

JUVENILE JUSTICE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies requirements regarding the collection of a DNA specimen from a minor adjudicated by the juvenile court;
- ▶ provides that a minor may not be placed in a correctional facility as an alternative to detention;
- ▶ provides a time period in which an agency is required to send an affidavit to an individual who is the subject of an expungement order by the juvenile court; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-403, as last amended by Laws of Utah 2023, Chapters 328, 457

53-10-403.5, as last amended by Laws of Utah 2023, Chapters 184, 500



- 28 [53-10-404](#), as last amended by Laws of Utah 2021, Chapter 262
- 29 [53-10-406](#), as last amended by Laws of Utah 2022, Chapter 113
- 30 [78A-6-353](#), as renumbered and amended by Laws of Utah 2021, Chapter 261
- 31 [80-1-102](#), as last amended by Laws of Utah 2023, Chapter 330
- 32 [80-5-202](#), as last amended by Laws of Utah 2023, Chapter 139
- 33 [80-6-205](#), as last amended by Laws of Utah 2022, Chapter 155
- 34 [80-6-608](#), as last amended by Laws of Utah 2023, Chapter 330
- 35 [80-6-704](#), as enacted by Laws of Utah 2021, Chapter 261
- 36 [80-6-1006.1](#), as enacted by Laws of Utah 2023, Chapter 115

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

39 Section 1. Section **53-10-403** is amended to read:

40 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

41 (1) Sections [53-10-403.6](#), [53-10-404](#), [53-10-404.5](#), [53-10-405](#), and [53-10-406](#) apply to
 42 ~~[any person who]~~:

43 (a) a person who has pled guilty to or has been convicted of any of the offenses under
 44 Subsection (2)(a) or (b) on or after July 1, 2002;

45 (b) a person who has pled guilty to or has been convicted by any other state or by the
 46 United States government of an offense which if committed in this state would be punishable
 47 as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

48 (c) a person who has been booked on or after January 1, 2011, through December 31,
 49 2014, for any offense under Subsection (2)(c);

50 (d) a person who has been booked:

51 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
 52 2014, through December 31, 2014, under Subsection [53-10-404\(4\)\(b\)](#) for any felony offense; or

53 (ii) on or after January 1, 2015, for any felony offense; or

54 (e) a minor:

55 (i) (A) who is adjudicated by the juvenile court for an offense described in Subsection
 56 (2) that is within the jurisdiction of the juvenile court on or after July 1, 2002; or

57 (B) who is adjudicated by the juvenile court for an offense described in Subsection (2)
 58 and is in the legal custody of the Division of Juvenile Justice Services for the offense on or

59 after July 1, 2002; and

60 (ii) who is 14 years old or older at the time of the commission of the offense described
61 in Subsection (2).

62 [~~(e) is a minor under Subsection (3).~~]

63 (2) Offenses referred to in Subsection (1) are:

64 (a) any felony or class A misdemeanor under the Utah Code;

65 (b) any offense under Subsection (2)(a):

66 (i) for which the court enters a judgment for conviction to a lower degree of offense

67 under Section 76-3-402; or

68 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
69 defined in Section 77-2a-1; or

70 (c) (i) any violent felony as defined in Section 53-10-403.5;

71 (ii) sale or use of body parts, Section 26B-8-315;

72 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

73 (iv) operating a motor vehicle with any amount of a controlled substance in an
74 individual's body and causing serious bodily injury or death, as codified before May 4, 2022,
75 Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

76 (v) a felony violation of enticing a minor, Section 76-4-401;

77 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

78 (vii) a felony violation of propelling a substance or object at a correctional officer, a
79 peace officer, or an employee or a volunteer, including health care providers, Section
80 76-5-102.6;

81 (viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

82 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human
83 smuggling, Section 76-5-310.1;

84 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

85 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

86 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

87 (xiii) sale of a child, Section 76-7-203;

88 (xiv) aggravated escape, Subsection 76-8-309(2);

89 (xv) a felony violation of assault on an elected official, Section 76-8-315;

90 (xvi) influencing, impeding, or retaliating against a judge or member of the Board of
91 Pardons and Parole, Section 76-8-316;

92 (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;

93 (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

94 (xix) a felony violation of sexual battery, Section 76-9-702.1;

95 (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;

96 (xxi) a felony violation of abuse or desecration of a dead human body, Section
97 76-9-704;

98 (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section
99 76-10-402;

100 (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
101 Section 76-10-403;

102 (xxiv) possession of a concealed firearm in the commission of a violent felony,
103 Subsection 76-10-504(4);

104 (xxv) assault with the intent to commit bus hijacking with a dangerous weapon,
105 Subsection 76-10-1504(3);

106 (xxvi) commercial obstruction, Subsection 76-10-2402(2);

107 (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section
108 77-41-107;

109 (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or

110 (xxix) violation of condition for release after arrest under Section 78B-7-802.

111 ~~[(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated~~
112 ~~by the juvenile court due to the commission of any offense described in Subsection (2), and~~
113 ~~who:]~~

114 ~~[(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile~~
115 ~~court on or after July 1, 2002; or]~~

116 ~~[(b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or~~
117 ~~after July 1, 2002, for an offense under Subsection (2).]~~

118 Section 2. Section 53-10-403.5 is amended to read:

119 **53-10-403.5. Definitions.**

120 As used in this section and Sections 53-10-403, 53-10-403.7, 53-10-404, 53-10-404.5,

121 53-10-405, and 53-10-406:

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

123 [(1)] (2) "Bureau" means the Bureau of Forensic Services.

124 [(2)] (3) "Combined DNA Index System" or "CODIS" means the program operated by
125 the Federal Bureau of Investigation to support criminal justice DNA databases and the software
126 used to run the databases.

127 [(3)] (4) "Conviction" means:

128 (a) a verdict or conviction;

129 (b) a plea of guilty or guilty with a mental condition;

130 (c) a plea of no contest; or

131 (d) the acceptance by the court of a plea in abeyance.

132 [(4)] (5) "DNA" means deoxyribonucleic acid.

133 [(5)] (6) "DNA profile" means the patterns of fragments of DNA used to identify an
134 individual.

135 [(6)] (7) "DNA specimen" or "specimen" means a biological sample collected from an
136 individual or a crime scene, or that is collected as part of an investigation.

137 [(7)] (8) "Final judgment" means a judgment, including any supporting opinion,
138 concerning which all appellate remedies have been exhausted or the time for appeal has
139 expired.

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

141 [(8)] (10) "Rapid DNA" means the fully automated process of developing a DNA
142 profile.

143 [(9)] (11) "Violent felony" means any offense under Section 76-3-203.5.

144 Section 3. Section **53-10-404** is amended to read:

145 **53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**

146 (1) As used in this section, "person" [~~refers to any person as described under Section~~
147 ~~53-10-403~~] means a person or minor described in Section 53-10-403.

148 (2) (a) A person under Section 53-10-403 or any person required to register as a sex
149 offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide a DNA
150 specimen and shall reimburse the agency responsible for obtaining the DNA specimen \$150 for
151 the cost of obtaining the DNA specimen unless:

152 (i) the person was booked under Section 53-10-403 and is not required to reimburse the
153 agency under Section 53-10-404.5; or

154 (ii) the agency determines the person lacks the ability to pay.

155 (b) (i) (A) The responsible agencies shall establish guidelines and procedures for
156 determining if the person is able to pay the fee.

157 (B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to
158 determine an inmate's ability to pay.

