravated kidnapping;

~~[(e)]~~ (k) Section 76-5-405, aggravated sexual assault;

~~[(f)]~~ (l) a felony violation of Section 76-6-103, aggravated arson;

~~[(g)]~~ (m) Section 76-6-203, aggravated burglary;

~~[(h)]~~ (n) Section 76-6-302, aggravated robbery;

~~[(i)]~~ (o) Section 76-10-508.1, felony discharge of a firearm;

~~[(j)] an offense other than an offense listed in Subsections (4)(a) through (i) involving the use of a dangerous weapon;~~

~~[(i) if the offense would be a felony had an adult committed the offense; and]~~

~~[(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony had an adult committed the offense; or]~~

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

121 (ii) the juvenile offender has been previously adjudicated or convicted of an offense
122 involving the use of a dangerous weapon, as defined in Section 76-1-601; or

123 ~~[(k)]~~ (q) an offense other than an offense listed in Subsections (4)(a) through ~~[(j)]~~ (p)
124 and the ~~[minor]~~ juvenile offender has been previously committed to the custody of the Division
125 of Juvenile Justice Services for secure confinement.

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

129 (i) until the juvenile offender is:

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

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

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

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

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

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

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

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

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

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

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

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

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

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

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

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

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

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

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

(7) "Indian Country" means:

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

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

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

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

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

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

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

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

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

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

214 residence;

215 (e) who is found not guilty by reason of insanity in this state or in any other jurisdiction
216 of one or more offenses listed in Subsection (9); or

217 (f) (i) who is adjudicated [~~delinquent based on~~] under Section 78A-6-117 for one or
218 more offenses listed in Subsection (9)(a); and

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

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

223 (B) if the juvenile court extended the juvenile court's jurisdiction over the individual
224 under Section 78A-6-703.4, the individual remains in the division's custody until 30 days
225 before the individual's 25th birthday.

226 (10) "Natural parent" means a minor's biological or adoptive parent, and includes the
227 minor's noncustodial parent.

228 (11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender
229 as defined in Subsection (17).

230 (12) "Online identifier" or "Internet identifier":

231 (a) means any electronic mail, chat, instant messenger, social networking, or similar
232 name used for Internet communication; and

233 (b) does not include date of birth, social security number, PIN number, or Internet
234 passwords.

235 (13) "Primary residence" means the location where the offender regularly resides, even
236 if the offender intends to move to another location or return to another location at any future
237 date.

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

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

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

(17) "Sex offender" means any individual:

- (a) convicted in this state of:
 - (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;
 - (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;
 - (iii) Section 76-5-308, human trafficking for sexual exploitation;
 - (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;
 - (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;
 - (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;
 - (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);
 - (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);
 - (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
 - (x) Section 76-5-402, rape;
 - (xi) Section 76-5-402.1, rape of a child;
 - (xii) Section 76-5-402.2, object rape;
 - (xiii) Section 76-5-402.3, object rape of a child;
 - (xiv) a felony violation of Section 76-5-403, forcible sodomy;
 - (xv) Section 76-5-403.1, sodomy on a child;
 - (xvi) Section 76-5-404, forcible sexual abuse;
 - (xvii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;
 - (xviii) Section 76-5-405, aggravated sexual assault;
 - (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years ~~[of age]~~ old, if the offense is committed on or after May 10, 2011;
 - (xx) Section 76-5b-201, sexual exploitation of a minor;
 - (xxi) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
 - (xxii) Section 76-7-102, incest;
 - (xxiii) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

(xxiv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

(xxv) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxvi) Section 76-9-702.5, lewdness involving a child;

(xxvii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

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

(xxix) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (17)(a);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a); and

(ii) who is:

(A) a Utah resident; or

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

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

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

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

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

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

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

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

(B) who is, as a result of the conviction, required to register in the individual's

307 jurisdiction of residence;

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

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

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

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

316 (B) if the juvenile court extended the juvenile court's jurisdiction over the individual
317 under Section 78A-6-703.4, the individual remains in the division's custody until 30 days
318 before the individual's 25th birthday.

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

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

323 Section 3. Section 78A-6-703.2 (Superseded 09/01/21) is amended to read:

324 78A-6-703.2 (Superseded 09/01/21). **Criminal information for a minor in district**
325 **court.**

326 (1) If a prosecuting attorney charges a minor with aggravated murder under Section
327 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal
328 information in the district court if the minor was the principal actor in an offense and the
329 criminal information alleges:

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

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

332 (i) Section 76-5-202, aggravated murder; or

333 (ii) Section 76-5-203, murder.

