

**DIVISION OF JUVENILE JUSTICE SERVICES RULEMAKING
AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses rulemaking authority by the Division of Juvenile Justice Services.

Highlighted Provisions:

This bill:

- requires the Division of Juvenile Justice Services to create rules regarding policies and procedures to prevent, detect, and respond to sexual assaults of minors in detention and secure care facilities;

- requires the Division of Juvenile Justice Services to create rules regarding the collection and reporting of data regarding sexual assaults of minors in detention and secure care facilities; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-5-202, as enacted by Laws of Utah 2021, Chapter 261

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

29 Section 1. Section **80-5-202** is amended to read:

30 **80-5-202. Division rulemaking authority -- Reports on sexual assault.**

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

33 (a) [~~establishing~~] establish standards for the admission of a minor to detention;

34 (b) [~~that~~] describe good behavior for which credit may be earned under Subsection
35 **80-6-704(4)**; [~~and~~]

36 (c) [~~that~~] establish a formula, in consultation with the Office of the Legislative Fiscal
37 Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah,
38 Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders
39 with the division[~~;~~]; and

40 (d) establish policies and procedures regarding sexual assaults that occur in detention
41 and secure care facilities.

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

44 (a) that govern the operation of prevention and early intervention programs, youth
45 service programs, juvenile receiving centers, and other programs described in Section
46 **80-5-401**; and

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

48 (3) A rule made by the division under Subsection (1)(a):

49 (a) may not permit secure detention based solely on the existence of multiple status
50 offenses, misdemeanors, or infractions arising out of a single criminal episode; and

51 (b) shall prioritize use of home detention for a minor who might otherwise be held in
52 secure detention.

53 (4) The rules described in Subsection (1)(d) shall:

54 (a) require education and training, including:

55 (i) providing to minors detained in secure care and detention facilities, at intake and

56 periodically, easy-to-understand information, which is developed and approved by the division,
57 on sexual assault prevention, treatment, reporting, and counseling in consultation with
58 community groups with expertise in sexual assault prevention, treatment, reporting, and
59 counseling; and
60 (ii) providing training specific to sexual assault to division mental health professionals
61 and all division employees who have direct contact with minors regarding treatment and
62 methods of prevention and investigation;
63 (b) require reporting of any incident of sexual assault, including:
64 (i) ensuring the confidentiality of sexual assault reports from minors and the protection
65 of minors who report sexual assault; and
66 (ii) prohibiting retaliation and disincentives for reporting sexual assault;
67 (c) require safety and care for minors who report sexual assault, including:
68 (i) providing, in situations in which there is reason to believe that a sexual assault has
69 occurred, reasonable and appropriate measures to ensure the minor's safety by separating the
70 minor from the minor's assailant, if known;
71 (ii) providing acute trauma care for minors who report sexual assault, including
72 treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted
73 infections;
74 (iii) providing confidential mental health counseling for minors who report sexual
75 assault, including:
76 (A) access to outside community groups or victim advocates that have expertise in
77 sexual assault counseling; and
78 (B) enabling confidential communication between minors and community groups and
79 victim advocates; and
80 (iv) monitoring minors who report sexual assault for suicidal impulses, post-traumatic
81 stress disorder, depression, and other mental health consequences resulting from the sexual
82 assault;

83 (d) require staff reporting of sexual assault and staff discipline for failure to report or
84 for violating sexual assault policies, including:

85 (i) requiring all division employees to report any knowledge, suspicion, or information
86 regarding an incident of sexual assault to the director or the director's designee;

87 (ii) requiring disciplinary action for a division employee who fails to report as required;
88 and

89 (iii) requiring division employees to be subject to disciplinary sanctions up to and
90 including termination for violating agency sexual assault policies, with termination the
91 presumptive disciplinary sanction for division employees who have engaged in sexual assault,
92 consistent with constitutional due process protections and state personnel laws and rules;

93 (e) require that any report of an incident of sexual assault be referred to the Division of
94 Child and Family Services or a law enforcement agency with jurisdiction over the detention or
95 secure facility in which the alleged sexual assault occurred; and

96 (f) require data collection and reporting of all incidents of sexual assault from each
97 detention and secure care facility.

98 (5) The division shall annually report the data described in Section (4)(f) to the Law
99 Enforcement and Criminal Justice Interim Committee.