159 (ii) An agency's guidelines and procedures may provide for the assessment of \$150 on
160 the inmate's county trust fund account and may allow a negative balance in the account until
161 the \$150 is paid in full.

162 (3) (a) (i) All fees collected under Subsection (2) shall be deposited in the DNA
163 Specimen Restricted Account created in Section 53-10-407, except that the agency collecting
164 the fee may retain not more than \$25 per individual specimen for the costs of obtaining the
165 saliva DNA specimen.

166 (ii) The agency collecting the \$150 fee may not retain from each separate fee more than
167 \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

168 (b) The responsible agency shall determine the method of collecting the DNA
169 specimen. Unless the responsible agency determines there are substantial reasons for using a
170 different method of collection or the person refuses to cooperate with the collection, the
171 preferred method of collection shall be obtaining a saliva specimen.

172 (c) The responsible agency may use reasonable force, as established by its guidelines
173 and procedures, to collect the DNA sample if the person refuses to cooperate with the
174 collection.

175 (d) If the judgment places the person on probation, the person shall submit to the
176 obtaining of a DNA specimen as a condition of the probation.

177 (e) (i) Under this section a person is required to provide one DNA specimen and pay
178 the collection fee as required under this section.

179 (ii) The person shall provide an additional DNA specimen only if the DNA specimen
180 previously provided is not adequate for analysis.

181 (iii) The collection fee is not imposed for a second or subsequent DNA specimen
182 collected under this section.

183 (f) Any agency that is authorized to obtain a DNA specimen under this part may collect
184 any outstanding amount of a fee due under this section from any person who owes any portion
185 of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section
186 [53-10-407](#).

187 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as
188 possible and transferred to the Department of Public Safety:

189 (i) after a conviction or [~~a finding of jurisdiction~~] an adjudication by the juvenile court;

190 (ii) on and after January 1, 2011, through December 31, 2014, after the booking of a
191 person for any offense under Subsection [53-10-403\(1\)\(c\)](#); and

192 (iii) on and after January 1, 2015, after the booking of a person for any felony offense,
193 as provided under Subsection [53-10-403\(1\)\(d\)\(ii\)](#).

194 (b) On and after May 13, 2014, through December 31, 2014, the responsible agency
195 may cause a DNA specimen to be obtained and transferred to the Department of Public Safety
196 after the booking of a person for any felony offense, as provided under Subsection
197 [53-10-403\(1\)\(d\)\(i\)](#).

198 (c) If notified by the Department of Public Safety that a DNA specimen is not adequate
199 for analysis, the agency shall, as soon as possible:

200 (i) obtain and transmit an additional DNA specimen; or

201 (ii) request that another agency that has direct access to the person and that is
202 authorized to collect DNA specimens under this section collect the necessary second DNA
203 specimen and transmit it to the Department of Public Safety.

204 (d) Each agency that is responsible for collecting DNA specimens under this section
205 shall establish:

206 (i) a tracking procedure to record the handling and transfer of each DNA specimen it
207 obtains; and

208 (ii) a procedure to account for the management of all fees it collects under this section.

209 (5) (a) The Department of Corrections is the responsible agency whenever the person is
210 committed to the custody of or is under the supervision of the Department of Corrections.

211 (b) The juvenile court is the responsible agency regarding a minor under Subsection
212 [~~53-10-403(3), but~~] [53-10-403\(1\)\(e\)](#) if the minor has been committed to the legal custody of the
213 Division of Juvenile Justice Services[~~, that division is the responsible agency if~~] and a DNA

214 specimen of the minor has not previously been obtained by the juvenile court under Section
215 80-6-608.

216 (c) The sheriff operating a county jail is the responsible agency regarding the collection
217 of DNA specimens from persons who:

218 (i) have pled guilty to or have been convicted of an offense listed under Subsection
219 53-10-403(2) but who have not been committed to the custody of or are not under the
220 supervision of the Department of Corrections;

221 (ii) are incarcerated in the county jail:

222 (A) as a condition of probation for a felony offense; or

223 (B) for a misdemeanor offense for which collection of a DNA specimen is required;

224 (iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail
225 for any offense under Subsection 53-10-403(1)(c)[-]; and

226 (iv) are booked at the county jail:

227 (A) by a law enforcement agency that is obtaining a DNA specimen for any felony
228 offense on or after May 13, 2014, through December 31, 2014, under Subsection

229 53-10-404(4)(b); or

230 (B) on or after January 1, 2015, for any felony offense.

231 (d) Each agency required to collect a DNA specimen under this section shall:

232 (i) designate employees to obtain the saliva DNA specimens required under this
233 section; and

234 (ii) ensure that employees designated to collect the DNA specimens receive appropriate
235 training and that the specimens are obtained in accordance with generally accepted protocol.

236 (6) (a) As used in this Subsection (6), "department" means the Department of
237 Corrections.

238 (b) Priority of obtaining DNA specimens by the department is:

239 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody
240 of or under the supervision of the department before these persons are released from
241 incarceration, parole, or probation, if their release date is prior to that of persons under
242 Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

243 (ii) second, the department shall obtain DNA specimens from persons who are
244 committed to the custody of the department or who are placed under the supervision of the

245 department after July 1, 2002, within 120 days after the commitment, if possible, but not later
246 than prior to release from incarceration if the person is imprisoned, or prior to the termination
247 of probation if the person is placed on probation.

248 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
249 is:

250 (i) first, persons on probation;

251 (ii) second, persons on parole; and

252 (iii) third, incarcerated persons.

253 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
254 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA
255 specimens from persons in the custody of or under the supervision of the Department of
256 Corrections as of July 1, 2002, prior to their release.

257 (7) (a) As used in this Subsection (7):

258 (i) "Court" means the juvenile court.

259 (ii) "Division" means the Division of Juvenile Justice Services.

260 (b) Priority of obtaining DNA specimens by the court from minors under Section
261 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal
262 custody of the division shall be:

263 (i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the
264 court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

265 (ii) second, to obtain specimens from minors whose cases are under the jurisdiction of
266 the court after July 1, 2002, within 120 days of the minor's case being found to be within the
267 court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's
268 case terminates.

269 (c) Priority of obtaining DNA specimens by the division from minors under Section
270 53-10-403 who are committed to the legal custody of the division shall be:

271 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
272 division's legal custody and who have not previously provided a DNA specimen under this
273 section, before termination of the division's legal custody of these minors; and

274 (ii) second, to obtain specimens from minors who are placed in the legal custody of the
275 division after July 1, 2002, within 120 days of the minor's being placed in the custody of the

276 division, if possible, but no later than before the termination of the court's jurisdiction over the
277 minor's case.

278 (8) (a) The Department of Corrections, the juvenile court, the Division of Juvenile
279 Justice Services, and all law enforcement agencies in the state shall by policy establish
280 procedures for obtaining saliva DNA specimens, and shall provide training for employees
281 designated to collect saliva DNA specimens.

282 (b) (i) The department may designate correctional officers, including those employed
283 by the adult probation and parole section of the department, to obtain the saliva DNA
284 specimens required under this section.

285 (ii) The department shall ensure that the designated employees receive appropriate
286 training and that the specimens are obtained in accordance with accepted protocol.

