

**Representative V. Lowry Snow** proposes the following substitute bill:

**JUVENILE JUSTICE AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to juvenile justice.

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **62A-7-404.5**, as enacted by Laws of Utah 2020, Chapter 214

29 **77-41-102**, as last amended by Laws of Utah 2020, Chapter 108

30 **78A-6-703.2**, as enacted by Laws of Utah 2020, Chapter 214

31 **78A-6-703.5**, as enacted by Laws of Utah 2020, Chapter 214

32 **78A-6-703.6**, as enacted by Laws of Utah 2020, Chapter 214

33 **78A-6-705**, as last amended by Laws of Utah 2020, Chapter 214

34 **Utah Code Sections Affected by Coordination Clause:**

35 **77-41-102**, as last amended by Laws of Utah 2020, Chapter 108

36 **78A-6-703.5**, as enacted by Laws of Utah 2020, Chapter 214

37 **80-6-502**, (Renumbered from 78A-6-703.2, as enacted by Laws of Utah 2020, Chapter  
38 214)

39 **80-6-504**, (Renumbered from 78A-6-703.5, as enacted by Laws of Utah 2020, Chapter  
40 214)

41 **80-6-505**, (Renumbered from 78A-6-703.6, as enacted by Laws of Utah 2020, Chapter  
42 214)

43 **80-6-507**, (Renumbered from 78A-6-705, as last amended by Laws of Utah 2020,  
44 Chapter 214)



46 Section 1. Section **62A-7-404.5** is amended to read:

47 **62A-7-404.5. Review and termination of commitment.**

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

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

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

57 (i) termination would interrupt the completion of a necessary treatment program; or  
58 (ii) the juvenile offender commits a new misdemeanor or felony offense.

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

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

66 (e) The authority shall:

67 (i) record the length of the extension and the grounds for the extension; and  
68 (ii) report annually the length and grounds of extension to the commission.

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

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

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

78 (i) termination would interrupt the completion of a necessary treatment program;  
79 (ii) the juvenile offender commits a new misdemeanor or felony offense; or  
80 (iii) restitution has not been completed.

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

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

87 (f) The authority shall:

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

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

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

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

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

96 (b) Section [76-5-202](#), aggravated murder or attempted aggravated murder;

97 (c) Section [76-5-203](#), murder or attempted murder;

98 (d) Section [76-5-205](#), manslaughter;

99 (e) Section [75-5-206](#), negligent homicide;

100 (f) Section [76-5-207](#), automobile homicide;

101 (g) Section [76-5-207.5](#), automobile homicide involving handheld wireless  
102 communication device;

103 (h) Section [76-5-208](#), child abuse homicide;

104 (i) Section [76-5-209](#), homicide by assault;

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

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

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

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

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

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

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

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

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

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

118 involving the use of a dangerous weapon, as defined in Section [76-1-601](#), that is a felony; and

119 (ii) the juvenile offender has been previously adjudicated or convicted of an offense  
120 involving the use of a dangerous weapon; or

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

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

127 (i) until the juvenile offender is:

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

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

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

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

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

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

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

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

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

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

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

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

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

151 **77-41-102. Definitions.**

152 As used in this chapter:

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

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

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

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

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

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

163 (7) "Indian Country" means:

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

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

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

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

175 (9) "Kidnap offender" means any individual other than a natural parent of the victim  
176 who:

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

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

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

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

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

212 (i) the individual remains in the division's custody [30 days prior] until 30 days before  
213 [to] the individual's 21st birthday[-]; or

214 (ii) if the juvenile court extended the juvenile court's jurisdiction over the minor under  
215 Section 78A-6-703.4, the individual remains in the division's custody until 30 days before the  
216 individual's 25th birthday.

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

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

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

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

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

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

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

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

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

236 (17) "Sex offender" means any individual:

237 (a) convicted in this state of:

238 (i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

239 (ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10,  
240 2011;

241 (iii) Section 76-5-308, human trafficking for sexual exploitation;

242 (iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;



- 243 (v) Section 76-5-310, aggravated human trafficking for sexual exploitation;
- 244 (vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;
- 245 (vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in
- 246 Subsection 76-5-401(3)(b) or (c);
- 247 (viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection
- 248 76-5-401.1(3);
- 249 (ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;
- 250 (x) Section 76-5-402, rape;
- 251 (xi) Section 76-5-402.1, rape of a child;
- 252 (xii) Section 76-5-402.2, object rape;
- 253 (xiii) Section 76-5-402.3, object rape of a child;
- 254 (xiv) a felony violation of Section 76-5-403, forcible sodomy;
- 255 (xv) Section 76-5-403.1, sodomy on a child;
- 256 (xvi) Section 76-5-404, forcible sexual abuse;
- 257 (xvii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a
- 258 child;
- 259 (xviii) Section 76-5-405, aggravated sexual assault;
- 260 (xix) Section 76-5-412, custodial sexual relations, when the individual in custody is
- 261 younger than 18 years [~~of age~~] old, if the offense is committed on or after May 10, 2011;
- 262 (xx) Section 76-5b-201, sexual exploitation of a minor;
- 263 (xxi) Section 76-5b-204, sexual extortion or aggravated sexual extortion;
- 264 (xxii) Section 76-7-102, incest;
- 265 (xxiii) Section 76-9-702, lewdness, if the individual has been convicted of the offense
- 266 four or more times;
- 267 (xxiv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the
- 268 offense four or more times;
- 269 (xxv) any combination of convictions of Section 76-9-702, lewdness, and of Section
- 270 76-9-702.1, sexual battery, that total four or more convictions;
- 271 (xxvi) Section 76-9-702.5, lewdness involving a child;
- 272 (xxvii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;
- 273 (xxviii) Section 76-10-1306, aggravated exploitation of prostitution; or