334 (2) If the prosecuting attorney files a criminal information in the district court in
335 accordance with Subsection (1), the district court shall try the minor as an adult, except:

336 (a) the minor is not subject to a sentence of death in accordance with Subsection
337 76-3-206(2)(b); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(7)]~~ (5) If ~~[the minor ordered to]~~ a minor held in a juvenile detention facility under Subsection ~~[(4)]~~ (3)(a) attains the age of ~~[18]~~ 21 years old, the minor shall be transferred within

30 days to an adult jail until:

(a) released by the district court judge; or

(b) if convicted, sentencing.

~~[(8)]~~ (6) If a minor is ~~[ordered to]~~ held in a juvenile detention facility under Subsection ~~[(4)]~~ (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the juvenile detention facility, the court may find that the minor shall be detained in another place of confinement considered appropriate by the court, including a jail or an adult facility for pretrial confinement.

~~[(9)]~~ (7) If a minor is charged for aggravated murder or murder in the district court under this section, and all charges for aggravated murder or murder result in an acquittal, a finding of not guilty, or a dismissal:

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

and

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

Section 4. Section **78A-6-703.5 (Superseded 09/01/21)** is amended to read:

78A-6-703.5 (Superseded 09/01/21). Preliminary hearing.

(1) If a prosecuting attorney files a criminal information in accordance with Section **78A-6-703.3**, the court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Title 78B, Chapter 22, Indigent Defense Act, and Section 78A-6-115 are applicable to the preliminary hearing under this section.

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

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

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

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

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

(b) If the court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a

431 motion to extend the court's continuing jurisdiction over the minor's case until the minor is 25
432 years old in accordance with Section 78A-6-703.4.

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

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

438 (i) the prosecuting attorney shall have the burden of establishing probable cause to
439 believe that the separate offense was committed and the minor committed the separate offense;
440 and

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

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

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

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

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

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

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

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

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

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

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

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

461 ~~[(iii) whether detention in a juvenile detention facility will adequately serve the need~~

for community protection pending the outcome of any criminal proceedings;]

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

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

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

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

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

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

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

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

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

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

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

(a) until released by the district court; or

(b) if convicted, until sentencing.

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

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

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

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

Section 5. Section **78A-6-703.6 (Superseded 09/01/21)** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

560 ~~[(4)]~~ (2) (a) The Division of Juvenile Justice Services shall adopt procedures by rule, in
561 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the
562 transfer of a minor provisionally housed in a division facility under Subsection ~~[(2)]~~ (1) to the
563 physical custody of the Department of Corrections.

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

569 ~~[(5)]~~ (3) (a) When a minor is committed to prison but ~~[ordered by a district court to be]~~
570 provisionally housed in a Division of Juvenile Justice Services facility under this section, the
571 district court and the Division of Juvenile Justice Services shall immediately notify the Board
572 of Pardons and Parole so that the minor may be scheduled for a hearing according to board
573 procedures.

574 (b) If a minor who is provisionally housed in a Division of Juvenile Justice Services
575 facility under this section has not been paroled or otherwise released from incarceration by the
576 time the minor reaches ~~[+8]~~ 21 years old, the Division of Juvenile Justice Services shall as soon
577 as reasonably possible, but not later than when the minor reaches ~~[+8]~~ 21 years and 6 months
578 old, transfer the minor to the physical custody of the Department of Corrections.

579 ~~[(6)]~~ (4) Upon the commitment of a minor to the custody of the Division of Juvenile
580 Justice Services or the Department of Corrections under this section, the Board of Pardons and
581 Parole has authority over the minor for purposes of parole, pardon, commutation, termination
582 of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes
583 authorized by law.

584 ~~[(7)]~~ (5) The Youth Parole Authority ~~[may]~~ shall:

585 (a) hold hearings, receive reports, or otherwise keep informed of the progress of a

minor in the custody of the Division of Juvenile Justice Services under this section; and ~~[may]~~

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

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

Section 7. Section **80-6-502 (Effective 09/01/21)** is amended to read:

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

(1) If a prosecuting attorney charges a minor with aggravated murder under Section ~~76-5-202~~ or murder under Section ~~76-5-203~~, the prosecuting attorney shall file a criminal information in the district court if the minor was the principal actor in an offense and the criminal information alleges:

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

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

(i) Section ~~76-5-202~~, aggravated murder; or

(ii) Section ~~76-5-203~~, murder.