287 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

288 Section 4. Section 53-10-406 is amended to read:

289 **53-10-406. DNA specimen analysis -- Bureau responsibilities.**

290 (1) The bureau shall:

291 (a) administer and oversee the DNA specimen collection process;

292 (b) store each DNA specimen and associated records received;

293 (c) analyze each specimen, or contract with a qualified public or private laboratory to
294 analyze the specimen, to establish the genetic profile of the donor or to otherwise determine the
295 identity of the person;

296 (d) maintain a criminal identification database containing information derived from
297 DNA analysis;

298 (e) ensure that the DNA identification system does not provide information allowing
299 prediction of genetic disease or predisposition to illness;

300 (f) ensure that only DNA markers routinely used or accepted in the field of forensic
301 science are used to establish the gender and unique individual identification of the donor;

302 (g) utilize only those DNA analysis procedures that are consistent with, and do not
303 exceed, procedures established and used by the Federal Bureau of Investigation for the forensic
304 analysis of DNA;

305 (h) destroy a DNA specimen obtained under this part if criminal charges have not been
306 filed within 90 days after booking for an alleged offense under Subsection 53-10-403(2)(c);

307 and

308 (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
309 Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing DNA
310 specimens and for storing and destroying DNA specimens and associated records, and criminal
311 identification information obtained from the analysis.

312 (2) Procedures for DNA analysis may include all techniques which the department
313 determines are accurate and reliable in establishing identity.

314 (3) (a) In accordance with Section 63G-2-305, each DNA specimen and associated
315 record is classified as protected.

316 (b) The department may not transfer or disclose any DNA specimen, associated record,
317 or criminal identification information obtained, stored, or maintained under this section, except
318 under the provisions of this section.

319 (4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if
320 the department determines that there is a reasonable likelihood that the inspection would
321 prejudice a pending criminal investigation.

322 (5) The department shall adopt procedures governing the inspection of records, DNA
323 specimens, and challenges to the accuracy of records. The procedures shall accommodate the
324 need to preserve the materials from contamination and destruction.

325 (6) A person whose DNA specimen is obtained under this part may, personally or
326 through a legal representative, submit:

327 (a) to the court a motion for a court order requiring the destruction of the person's DNA
328 specimen, associated record, and any criminal identification record created in connection with
329 that specimen, and removal of the person's DNA record from the database described in
330 Subsection (1)(d) if:

331 (i) a final judgment reverses the conviction, judgment, or order that created an
332 obligation to provide a DNA specimen; or

333 (ii) all charges arising from the same criminal episode for which the DNA specimen
334 was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of
335 dismissal with prejudice or acquittal; or

336 (b) to the department a request for the destruction of the person's DNA specimen, and
337 associated record, and removal of the person's DNA record from the database described in

338 Subsection (1)(d) if:

339 (i) no charge arising from the same criminal episode for which the DNA specimen was
340 obtained under Subsection 53-10-404.5(1)(a) is filed against the person within one year after
341 the day on which the person is booked; or

342 (ii) all charges arising from the same criminal episode for which the DNA specimen
343 was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of
344 dismissal with prejudice or acquittal.

345 (7) A court order issued under Subsection (6)(a) may be accompanied by a written
346 notice to the person advising that state law provides for expungement of criminal charges if the
347 charge is resolved by a final judgment of dismissal or acquittal.

348 (8) The department shall destroy the person's DNA specimen, and associated record,
349 and remove the person's DNA record from the database described in Subsection (1)(d), if:

350 (a) the person provides the department with:

351 (i) a court order for destruction described in Subsection (6)(a), and a certified copy of:

352 (A) the court order reversing the conviction, judgment, or order;

353 (B) a court order to set aside the conviction; or

354 (C) the dismissal or acquittal of the charge regarding which the person was arrested; or

355 (ii) a written request for destruction of the DNA specimen, and associated record, and
356 removal of the DNA record from the database described in Subsection (6)(b), and a certified
357 copy of:

358 (A) a declination to prosecute from the prosecutor; or

359 (B) a court document that indicates all charges have been resolved by a final judgment
360 of dismissal with prejudice or acquittal; and

361 (b) the department determines that the person is not obligated to submit a DNA
362 specimen as a result of a separate conviction or [juvenile] adjudication for an offense listed in
363 Subsection 53-10-403(2).

364 (9) The department may not destroy a person's DNA specimen or remove a person's
365 DNA record from the database described in Subsection (1)(d) if the person has a prior
366 conviction or a pending charge for which collection of a sample is authorized in accordance
367 with Section 53-10-404.

368 (10) A DNA specimen, associated record, or criminal identification record created in

369 connection with that specimen may not be affected by an order to set aside a conviction, except
370 under the provisions of this section.

371 (11) If funding is not available for analysis of any of the DNA specimens collected
372 under this part, the bureau shall store the collected specimens until funding is made available
373 for analysis through state or federal funds.

374 (12) (a) (i) A person who, due to the person's employment or authority, has possession
375 of or access to individually identifiable DNA information contained in the state criminal
376 identification database or the state DNA specimen repository may not willfully disclose the
377 information in any manner to any individual, agency, or entity that is not entitled under this
378 part to receive the information.

379 (ii) A person may not willfully obtain individually identifiable DNA information from
380 the state criminal identification database or the state DNA repository other than as authorized
381 by this part.

382 (iii) A person may not willfully analyze a DNA specimen for any purpose, or to obtain
383 any information other than as required under this part.

384 (iv) A person may not willfully fail to destroy or fail to ensure the destruction of a
385 DNA specimen when destruction is required by this part or by court order.

386 (b) (i) A person who violates Subsection (12)(a)(i), (ii), or (iii) is guilty of a third
387 degree felony.

388 (ii) A person who violates Subsection (12)(a)(iv) is guilty of a class B misdemeanor.

389 Section 5. Section **78A-6-353** is amended to read:

390 **78A-6-353. Contempt -- Penalty -- Enforcement of fine, fee, or restitution.**

391 (1) An individual who willfully violates or refuses to obey any order of the juvenile
392 court may be proceeded against for contempt of court.

393 (2) If a juvenile court finds an individual who is 18 years old or older in contempt of
394 court, the juvenile court may impose sanctions on the individual in accordance with Title 78B,
395 Chapter 6, Part 3, Contempt.

396 (3) ~~[(a)]~~ Except as otherwise provided in ~~[this Subsection (3)]~~ Subsection (4), if a
397 juvenile court finds a child in contempt of court, the juvenile court may:

398 ~~[(i)]~~ (a) place the child on probation in accordance with Section 80-6-702;

399 ~~[(ii)]~~ (b) order the child to detention, or an alternative to detention, in accordance with

400 Section 80-6-704; or

401 ~~[(iii)]~~ (c) require the child to pay a fine or fee in accordance with Section 80-6-709.

402 ~~[(b)]~~ (4) (a) The juvenile court may only order a child to secure detention under

403 Subsection ~~[(3)(a)(ii)]~~ (3)(b) for no longer than 72 hours, excluding weekends and legal

404 holidays.

405 ~~[(e)]~~ (b) The juvenile court may not suspend all or part of an order to secure detention
406 upon compliance with conditions imposed by the juvenile court.

407 ~~[(d)]~~ (c) The juvenile court may not enforce a disposition under Subsection ~~[(3)(a)(iii)]~~

408 (3)(c) through an order for detention, a community-based program, or secure care.

409 ~~[(4)]~~ (5) On the sole basis of a child's absence from placement, a juvenile court may

410 not hold a child in contempt under this section if the child:

411 (a) is in the legal custody of the Division of Child and Family Services; and

412 (b) is missing, has been abducted, or has run away.

