

PARENTAL LIABILITY AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses parental liability for the acts of a minor.

Highlighted Provisions:

This bill:

▶ addresses the liability of a parent or guardian with legal custody of a minor for the acts of the minor in regards to property damage or a threat of terrorism; and

▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-8-212, as last amended by Laws of Utah 2021, Chapter 262

80-6-709, as last amended by Laws of Utah 2022, Chapter 155

80-6-712, as last amended by Laws of Utah 2022, Chapters 116, 155, 426, and 430

ENACTS:

78B-3-1001, Utah Code Annotated 1953

78B-3-1003, Utah Code Annotated 1953

RENUMBERS AND AMENDS:



28 **78B-3-1002**, (Renumbered from 80-6-610, as renumbered and amended by Laws of
29 Utah 2021, Chapter 261)



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

32 Section 1. Section **53G-8-212** is amended to read:

33 **53G-8-212. Defacing or damaging school property -- Student's liability -- Work**
34 **program alternative.**

35 (1) A student who willfully defaces or otherwise damages any school property may be
36 suspended or otherwise disciplined.

37 (2) (a) If a school's property has been lost or willfully cut, defaced, or otherwise
38 damaged, the school may withhold the issuance of an official written grade report, diploma, or
39 transcript of the student responsible for the damage or loss until the student or the student's
40 parent has paid for the damages.

41 (b) The student's parent is liable for damages as otherwise provided in Section
42 [~~80-6-610~~] [78B-3-1002](#).

43 (3) (a) If the student and the student's parent are unable to pay for the damages or if it is
44 determined by the school in consultation with the student's parent that the student's interests
45 would not be served if the parent were to pay for the damages, the school shall provide for a
46 program of work the student may complete in lieu of the payment.

47 (b) The school shall release the official grades, diploma, and transcripts of the student
48 upon completion of the work.

49 (4) Before any penalties are assessed under this section, the school shall adopt
50 procedures to ensure that the student's right to due process is protected.

51 (5) No penalty may be assessed for damages which may be reasonably attributed to
52 normal wear and tear.

53 (6) If the Department of Health and Human Services or a licensed child-placing agency
54 has been granted custody of the student, the student's records, if requested by the department or
55 agency, may not be withheld from the department or agency for nonpayment of damages under
56 this section.

57 Section 2. Section **78B-3-1001** is enacted to read:

58 **Part 10. Parental Liability for the Acts of a Minor**

59 **78B-3-1001. Definitions.**

60 As used in this part:

61 (1) "Adjudication" means the adjudication of an offense under Title 80, Chapter 6,
62 Juvenile Justice.

63 (2) "Graffiti" means the same as that term is defined in Title 76, Chapter 6, Offenses
64 Against Property.

65 (3) "Minor" means an individual who is younger than 18 years old.

66 Section 3. Section **78B-3-1002**, which is renumbered from Section 80-6-610 is
67 renumbered and amended to read:

68 ~~[80-6-610].~~ **78B-3-1002. Property damage caused by a minor -- Liability of**
69 **parent or guardian.**

70 (1) A parent or guardian with legal custody of a minor is liable for damages sustained
71 to property not to exceed \$2,000 when:

72 (a) the minor intentionally damages, defaces, destroys, or takes the property of another,
73 including using graffiti;

74 (b) the minor recklessly or willfully shoots or propels a missile, or other object at or
75 against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether
76 moving or standing; or

77 (c) the minor intentionally and unlawfully tampers with the property of another and
78 thereby recklessly endangers human life or recklessly causes or threatens a substantial
79 interruption or impairment of any public utility service, including using graffiti.

80 (2) A parent or guardian with legal custody of a minor is liable for damages sustained
81 to property, including damages as a result of graffiti, not to exceed \$5,000 [~~when the minor is~~
82 ~~adjudicated for an offense]~~ under Subsection (1):

83 (a) for the benefit of, at the direction of, or in association with any criminal street gang
84 as defined in Section ~~76-9-802~~; or

85 (b) to gain recognition, acceptance, membership, or increased status with a criminal
86 street gang.