(2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

629 ~~[(6)]~~ (4) If a minor is held in a detention facility under Subsection ~~[(4)]~~ (3)(a), the
630 district court shall:

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

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

633 ~~[(7) If the minor ordered to]~~ (5) If a minor held in a detention facility under Subsection
634 ~~[(4)]~~ (3)(a) attains the age of ~~[18]~~ 21 years old, the minor shall be transferred within 30 days to
635 an adult jail until:

636 (a) released by the district court; or

637 (b) if convicted, sentencing.

638 ~~[(8)]~~ (6) If a minor is ~~[ordered to]~~ held in a detention facility under Subsection ~~[(4)]~~
639 (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the
640 detention facility, the district court may find that the minor shall be detained in another place of
641 confinement considered appropriate by the district court, including a jail or an adult facility for
642 pretrial confinement.

643 ~~[(9)]~~ (7) If a minor is charged for aggravated murder or murder in the district court
644 under this section, and all charges for aggravated murder or murder result in an acquittal, a
645 finding of not guilty, or a dismissal:

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

(b) the division gains jurisdiction over the minor.

Section 8. Section **80-6-504 (Effective 09/01/21)** is amended to read:

**80-6-504 (Effective 09/01/21). Preliminary hearing -- Grounds for transfer --
Detention of a minor bound over to the district court.**

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

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

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

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

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

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

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

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

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

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

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

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

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report, or other material, under

Subsection (5)(a) to appear and be subject to direct and cross-examination.

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

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

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

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

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

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

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

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

(b) If the juvenile court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 80-6-605.

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

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

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

(ii) if the prosecuting attorney establishes probable cause for the separate offense under

Subsection (10)(b)(i) and the juvenile court binds the minor over to the district court for the qualifying offense, the juvenile court shall also bind the minor over for the separate offense to the district court.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the authority of the Boards of Pardon and Parole may not be held in a detention facility; and

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

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

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

~~[(15)]~~ (14) If ~~[the juvenile court orders the minor to be detained]~~ a minor is held in a detention facility under Subsection (13) and the minor attains the age of ~~[+8]~~ 21 years old while detained at the detention facility, the minor shall be transferred within 30 days to an adult jail to remain:

(a) until released by the district court; or

(b) if convicted, until sentencing.

~~[(16)]~~ (15) Except as provided in Subsection ~~[(17)]~~ (16) and Section 80-6-507, if a minor is bound over to the district court under this section, the jurisdiction of the division and the juvenile court over the minor is terminated for the qualifying offense and any other separate offense for which the minor is bound over.

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

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

(b) the division regains jurisdiction over the minor.

Section 9. Section 80-6-505 (Effective 09/01/21) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

796 ~~[(6)]~~ (3) If a minor is bound over to the district court and detained in a detention
797 facility, the district court may order the minor be detained in another place of confinement that
798 is considered appropriate by the district court, including a jail or other place of pretrial
799 confinement for adults if the minor's conduct or condition endangers the safety and welfare of
800 others in the detention facility.

801 ~~[(7)]~~ (4) If the district court obtains jurisdiction over a minor under Section 80-6-504,
802 the district court is not divested of jurisdiction for a qualifying offense or a separate offense

listed in the criminal information when the minor is allowed to enter a plea to, or is found guilty of, another offense in the same criminal information.

Section 10. Section **80-6-507 (Effective 09/01/21)** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(b) If, in accordance with the rules adopted under Subsection ~~[(4)]~~ (2)(a), the division determines that housing the minor in a secure care facility presents an unreasonable risk to others or that it is not in the best interest of the minor, the division shall transfer the physical

custody of the minor to the Department of Corrections.

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

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

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

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

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

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

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

Section 11. Section **80-6-804 (Effective 09/01/21)** is amended to read:

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

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

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

(b) The authority shall release the juvenile offender on parole at the end of the

865 presumptive term of commitment unless:

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

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

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

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

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

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

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

877 (e) The authority shall:

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

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

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

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

885 (b) If the authority determines that a juvenile offender is unable to return home
886 immediately upon release, the juvenile offender may serve the term of parole in the home of a
887 qualifying relative or guardian or at an independent living program contracted or operated by
888 the division.