413 Section 6. Section 80-1-102 is amended to read:

414 **80-1-102. Juvenile Code definitions.**

415 Except as provided in Section 80-6-1103, as used in this title:

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

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

418 (B) threatened harm of a child;

419 (C) sexual exploitation;

420 (D) sexual abuse; or

421 (E) human trafficking of a child in violation of Section 76-5-308.5; or

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

423 (A) intentionally, knowingly, or recklessly causes the death of another parent of the

424 child;

425 (B) is identified by a law enforcement agency as the primary suspect in an investigation

426 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

427 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or

428 recklessly causing the death of another parent of the child.

429 (b) "Abuse" does not include:

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

- 431 (ii) conduct described in Section [76-2-401](#); or
- 432 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 433 (A) in self-defense;
- 434 (B) in defense of others;
- 435 (C) to protect the child; or
- 436 (D) to remove a weapon in the possession of a child for any of the reasons described in
- 437 Subsections (1)(b)(iii)(A) through (C).
- 438 (2) "Abused child" means a child who has been subjected to abuse.
- 439 ~~[(3)(a) "Adjudication" means a finding by the court, incorporated in a decree, that the~~
- 440 ~~facts alleged in the petition have been proved.]~~
- 441 ~~[(b) "Adjudication" does not mean a finding of not competent to proceed in accordance~~
- 442 ~~with Section [80-6-402](#).]~~
- 443 (3) (a) "Adjudication" means, except as provided in Subsection (3)(b):
- 444 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:
- 445 (A) a finding by the juvenile court that the facts alleged in a delinquency petition or
- 446 criminal information alleging that a minor committed an offense have been proved;
- 447 (B) an admission by a minor in the juvenile court as described in Section [80-6-306](#); or
- 448 (C) a plea of no contest by minor in the juvenile court; or
- 449 (ii) for all other proceedings under this title, a finding by the juvenile court that the
- 450 facts alleged in the petition have been proved.
- 451 (b) "Adjudication" does not include:
- 452 (i) an admission by a minor described in Section [80-6-306](#) until the juvenile court
- 453 enters the minor's admission; or
- 454 (ii) a finding of not competent to proceed in accordance with Section [80-6-402](#).
- 455 (4) (a) "Adult" means an individual who is 18 years old or older.
- 456 (b) "Adult" does not include an individual:
- 457 (i) who is 18 years old or older; and
- 458 (ii) who is a minor.
- 459 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
- 460 [78A-2-801](#).
- 461 (6) "Board" means the Board of Juvenile Court Judges.

462 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under
463 18 years old.

464 (8) "Child and family plan" means a written agreement between a child's parents or
465 guardian and the Division of Child and Family Services as described in Section 80-3-307.

466 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.

467 (10) "Child-placing agency" means the same as that term is defined in Section
468 26B-2-101.

469 (11) "Child protection team" means a team consisting of:

470 (a) the child welfare caseworker assigned to the case;

471 (b) if applicable, the child welfare caseworker who made the decision to remove the
472 child;

473 (c) a representative of the school or school district where the child attends school;

474 (d) if applicable, the law enforcement officer who removed the child from the home;

475 (e) a representative of the appropriate Children's Justice Center, if one is established
476 within the county where the child resides;

477 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
478 with the child's circumstances;

479 (g) if appropriate, a representative of law enforcement selected by the chief of police or
480 sheriff in the city or county where the child resides; and

481 (h) any other individuals determined appropriate and necessary by the team coordinator
482 and chair.

483 (12) (a) "Chronic abuse" means repeated or patterned abuse.

484 (b) "Chronic abuse" does not mean an isolated incident of abuse.

485 (13) (a) "Chronic neglect" means repeated or patterned neglect.

486 (b) "Chronic neglect" does not mean an isolated incident of neglect.

487 (14) "Clandestine laboratory operation" means the same as that term is defined in
488 Section 58-37d-3.

489 (15) "Commit" or "committed" means, unless specified otherwise:

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

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

492 (16) "Community-based program" means a nonsecure residential or nonresidential

493 program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
494 restrictive setting, consistent with public safety, and operated by or under contract with the
495 Division of Juvenile Justice and Youth Services.

496 (17) "Community placement" means placement of a minor in a community-based
497 program described in Section 80-5-402.

498 (18) (a) "Correctional facility" means:

499 ~~[(a)]~~ (i) a county jail; or

500 ~~[(b)]~~ (ii) a secure correctional facility as defined in Section 64-13-1.

501 (b) "Correctional facility" does not include:

502 (i) a detention facility; or

503 (ii) a secure care facility.

504 (19) "Criminogenic risk factors" means evidence-based factors that are associated with
505 a minor's likelihood of reoffending.

506 (20) "Department" means the Department of Health and Human Services created in
507 Section 26B-1-201.

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

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

512 (23) "Detention" means home detention or secure detention.

513 (24) "Detention facility" means a facility, established by the Division of Juvenile
514 Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

515 (25) "Detention risk assessment tool" means an evidence-based tool established under
516 Section 80-5-203 that:

517 (a) assesses a minor's risk of failing to appear in court or reoffending before
518 adjudication; and

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

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

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

- 524 (b) have a rational as well as factual understanding of the proceedings.
- 525 (27) "Disposition" means an order by a juvenile court, after the adjudication of a
- 526 minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 527 (28) "Educational neglect" means that, after receiving a notice of compulsory education
- 528 violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to
- 529 ensure that the child receives an appropriate education.
- 530 (29) "Educational series" means an evidence-based instructional series:
- 531 (a) obtained at a substance abuse program that is approved by the Division of
- 532 Integrated Healthcare in accordance with Section 26B-5-104; and
- 533 (b) designed to prevent substance use or the onset of a mental health disorder.
- 534 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 535 (31) "Evidence-based" means a program or practice that has had multiple randomized
- 536 control studies or a meta-analysis demonstrating that the program or practice is effective for a
- 537 specific population or has been rated as effective by a standardized program evaluation tool.
- 538 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 539 (33) "Formal probation" means a minor is:
- 540 (a) supervised in the community by, and reports to, a juvenile probation officer or an
- 541 agency designated by the juvenile court; and
- 542 (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- 543 (34) "Group rehabilitation therapy" means psychological and social counseling of one
- 544 or more individuals in the group, depending upon the recommendation of the therapist.
- 545 (35) "Guardian" means a person appointed by a court to make decisions regarding a
- 546 minor, including the authority to consent to:
- 547 (a) marriage;
- 548 (b) enlistment in the armed forces;
- 549 (c) major medical, surgical, or psychiatric treatment; or
- 550 (d) legal custody, if legal custody is not vested in another individual, agency, or
- 551 institution.
- 552 (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- 553 (37) "Harm" means:
- 554 (a) physical or developmental injury or damage;

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

557 (c) sexual abuse; or

558 (d) sexual exploitation.

559 (38) "Home detention" means placement of a minor:

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

563 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the
564 minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or
565 custodian, under terms and conditions established by the Division of Juvenile Justice and
566 Youth Services or the juvenile court.

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

570 (b) "Incest" includes:

571 (i) blood relationships of the whole or half blood, regardless of whether the
572 relationship is legally recognized;

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

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

576 (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

577 (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

578 (42) "Indigent defense service provider" means the same as that term is defined in
579 Section 78B-22-102.

580 (43) "Indigent defense services" means the same as that term is defined in Section
581 78B-22-102.

582 (44) "Indigent individual" means the same as that term is defined in Section
583 78B-22-102.