87 ~~[(3) A juvenile court may make an order for restitution under Subsection (1) or (2) to~~
88 ~~be paid by the minor's parent or guardian if the minor is adjudicated for an offense.]~~

89 ~~[(4) As used in this section, property damage described under Subsection (1)(a) or (c),~~

90 or Subsection (2), includes graffiti, as defined in Section ~~76-6-107.~~]

91 ~~[(5)]~~ (3) A court may waive part or all of the liability for damages under this section by
 92 the minor's parent or guardian if ~~[-, after the minor is adjudicated,]~~ the court finds, upon the
 93 record:

94 (a) good cause; or

95 (b) the parent or guardian:

96 (i) made a reasonable effort to restrain the wrongful conduct; and

97 (ii) reported the conduct to the property owner involved or the law enforcement agency
 98 having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.

99 ~~[(6)]~~ (4) A report is not required under Subsection ~~[(5)(b)]~~ (3)(b) from a parent or
 100 guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on
 101 behalf of the property owner involved.

102 ~~[(7)]~~ (5) A conviction for criminal mischief under Section 76-6-106, criminal trespass
 103 under Section 76-6-206, or an adjudication under Section 80-6-701 is not ~~[a condition~~
 104 ~~precedent to a civil action authorized]~~ required for a civil action to be brought under
 105 Subsection (1) or (2).

106 ~~[(8)]~~ (6) A parent or guardian is not liable under Subsection (1) or (2) if:

107 (a) the parent or guardian made a reasonable effort to supervise and direct the minor;
 108 or; or

109 (b) in the event the parent or guardian knew in advance of the possible taking, injury,
 110 or destruction by the minor, made a reasonable effort to restrain the minor.

111 Section 4. Section **78B-3-1003** is enacted to read:

112 **78B-3-1003. Threat of terrorism -- Liability of parent or guardian.**

113 (1) A parent or guardian with legal custody of a minor is liable for the costs and
 114 damages sustained when the minor commits a threat of terrorism in accordance with Section
 115 76-5-107.3.

116 (2) A parent or guardian is not liable for costs and damages under Subsection (1) if:

117 (a) the parent or guardian made a reasonable effort to supervise and direct the minor; or

118 (b) made a reasonable effort to restrain the minor if the parent or guardian knew in
 119 advance of the minor's intent to commit a threat of terrorism.

120 (3) If a parent or guardian is found liable under this section, the court may waive part

121 or all of the parent's or guardian's liability for costs or damages if the court finds, upon the
122 record:

123 (a) good cause; or

124 (b) the parent or guardian:

125 (i) made a reasonable effort to restrain the wrongful conduct; and

126 (ii) reported the conduct to law enforcement after the parent or guardian knew of the
127 minor's wrongful conduct.

128 (4) A report is not required under Subsection (3)(b)(ii) from a parent or guardian if the
129 minor was arrested or apprehended by law enforcement.

130 (5) An adjudication or a conviction of a minor for an offense under Section [76-5-107.3](#)
131 is not required for a civil action to be brought under this section.

132 Section 5. Section **80-6-709** is amended to read:

133 **80-6-709. Payment of fines, fees, restitution, or other costs -- Community or**
134 **compensatory service -- Property damage -- Unpaid balances.**

135 (1) (a) If a minor is adjudicated for an offense under Section [80-6-701](#), the juvenile
136 court may order a minor to:

137 (i) pay a fine, fee, or other cost;

138 (ii) pay restitution in accordance with Section [80-6-710](#); or

139 (iii) complete community or compensatory service hours.

140 (b) (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a
141 juvenile probation officer may permit the minor to complete a work program in lieu of paying
142 part or all of the restitution by the juvenile court.

143 (ii) If the juvenile court orders the minor to complete community or compensatory
144 service hours, a juvenile probation officer may permit the minor to complete a work program to
145 help the minor complete the community or compensatory service hours.

146 (c) The juvenile court may, through a juvenile probation officer, encourage the
147 development of nonresidential employment or a work program to enable a minor to fulfill the
148 minor's obligations under Subsection (1)(a).

149 (d) Notwithstanding this section, a juvenile court may not place a minor on a ranch,
150 forestry camp, or other residential work program for care or work.