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

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

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

895 (iii) restitution has not been completed.

- 896 (d) The authority shall determine whether a juvenile offender has completed a
897 treatment program under Subsection (2)(c)(i) by considering:
- 898 (i) the recommendations of the licensed service provider;
899 (ii) the juvenile offender's record in the treatment program; and
900 (iii) the juvenile offender's completion of the goals of the treatment program.
- 901 (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay
902 parole release only for the time needed to address the specific circumstance.
- 903 (f) The authority shall:
- 904 (i) record the grounds for extension of the presumptive length of parole and the length
905 of the extension; and
906 (ii) report annually the extension and the length of the extension to the commission.
- 907 (g) Records under Subsection (3)(f) shall be tracked in the data system used by the
908 juvenile court and the division.
- 909 (h) If a juvenile offender leaves parole supervision without authorization for more than
910 24 hours, the term of parole shall toll until the juvenile offender returns.
- 911 (4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure
912 care for ~~a felony violation of~~:
- 913 (a) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;
914 (b) Section [76-5-202](#), aggravated murder or attempted aggravated murder;
915 (c) Section [76-5-203](#), murder or attempted murder;
916 (d) Section [76-5-205](#), manslaughter;
917 (e) Section [75-5-206](#), negligent homicide;
918 (f) Section [76-5-207](#), automobile homicide;
919 (g) Section [76-5-207.5](#), automobile homicide involving a handheld wireless
920 communication device;
921 (h) Section [76-5-208](#), child abuse homicide;
922 (i) Section [76-5-209](#), homicide by assault;
923 ~~[(d)]~~ (j) Section [76-5-302](#), aggravated kidnapping;
924 ~~[(e)]~~ (k) Section [76-5-405](#), aggravated sexual assault;
925 ~~[(f)]~~ (l) a felony violation of Section [76-6-103](#), aggravated arson;
926 ~~[(g)]~~ (m) Section [76-6-203](#), aggravated burglary;

927 ~~[(h)]~~ (n) Section 76-6-302, aggravated robbery;

928 ~~[(i)]~~ (o) Section 76-10-508.1, felony discharge of a firearm;

929 ~~[(j) an offense other than an offense listed in Subsections (4)(a) through (i) involving~~

930 ~~the use of a dangerous weapon:]~~

931 ~~[(i) if the offense would be a felony had an adult committed the offense; and]~~

932 ~~[(ii) the juvenile offender has been previously adjudicated or convicted of an offense~~

933 ~~involving the use of a dangerous weapon that would have been a felony had an adult committed~~

934 ~~the offense; or]~~

935 (p) (i) an offense other than an offense listed in Subsections (4)(a) through (o)

936 involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

937 (ii) the juvenile offender has been previously adjudicated or convicted of an offense

938 involving the use of a dangerous weapon, as defined in Section 76-1-601; or

939 ~~[(k)]~~ (q) an offense other than an offense listed in Subsections (4)(a) through ~~[(j)]~~ (p)

940 and the ~~[minor]~~ juvenile offender has been previously committed to the division for secure

941 care.

942 (5) (a) The division may continue to have responsibility over a juvenile offender, who

943 is discharged under this section from parole, to participate in a specific educational or

944 rehabilitative program:

945 (i) until the juvenile offender is:

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

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

948 (ii) under an agreement by the division and the juvenile offender that the program has

949 certain conditions.

950 (b) The division and the juvenile offender may terminate participation in a program

951 under Subsection (5)(a) at any time.

952 (c) The division shall offer an educational or rehabilitative program before a juvenile

953 offender's discharge date in accordance with this section.

954 (d) A juvenile offender may request the services described in this Subsection (5), even

955 if the offender has been previously declined services or services were terminated for

956 noncompliance.

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

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

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

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

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

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

Section 12. Effective date.

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

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

(a) Section 80-6-502 (Effective 09/01/21);

(b) Section 80-6-504 (Effective 09/01/21);

(c) Section 80-6-505 (Effective 09/01/21);

(d) Section 80-6-507 (Effective 09/01/21); and

(e) Section 80-6-804 (Effective 09/01/21).

Section 13. Revisor instructions.

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

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

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

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