584 (45) (a) "Intake probation" means a minor is:

585 (i) monitored by a juvenile probation officer; and

- 586 (ii) subject to return to the juvenile court in accordance with Section [80-6-607](#).
- 587 (b) "Intake probation" does not include formal probation.
- 588 (46) "Intellectual disability" means a significant subaverage general intellectual
- 589 functioning existing concurrently with deficits in adaptive behavior that constitutes a
- 590 substantial limitation to the individual's ability to function in society.
- 591 (47) "Juvenile offender" means:
- 592 (a) a serious youth offender; or
- 593 (b) a youth offender.
- 594 (48) "Juvenile probation officer" means a probation officer appointed under Section
- 595 [78A-6-205](#).
- 596 (49) "Juvenile receiving center" means a nonsecure, nonresidential program established
- 597 by the Division of Juvenile Justice and Youth Services, or under contract with the Division of
- 598 Juvenile Justice and Youth Services, that is responsible for minors taken into temporary
- 599 custody under Section [80-6-201](#).
- 600 (50) "Legal custody" means a relationship embodying:
- 601 (a) the right to physical custody of the minor;
- 602 (b) the right and duty to protect, train, and discipline the minor;
- 603 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
- 604 medical care;
- 605 (d) the right to determine where and with whom the minor shall live; and
- 606 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 607 (51) "Licensing Information System" means the Licensing Information System
- 608 maintained by the Division of Child and Family Services under Section [80-2-1002](#).
- 609 (52) "Management Information System" means the Management Information System
- 610 developed by the Division of Child and Family Services under Section [80-2-1001](#).
- 611 (53) "Mental illness" means:
- 612 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
- 613 behavioral, or related functioning; or
- 614 (b) the same as that term is defined in:
- 615 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
- 616 published by the American Psychiatric Association; or

617 (ii) the current edition of the International Statistical Classification of Diseases and
618 Related Health Problems.

619 (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

620 (a) a child; or

621 (b) an individual:

622 (i) (A) who is at least 18 years old and younger than 21 years old; and

623 (B) for whom the Division of Child and Family Services has been specifically ordered

624 by the juvenile court to provide services because the individual was an abused, neglected, or

625 dependent child or because the individual was adjudicated for an offense;

626 (ii) (A) who is at least 18 years old and younger than 25 years old; and

627 (B) whose case is under the jurisdiction of the juvenile court in accordance with

628 Subsection 78A-6-103(1)(b); or

629 (iii) (A) who is at least 18 years old and younger than 21 years old; and

630 (B) whose case is under the jurisdiction of the juvenile court in accordance with

631 Subsection 78A-6-103(1)(c).

632 (55) "Mobile crisis outreach team" means the same as that term is defined in Section

633 26B-5-101.

634 (56) "Molestation" means that an individual, with the intent to arouse or gratify the

635 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,

636 or the breast of a female child, or takes indecent liberties with a child as defined in Section

637 76-5-401.1.

638 (57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's

639 biological or adoptive parent.

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

641 (58) (a) "Neglect" means action or inaction causing:

642 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe

643 Relinquishment of a Newborn Child;

644 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,

645 guardian, or custodian;

646 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary

647 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or

648 well-being;

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

651 (v) abandonment of a child through an unregulated child custody transfer under Section
652 [78B-24-203](#); or

653 (vi) educational neglect.

654 (b) "Neglect" does not include:

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

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

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

661 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
662 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,
663 including:

664 (A) traveling to and from school, including by walking, running, or bicycling;

665 (B) traveling to and from nearby commercial or recreational facilities;

666 (C) engaging in outdoor play;

667 (D) remaining in a vehicle unattended, except under the conditions described in

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

669 (E) remaining at home unattended; or

670 (F) engaging in a similar independent activity.

671 (59) "Neglected child" means a child who has been subjected to neglect.

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

675 (a) the assigned juvenile probation officer; and

676 (b) (i) the minor; or

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

678 (61) "Not competent to proceed" means that a minor, due to a mental illness,

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

680 (a) understand the nature of the proceedings against the minor or of the potential
681 disposition for the offense charged; or

682 (b) consult with counsel and participate in the proceedings against the minor with a
683 reasonable degree of rational understanding.

684 (62) "Parole" means a conditional release of a juvenile offender from residency in
685 secure care to live outside of secure care under the supervision of the Division of Juvenile
686 Justice and Youth Services, or another person designated by the Division of Juvenile Justice
687 and Youth Services.

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

689 (64) (a) "Probation" means a legal status created by court order, following an
690 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's
691 home under prescribed conditions.

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

693 (65) "Prosecuting attorney" means:

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

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

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

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

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

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

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

702 (67) "Protective services" means expedited services that are provided:

703 (a) in response to evidence of neglect, abuse, or dependency of a child;

704 (b) to a cohabitant who is neglecting or abusing a child, in order to:

705 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
706 causes of neglect or abuse; and

707 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

708 (c) in cases where the child's welfare is endangered:

709 (i) to bring the situation to the attention of the appropriate juvenile court and law

710 enforcement agency;

711 (ii) to cause a protective order to be issued for the protection of the child, when
712 appropriate; and

713 (iii) to protect the child from the circumstances that endanger the child's welfare
714 including, when appropriate:

715 (A) removal from the child's home;

716 (B) placement in substitute care; and

717 (C) petitioning the court for termination of parental rights.

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

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

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

723 (69) (a) "Related condition" means a condition that:

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

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

727 (iii) is likely to continue indefinitely; and

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

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

731 (70) (a) "Residual parental rights and duties" means the rights and duties remaining
732 with a parent after legal custody or guardianship, or both, have been vested in another person or
733 agency, including:

734 (i) the responsibility for support;

735 (ii) the right to consent to adoption;

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

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

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

740 (i) marriage;

741 (ii) enlistment; and

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

743 (71) "Runaway" means a child, other than an emancipated child, who willfully leaves
744 the home of the child's parent or guardian, or the lawfully prescribed residence of the child,
745 without permission.

746 (72) "Secure care" means placement of a minor, who is committed to the Division of
747 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under
748 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour
749 supervision and confinement of the minor.

750 (73) "Secure care facility" means a facility, established in accordance with Section
751 80-5-503, for juvenile offenders in secure care.

752 (74) "Secure detention" means temporary care of a minor who requires secure custody
753 in a physically restricting facility operated by, or under contract with, the Division of Juvenile
754 Justice and Youth Services:

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

757 (b) under Section 80-6-704.

758 (75) "Serious youth offender" means an individual who:

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

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

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

765 (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
766 child.

767 (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
768 child.