151 (2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to

152 complete community or compensatory service hours, the juvenile court shall consider the
153 dispositions collectively to ensure that an order:

- 154 (a) is reasonable;
- 155 (b) prioritizes restitution; and
- 156 (c) except for restitution as provided in Subsection 80-6-710(5)(c), takes into account
157 the minor's ability to pay the fine, fee, or other cost within the presumptive period under
158 Section 80-6-712 or Section 80-6-802 if the minor is ordered to secure care.

159 (3) (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete
160 community or compensatory service hours, the cumulative order shall be limited per criminal
161 episode as follows:

- 162 (i) for a minor under 16 years old at the time of adjudication, the juvenile court may
163 impose up to \$190 or up to 24 hours of community or compensatory service; and
- 164 (ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may
165 impose up to \$280 or up to 36 hours of community or compensatory service.

166 (b) The cumulative order under Subsection (3)(a) does not include restitution.

167 (4) (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory
168 service hours, the rate of conversion shall be no less than the minimum wage.

169 (b) If the juvenile court orders a minor to complete community service, the
170 presumptive service order shall include between five and 10 hours of service.

171 (c) If a minor completes an approved substance use disorder prevention or treatment
172 program or other court-ordered condition, the minor may be credited with compensatory
173 service hours for the completion of the program or condition by the juvenile court.

174 (5) (a) If a minor commits an offense involving the use of graffiti under Section
175 76-6-106 or 76-6-206, the juvenile court may order the minor to clean up graffiti created by the
176 minor or any other individual at a time and place within the jurisdiction of the juvenile court.

177 (b) The minor may complete the order of the juvenile court under Subsection (5)(a) in
178 the presence and under the direct supervision of the minor's parent, guardian, or custodian.

179 (c) The minor's parent, guardian, or custodian shall report completion of the order to
180 the juvenile court.

181 (d) The juvenile court may also require the minor to perform other alternative forms of
182 restitution or repair to the damaged property in accordance with Section 80-6-710.

183 (6) The juvenile court may order restitution to be paid by a minor's parent or guardian
184 if the minor's parent or guardian is liable for costs or damages caused by the minor's wrongful
185 conduct under Title 78B, Chapter 3, Part 10, Parental Liability for the Acts of a Minor.

186 ~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(6)(b)]~~ (7)(b), the juvenile court may
187 issue orders necessary for the collection of restitution and fines ordered under this section,
188 including garnishments, wage withholdings, and executions.

189 (b) The juvenile court may not issue an order under Subsection ~~[(6)(a)]~~ (7)(a) if the
190 juvenile court orders a disposition that changes custody of a minor, including detention, secure
191 care, or any other secure or nonsecure residential placement.

192 ~~[(7)]~~ (8) Any information necessary to collect unpaid fines, fees, assessments, or
193 restitution may be forwarded to employers, financial institutions, law enforcement, constables,
194 the Office of Recovery Services, or other agencies for purposes of enforcing an order under this
195 section.

196 ~~[(8)]~~ (9) (a) If, before the entry of any order terminating the juvenile court's continuing
197 jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution
198 ordered by the juvenile court, the juvenile court shall:

- 199 (i) record all pertinent information for the unpaid balance in the minor's file; and
- 200 (ii) if there is an unpaid amount of restitution, record the amount of unpaid restitution
201 as a civil judgment and list the victim, or the estate of the victim, as the judgment creditor in
202 the civil judgment.

203 (b) The juvenile court may not transfer responsibility to collect unpaid fines, fees,
204 surcharges, and restitution for a minor's case to the Office of State Debt Collection created in
205 Section [63A-3-502](#).

206 Section 6. Section **80-6-712** is amended to read:

207 **80-6-712. Time periods for supervision of probation or placement -- Termination**
208 **of continuing jurisdiction.**

209 (1) If the juvenile court places a minor on probation under Section [80-6-702](#), the
210 juvenile court shall establish a period of time for supervision for the minor that is:

- 211 (a) if the minor is placed on intake probation, no more than three months; or
- 212 (b) if the minor is placed on formal probation, from four to six months, but may not
213 exceed six months.

214 (2) (a) If the juvenile court commits a minor to the division under Section 80-6-703,
215 and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

216 (i) for a minor placed out of the home, a period of custody from three to six months,
217 but may not exceed six months; and

218 (ii) for aftercare services if the minor was placed out of the home, a period of
219 supervision from three to four months, but may not exceed four months.