769 (78) (a) "Severe type of child abuse or neglect" means, except as provided in
770 Subsection (78)(b):

771 (i) if committed by an individual who is 18 years old or older:

- 772 (A) chronic abuse;
- 773 (B) severe abuse;
- 774 (C) sexual abuse;
- 775 (D) sexual exploitation;
- 776 (E) abandonment;
- 777 (F) chronic neglect; or
- 778 (G) severe neglect; or
- 779 (ii) if committed by an individual who is under 18 years old:
- 780 (A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another
- 781 child that indicates a significant risk to other children; or
- 782 (B) sexual behavior with or upon another child that indicates a significant risk to other
- 783 children.
- 784 (b) "Severe type of child abuse or neglect" does not include:
- 785 (i) the use of reasonable and necessary physical restraint by an educator in accordance
- 786 with Subsection 53G-8-302(2) or Section 76-2-401;
- 787 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
- 788 use of reasonable and necessary physical restraint or force in self-defense or otherwise
- 789 appropriate to the circumstances to obtain possession of a weapon or other dangerous object in
- 790 the possession or under the control of a child or to protect the child or another individual from
- 791 physical injury; or
- 792 (iii) a health care decision made for a child by a child's parent or guardian, unless,
- 793 subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and
- 794 convincing evidence, that the health care decision is not reasonable and informed.
- 795 (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the
- 796 right to obtain a second health care opinion.
- 797 (79) "Sexual abuse" means:
- 798 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
- 799 adult directed towards a child;
- 800 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
- 801 committed by a child towards another child if:
- 802 (i) there is an indication of force or coercion;

- 803 (ii) the children are related, as described in Subsection (39), including siblings by
804 marriage while the marriage exists or by adoption;
- 805 (iii) there have been repeated incidents of sexual contact between the two children,
806 unless the children are 14 years old or older; or
- 807 (iv) there is a disparity in chronological age of four or more years between the two
808 children;
- 809 (c) engaging in any conduct with a child that would constitute an offense under any of
810 the following, regardless of whether the individual who engages in the conduct is actually
811 charged with, or convicted of, the offense:
- 812 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
813 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
- 814 (ii) child bigamy, Section 76-7-101.5;
- 815 (iii) incest, Section 76-7-102;
- 816 (iv) lewdness, Section 76-9-702;
- 817 (v) sexual battery, Section 76-9-702.1;
- 818 (vi) lewdness involving a child, Section 76-9-702.5; or
- 819 (vii) voyeurism, Section 76-9-702.7; or
- 820 (d) subjecting a child to participate in or threatening to subject a child to participate in
821 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
822 marriage.
- 823 (80) "Sexual exploitation" means knowingly:
- 824 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 825 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 826 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
827 filming, recording, or displaying in any way the sexual or simulated sexual conduct;
- 828 (b) displaying, distributing, possessing for the purpose of distribution, or selling
829 material depicting a child:
- 830 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 831 (ii) engaging in sexual or simulated sexual conduct; or
- 832 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
833 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a

834 minor, regardless of whether the individual who engages in the conduct is actually charged
835 with, or convicted of, the offense.

836 (81) "Shelter" means the temporary care of a child in a physically unrestricted facility
837 pending a disposition or transfer to another jurisdiction.

838 (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

839 (83) "Significant risk" means a risk of harm that is determined to be significant in
840 accordance with risk assessment tools and rules established by the Division of Child and
841 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
842 Act, that focus on:

- 843 (a) age;
- 844 (b) social factors;
- 845 (c) emotional factors;
- 846 (d) sexual factors;
- 847 (e) intellectual factors;
- 848 (f) family risk factors; and
- 849 (g) other related considerations.

850 (84) "Single criminal episode" means the same as that term is defined in Section
851 [76-1-401](#).

852 (85) "Status offense" means an offense that would not be an offense but for the age of
853 the offender.

854 (86) "Substance abuse" means, except as provided in Section [80-2-603](#), the misuse or
855 excessive use of alcohol or other drugs or substances.

856 (87) "Substantiated" or "substantiation" means a judicial finding based on a
857 preponderance of the evidence, and separate consideration of each allegation made or identified
858 in the case, that abuse, neglect, or dependency occurred.

859 (88) "Substitute care" means:

- 860 (a) the placement of a minor in a family home, group care facility, or other placement
861 outside the minor's own home, either at the request of a parent or other responsible relative, or
862 upon court order, when it is determined that continuation of care in the minor's own home
863 would be contrary to the minor's welfare;

- 864 (b) services provided for a minor in the protective custody of the Division of Child and

865 Family Services, or a minor in the temporary custody or custody of the Division of Child and
866 Family Services, as those terms are defined in Section 80-2-102; or

867 (c) the licensing and supervision of a substitute care facility.

868 (89) "Supported" means a finding by the Division of Child and Family Services based
869 on the evidence available at the completion of an investigation, and separate consideration of
870 each allegation made or identified during the investigation, that there is a reasonable basis to
871 conclude that abuse, neglect, or dependency occurred.

872 (90) "Termination of parental rights" means the permanent elimination of all parental
873 rights and duties, including residual parental rights and duties, by court order.

874 (91) "Therapist" means:

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

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

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

881 (93) "Ungovernable" means a child in conflict with a parent or guardian, and the
882 conflict:

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

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

886 or

887 (c) results in the situations described in Subsections (93)(a) and (b).

888 (94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
889 conclude that abuse, neglect, or dependency occurred.

890 (95) "Unsupported" means a finding by the Division of Child and Family Services at
891 the completion of an investigation, after the day on which the Division of Child and Family
892 Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is
893 insufficient evidence to conclude that abuse, neglect, or dependency occurred.

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

896 (97) "Without merit" means a finding at the completion of an investigation by the
897 Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or
898 dependency did not occur, or that the alleged perpetrator was not responsible for the abuse,
899 neglect, or dependency.

900 (98) "Youth offender" means an individual who is:

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

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

904 Section 7. Section **80-5-202** is amended to read:

905 **80-5-202. Division rulemaking authority -- Reports on sexual assault.**

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

908 (a) establish standards for the admission of a minor to detention;

909 (b) describe good behavior for which credit may be earned under Subsection
910 [\[80-6-704\(4\)\] 80-6-704\(5\)](#);

911 (c) establish a formula, in consultation with the Office of the Legislative Fiscal
912 Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah,
913 Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders
914 with the division;

915 (d) establish policies and procedures regarding sexual assaults that occur in detention
916 and secure care facilities; and

917 (e) establish the qualifications and conditions for services provided by the division
918 under Section [80-6-809](#).

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

921 (a) that govern the operation of prevention and early intervention programs, youth
922 service programs, juvenile receiving centers, and other programs described in Section
923 [80-5-401](#); and

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

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

926 (a) may not permit secure detention based solely on the existence of multiple status

927 offenses, misdemeanors, or infractions arising out of a single criminal episode; and
928 (b) shall prioritize use of home detention for a minor who might otherwise be held in
929 secure detention.

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

931 (a) require education and training, including:

932 (i) providing to minors detained in secure care and detention facilities, at intake and
933 periodically, easy-to-understand information, which is developed and approved by the division,
934 on sexual assault prevention, treatment, reporting, and counseling in consultation with
935 community groups with expertise in sexual assault prevention, treatment, reporting, and
936 counseling; and

937 (ii) providing training specific to sexual assault to division mental health professionals
938 and all division employees who have direct contact with minors regarding treatment and
939 methods of prevention and investigation;

940 (b) require reporting of any incident of sexual assault, including:

941 (i) ensuring the confidentiality of sexual assault reports from minors and the protection
942 of minors who report sexual assault; and

943 (ii) prohibiting retaliation and disincentives for reporting sexual assault;

944 (c) require safety and care for minors who report sexual assault, including:

945 (i) providing, in situations in which there is reason to believe that a sexual assault has
946 occurred, reasonable and appropriate measures to ensure the minor's safety by separating the
947 minor from the minor's assailant, if known;

948 (ii) providing acute trauma care for minors who report sexual assault, including
949 treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted
950 infections;

951 (iii) providing confidential mental health counseling for minors who report sexual
952 assault, including:

953 (A) access to outside community groups or victim advocates that have expertise in
954 sexual assault counseling; and

955 (B) enabling confidential communication between minors and community groups and
956 victim advocates; and

957 (iv) monitoring minors who report sexual assault for suicidal impulses, post-traumatic

958 stress disorder, depression, and other mental health consequences resulting from the sexual
959 assault;

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

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

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

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

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

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

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

977 Section 8. Section **80-6-205** is amended to read:

978 **80-6-205. Admission to detention -- Alternative to detention -- Rights of a minor**
979 **in detention.**

980 (1) If a minor is taken to a detention facility under Section **80-6-203**, a designated staff
981 member of the detention facility shall immediately review the form and determine, based on
982 the results of the detention risk assessment tool and Subsection (2), whether to:

983 (a) admit the minor to secure detention;

984 (b) admit the minor to home detention;

985 (c) place the minor in ~~[another]~~ an alternative to detention, except that the staff
986 member may not place the minor in a correctional facility as an alternative to detention; or

987 (d) if the minor is a child, return the minor home upon a written promise by the minor's
988 parent, guardian, or custodian to bring the minor to the juvenile court at a time set or without

989 restriction.

990 (2) [~~A minor may not be admitted to detention~~] The designated staff member may not
991 admit a minor to detention under Subsection (1) unless:

992 (a) the minor is detainable based on the detention guidelines; or

993 (b) the minor has been brought to detention in accordance with:

994 (i) a court order;

995 (ii) a warrant [~~in accordance with~~] described in Section 80-6-202; or

996 (iii) a division warrant [~~in accordance with~~] described in Section 80-6-806.

997 (3) If the designated staff member determines to admit a minor to home detention, the
998 staff member shall notify the juvenile court of that determination.

999 (4) Even if a minor is eligible for secure detention, a peace officer or other person who
1000 takes a minor to a detention facility, or the designated staff member of the detention facility,
1001 may release a minor to a less restrictive alternative than secure detention.

1002 (5) (a) If a minor taken to a detention facility does not qualify for admission under
1003 detention guidelines or this section, a designated staff member of the detention facility shall
1004 arrange an appropriate alternative, including admitting a minor to a juvenile receiving center or
1005 a shelter facility.

1006 (b) (i) Except as otherwise provided by this section, a minor may not be placed or kept
1007 in secure detention while court proceedings are pending.

1008 (ii) A child may not be placed or kept in a shelter facility while court proceedings are
1009 pending, unless the child is in protective custody in accordance with Chapter 3, Abuse,
1010 Neglect, and Dependency Proceedings.

1011 (6) If a minor is taken into temporary custody and admitted to a secure detention, or
1012 another alternative to detention, a designated staff member of the detention facility shall:

1013 (a) immediately notify the minor's parent, guardian, or custodian; and

1014 (b) promptly notify the juvenile court of the placement.

1015 (7) If a minor is admitted to secure detention, or another alternative to detention,
1016 outside the county of the minor's residence and a juvenile court determines, in a detention
1017 hearing, that secure detention, or an alternative to detention, of the minor shall continue, the
1018 juvenile court shall direct the sheriff of the county of the minor's residence to transport the
1019 minor to secure detention or another alternative to detention in that county.

1020 (8) (a) Subject to Subsection (8)(b), a minor admitted to detention has a right to:

1021 (i) phone the minor's parent, guardian, or attorney immediately after the minor is
1022 admitted to detention; and

1023 (ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or
1024 custodian.

1025 (b) The division may:

1026 (i) establish a schedule for which a minor in detention may visit or phone a person
1027 described in Subsection (8)(a);

1028 (ii) allow a minor in detention to visit or call persons described in Subsection (8)(a) in
1029 special circumstances;

1030 (iii) limit the number and length of calls and visits for a minor in detention to persons
1031 described in Subsection (8)(a) on account of scheduling, facility, or personnel constraints; or

1032 (iv) limit the minor's rights ~~[under]~~ described in Subsection (8)(a) if a compelling
1033 reason exists to limit the minor's rights.

1034 (c) A minor admitted to detention shall be immediately advised of the minor's rights
1035 described in this Subsection (8).

1036 Section 9. Section **80-6-608** is amended to read:

1037 **80-6-608. When photographs, fingerprints, or HIV infection tests may be taken --**
1038 **Distribution -- DNA collection -- Reimbursement.**

1039 (1) The division shall take a photograph and fingerprints of a minor who is:

1040 (a) 14 years old or older at the time of the alleged commission of an offense that would
1041 be a felony if the minor were 18 years old or older; and

1042 (b) admitted to a detention facility for the alleged commission of the offense.

1043 (2) The juvenile court shall order a minor who is 14 years old or older at the time that
1044 the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have
1045 the minor's fingerprints taken at a detention facility or a local law enforcement agency if the
1046 minor is:

1047 (a) adjudicated for an offense that would be a class A misdemeanor if the minor were
1048 18 years old or older; or

1049 (b) adjudicated for an offense that would be a felony if the minor were 18 years old or
1050 older and the minor was not admitted to a detention facility.

- 1051 (3) The juvenile court shall take a photograph of a minor who is:
1052 (a) 14 years old or older at the time the minor was alleged to have committed an
1053 offense that would be a felony or a class A misdemeanor if the minor were 18 years old or
1054 older; and
1055 (b) adjudicated for the offense described in Subsection (3)(a).
1056 (4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall
1057 be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.
1058 (5) HIV testing shall be conducted on a minor who is taken into custody after having
1059 been adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon
1060 the request of:
1061 (a) the victim;
1062 (b) the parent or guardian of a victim who is younger than 14 years old; or
1063 (c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in
1064 Section 26B-6-201.
1065 (6) HIV testing shall be conducted on a minor against whom a petition has been filed
1066 or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5,
1067 Part 4, Sexual Offenses:
1068 (a) upon the request of:
1069 (i) the victim;
1070 (ii) the parent or guardian of a victim who is younger than 14 years old; or
1071 (iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in
1072 Section 26B-6-201; and
1073 (b) in which:
1074 (i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any
1075 other order based upon probable cause regarding the alleged offense; and
1076 (ii) the juvenile court has found probable cause to believe that the alleged victim has
1077 been exposed to HIV infection as a result of the alleged offense.
1078 (7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger
1079 than 14 years old without the consent of the juvenile court.
1080 (8) (a) Photographs taken under this section may be distributed or disbursed to:
1081 (i) state and local law enforcement agencies;

1082 (ii) the judiciary; and
1083 (iii) the division.
1084 (b) Fingerprints may be distributed or disbursed to:
1085 (i) state and local law enforcement agencies;
1086 (ii) the judiciary;
1087 (iii) the division; and
1088 (iv) agencies participating in the Western Identification Network.
1089 (9) (a) A DNA specimen shall be obtained from a minor who is ~~[under the jurisdiction~~
1090 ~~of the juvenile court as described in Subsection 53-10-403(3)]~~ adjudicated by the juvenile court
1091 as described in Subsection 53-10-403(1)(e).
1092 (b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4),
1093 by:
1094 (i) designated employees of the juvenile court; or
1095 (ii) if the minor is committed to the division, designated employees of the division.
1096 (c) The responsible agency under Subsection (9)(b) shall ensure that an employee
1097 designated to collect the saliva DNA specimens receives appropriate training and that the
1098 specimens are obtained in accordance with accepted protocol.
1099 (d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the
1100 DNA Specimen Restricted Account created in Section 53-10-407.
1101 (e) Payment of the reimbursement is second in priority to payments the minor is
1102 ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section
1103 80-3-403.
1104 Section 10. Section 80-6-704 is amended to read:
1105 **80-6-704. Detention or alternative to detention -- Limitations.**
1106 (1) (a) The juvenile court may order a minor to detention, or an alternative to detention,
1107 if the minor is adjudicated for:
1108 (i) an offense under Section 80-6-701; or
1109 (ii) contempt of court under Section 78A-6-353.
1110 (b) Except as provided in Subsection ~~[78A-6-353(3)]~~ 78A-6-353(4), and subject to the
1111 juvenile court retaining continuing jurisdiction over a minor's case, the juvenile court may
1112 order a minor to detention, or an alternative to detention, under Subsection ~~[(1)]~~ (1)(a) for a

1113 period not to exceed 30 cumulative days for an adjudication.