220 (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):

221 (i) in the home of a qualifying relative or guardian;

222 (ii) at an independent living program contracted or operated by the division; or

223 (iii) in a family-based setting with approval by the director or the director's designee if
224 the minor does not qualify for an independent living program due to age, disability, or another
225 reason or the minor cannot be placed with a qualifying relative or guardian.

226 (3) If the juvenile court orders a minor to secure care, the authority shall:

227 (a) have jurisdiction over the minor's case; and

228 (b) apply the provisions of Part 8, Commitment and Parole.

229 (4) (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at
230 the end of the time period described in Subsection (1) for probation or Subsection (2) for
231 commitment to the division, unless:

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

234 (ii) the minor commits a new misdemeanor or felony offense;

235 (iii) the minor has not completed community or compensatory service hours;

236 (iv) there is an outstanding fine; or

237 (v) the minor has not paid restitution in full.

238 (b) The juvenile court shall determine whether a minor has completed a treatment
239 program under Subsection (4)(a)(i) by considering:

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

241 (ii) the minor's record in the treatment program; and

242 (iii) the minor's completion of the goals of the treatment program.

243 (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4)
244 exists the juvenile court may extend supervision for the time needed to address the specific

245 circumstance.

246 (6) If the juvenile court extends supervision solely on the ground that the minor has not
247 yet completed community or compensatory service hours under Subsection (4)(a)(iii), the
248 juvenile court may only extend supervision:

- 249 (a) one time for no more than three months; and
- 250 (b) as intake probation.

251 (7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has
252 not paid restitution in full as described in Subsection (4)(a)(v):

253 (i) the juvenile court may only:

- 254 (A) extend jurisdiction up to four times for no more than three months at a time;
- 255 (B) consider the efforts of the minor to pay restitution in full when determining
256 whether to extend jurisdiction under this Subsection (7)(a)(i); and

257 (C) make orders concerning the payment of restitution during the period for which
258 jurisdiction is extended;

259 (ii) the juvenile court shall terminate any intake probation or formal probation of the
260 minor; and

261 (iii) a designated staff member of the juvenile court shall submit a report to the juvenile
262 court every three months regarding the minor's efforts to pay restitution.

263 (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the
264 juvenile court shall:

- 265 (i) terminate jurisdiction over the minor's case; and
- 266 (ii) record the amount of unpaid restitution as a civil judgment in accordance with
267 Subsection [~~80-6-709(8)~~] 80-6-709(9).

268 (8) If the juvenile court extends supervision or jurisdiction under this section, the
269 grounds for the extension and the length of any extension shall be recorded in the court records
270 and tracked in the data system used by the Administrative Office of the Courts and the division.

271 (9) If a minor leaves supervision without authorization for more than 24 hours, the
272 supervision period for the minor shall toll until the minor returns.

273 (10) This section does not apply to any minor adjudicated under this chapter for:

- 274 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
- 275 (b) Section 76-5-202, aggravated murder or attempted aggravated murder;

- 276 (c) Section 76-5-203, murder or attempted murder;
- 277 (d) Section 76-5-205, manslaughter;
- 278 (e) Section 76-5-206, negligent homicide;
- 279 (f) Section 76-5-207, negligently operating a vehicle resulting in death;
- 280 (g) Section 76-5-207.5, automobile homicide involving using a wireless
- 281 communication device while operating a motor vehicle;
- 282 (h) Section 76-5-208, child abuse homicide;
- 283 (i) Section 76-5-209, homicide by assault;
- 284 (j) Section 76-5-302, aggravated kidnapping;
- 285 (k) Section 76-5-405, aggravated sexual assault;
- 286 (l) a felony violation of Section 76-6-103, aggravated arson;
- 287 (m) Section 76-6-203, aggravated burglary;
- 288 (n) Section 76-6-302, aggravated robbery;
- 289 (o) Section 76-10-508.1, felony discharge of a firearm;
- 290 (p) (i) an offense other than an offense listed in Subsections (10)(a) through (o)
- 291 involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
- 292 (ii) the minor has been previously adjudicated or convicted of an offense involving the
- 293 use of a dangerous weapon; or
- 294 (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and
- 295 the minor has been previously committed to the division for secure care.