1114 (c) If a minor is held in detention before an adjudication, the time spent in detention
1115 before the adjudication shall be credited toward the 30 cumulative days eligible as a disposition
1116 under Subsection ~~[(1)(a)]~~ (1)(b).

1117 (d) If a minor spent more than 30 days in detention before a disposition ~~[under~~
1118 ~~Subsection (1)]~~, the juvenile court may not order the minor to detention under this section.

1119 (2) An order for detention under Subsection (1) may not be suspended upon conditions
1120 ordered by the juvenile court.

1121 (3) A juvenile court may not order a minor to detention for:

1122 (a) contempt of court, except to the extent permitted under Section [78A-6-353](#);

1123 (b) a violation of probation;

1124 (c) failure to pay a fine, fee, restitution, or other financial obligation;

1125 (d) unfinished compensatory or community service hours;

1126 (e) an infraction; or

1127 (f) a status offense.

1128 (4) A juvenile court may not order a minor be placed in a correctional facility as an
1129 alternative to detention under Subsection (1).

1130 ~~[(4)]~~ (5) (a) If a minor is held in detention under this section, the minor is eligible to
1131 receive credit for good behavior against the period of detention.

1132 (b) The rate of credit is one day of credit for good behavior for every three days spent
1133 in detention.

1134 ~~[(5)]~~ (6) (a) A minor may not be held in secure detention following a disposition by the
1135 juvenile court:

1136 (i) under Chapter 3, Abuse, Neglect, and Dependency Proceedings; or

1137 (ii) except as provided in Subsection ~~[(5)(b)]~~ (6)(b), for a community-based program.

1138 (b) If a minor is awaiting placement by the division under Section [80-6-703](#), a minor
1139 may not be held in secure detention for longer than 72 hours, excluding weekends and
1140 holidays.

1141 (c) The period of detention under Subsection ~~[(5)(b)]~~ (6)(b) may be extended by the
1142 juvenile court for a cumulative total of seven calendar days if:

1143 (i) the division, or another agency responsible for placement, files a written petition

1144 with the juvenile court requesting the extension and setting forth good cause; and

1145 (ii) the juvenile court enters a written finding that it is in the best interests of both the
1146 minor and the community to extend the period of detention.

1147 (d) The juvenile court may extend the period of detention beyond the seven calendar
1148 days if the juvenile court finds, by clear and convincing evidence, that:

1149 (i) the division, or another agency responsible for placement, does not have space for
1150 the minor; and

1151 (ii) the safety of the minor and community requires an extension of the period of
1152 detention.

1153 (e) The division, or the agency with custody of the minor, shall report to the juvenile
1154 court every 48 hours, excluding weekends and holidays, regarding whether the division, or
1155 another agency responsible for placement, has space for the minor.

1156 (f) The division, or agency, requesting an extension shall promptly notify the detention
1157 facility that a written petition has been filed.

1158 (g) The juvenile court shall promptly notify the detention facility regarding the juvenile
1159 court's initial disposition and any ruling on a petition for an extension, whether granted or
1160 denied.

1161 Section 11. Section **80-6-1006.1** is amended to read:

1162 **80-6-1006.1. Exceptions to expungement order -- Distribution of expungement**
1163 **order -- Agency duties -- Effect of expungement -- Access to expunged record.**

1164 (1) This section applies to an expungement order under Section [80-6-1004.1](#),
1165 [80-6-1004.2](#), [80-6-1004.3](#), [80-6-1004.4](#), or [80-6-1004.5](#).

1166 (2) The juvenile court may not order:

1167 (a) the Board of Pardons and Parole and the Department of Corrections to seal a record
1168 in the possession of the Board of Pardons and Parole or the Department of Corrections, except
1169 that the juvenile court may order the Board of Pardons and Parole and the Department of
1170 Corrections to restrict access to a record if the record is specifically identified in the
1171 expungement order as a record in the possession of the Board of Pardons and Parole or the
1172 Department of Corrections; or

1173 (b) the Division of Child and Family Services to expunge a record in an individual's
1174 juvenile record that is contained in the Management Information System or the Licensing

1175 Information System unless:

1176 (i) the record is unsupported; or

1177 (ii) after notice and an opportunity to be heard, the Division of Child and Family

1178 Services stipulates in writing to expunging the record.

1179 (3) (a) If the juvenile court issues an expungement order, the juvenile court shall send a
1180 copy of the expungement order to any affected agency or official identified in the juvenile
1181 record.

1182 (b) An individual who is the subject of an expungement order may deliver copies of the
1183 expungement order to all agencies and officials affected by the expungement order.

1184 (4) (a) Upon receipt of an expungement order, an agency shall:

1185 (i) to avoid destruction or expungement of records in whole or in part, expunge only
1186 the references to the individual's name in the records relating to the individual's adjudication,
1187 nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is
1188 ordered; and

1189 (ii) destroy all photographs and records created under Section 80-6-608, except that a
1190 record of a minor's fingerprints may not be destroyed by an agency.

1191 (b) ~~[An agency that]~~ Within 60 days after the day on which an agency receives a copy
1192 of an expungement order, the agency shall mail an affidavit to the individual who is the subject
1193 of the expungement order, or the individual's attorney, that the agency has complied with the
1194 expungement order.

1195 (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the
1196 Department of Corrections:

1197 (a) may not disclose records expunged in an expungement order unless required by
1198 law;

1199 (b) are not required to destroy any photograph or record created under Section
1200 80-6-608;

1201 (c) may use an expunged record for purposes related to incarceration and supervision
1202 of an individual under the jurisdiction of the Board of Pardons and Parole, including for the
1203 purpose of making decisions about:

1204 (i) the treatment and programming of the individual;

1205 (ii) housing of the individual;

- 1206 (iii) applicable guidelines regarding the individual; or
- 1207 (iv) supervision conditions for the individual;
- 1208 (d) are not prohibited from disclosing or sharing any information in an expunged
- 1209 record with another agency that uses the same record management system as the Board of
- 1210 Pardons and Parole or the Department of Corrections; and
- 1211 (e) are not required to mail an affidavit under Subsection (4)(b).
- 1212 (6) Upon entry of an expungement order:
- 1213 (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a
- 1214 detention for which the record is expunged is considered to have never occurred; and
- 1215 (b) the individual, who is the subject of the expungement order, may reply to an inquiry
- 1216 on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition,
- 1217 an arrest, an investigation, or a detention.
- 1218 (7) A record expunged under Section [80-6-1004.1](#), [80-6-1004.2](#), [80-6-1004.3](#),
- 1219 [80-6-1004.4](#), or [80-6-1004.5](#) may be released to, or viewed by, the individual who is the subject
- 1220 of the record.

1221 **Section 12. Effective date.**

1222 This bill takes effect on May 1, 2024.