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

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

279 (i) a Utah resident; or

280 (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of  
281 10 or more days, regardless of whether the offender intends to permanently reside in this state;

282 (c) (i) who is required to register as a sex offender in any other jurisdiction of original  
283 conviction, who is required to register as a sex offender by any state, federal, or military court,  
284 or who would be required to register as a sex offender if residing in the jurisdiction of the  
285 original conviction regardless of the date of the conviction or any previous registration  
286 requirements; and

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

289 (d) who is a nonresident regularly employed or working in this state or who is a student  
290 in this state and was convicted of one or more offenses listed in Subsection (17)(a), or any  
291 substantially equivalent offense in any jurisdiction, or as a result of the conviction, is required  
292 to register in the individual's jurisdiction of residence;

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

295 (f) who is adjudicated delinquent based on one or more offenses listed in Subsection  
296 (17)(a) and who has been committed to the division for secure confinement for that offense  
297 and;

298 (i) the individual remains in the division's custody [30 days prior to] until 30 days  
299 before the individual's 21st birthday[-]; or

300 (ii) if the juvenile court extended the juvenile court's jurisdiction over the minor under  
301 Section 78A-6-703.4, the individual remains in the division's custody until 30 days before the  
302 individual's 25th birthday.

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

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

307 Section 3. Section **78A-6-703.2** is amended to read:

308 **78A-6-703.2. Criminal information for a minor in district court.**

309 (1) If a prosecuting attorney charges a minor with aggravated murder under Section  
310 **76-5-202** or murder under Section **76-5-203**, the prosecuting attorney shall file a criminal  
311 information in the district court if the minor was the principal actor in an offense and the  
312 information alleges:

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

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

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

316 (ii) Section **76-5-203**, murder.

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

319 (a) the minor is not subject to a sentence of death in accordance with Subsection  
320 **76-3-206(2)(b)**; and

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

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

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

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

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

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

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

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

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

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

336 public;]

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

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

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

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

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

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

345 [~~(6)~~] (4) If a minor is held in a juvenile detention facility under Subsection [~~(4)~~] (3), the  
346 court shall:

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

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

349 [~~(7)~~] (5) If the minor [~~ordered to~~] held in a juvenile detention facility under Subsection  
350 [~~(4)~~] (3) attains the age of [~~18 years~~] 21, the minor shall be transferred within 30 days to an  
351 adult jail until:

352 (a) released by the district court judge; or

353 (b) if convicted, sentencing.

354 [~~(8)~~] (6) If a minor is [~~ordered to~~] held in a juvenile detention facility under Subsection  
355 [~~(4)~~] (3) and the minor's conduct or condition endangers the safety or welfare of others in the  
356 juvenile detention facility, the court may find that the minor shall be detained in another place  
357 of confinement considered appropriate by the court, including a jail or an adult facility for  
358 pretrial confinement.

359 [~~(9)~~] (7) If a minor is charged for aggravated murder or murder in the district court  
360 under this section, and all charges for aggravated murder or murder result in an acquittal, a  
361 finding of not guilty, or a dismissal:

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

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

365 Section 4. Section **78A-6-703.5** is amended to read:

366 **78A-6-703.5. Preliminary hearing.**

367 (1) If a prosecuting attorney files a criminal information in accordance with Section  
368 78A-6-703.3, the court shall conduct a preliminary hearing to determine whether a minor  
369 should be bound over to the district court for a qualifying offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

411 (b) If the court finds that the prosecuting attorney has not met the burden under  
412 Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a  
413 motion to extend the court's continuing jurisdiction over the minor's case until the minor is 25  
414 years old in accordance with Section 78A-6-703.4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

453 (13) If the court orders the minor to be detained:

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

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

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

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

460           ~~[(15)]~~ (14) If the court orders the minor to be detained in a juvenile detention facility  
461 under Subsection (13) and the minor attains the age of ~~[18]~~ 21 while detained at the facility, the  
462 minor shall be transferred within 30 days to an adult jail to remain:

463           (a) until released by the district court; or

464           (b) if convicted, until sentencing.

465           ~~[(16)]~~ (15) Except as provided in Subsection ~~[(17)]~~ (16) and Section 78A-6-705, if a  
466 minor is bound over to the district court under this section, the jurisdiction of the Division of  
467 Juvenile Justice Services and the juvenile court over the minor is terminated for the qualifying  
468 offense and any other separate offense for which the minor is bound over.

469           ~~[(17)]~~ (16) If a minor is bound over to the district court for a qualifying offense and the  
470 qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:

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

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

474           Section 5. Section 78A-6-703.6 is amended to read:

475           **78A-6-703.6. Criminal proceedings for a minor bound over to district court.**

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

479           (a) the minor is not subject to a sentence of death in accordance with Subsection

480 76-3-206(2)(b); and

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

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

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

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

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



- 491 ~~[(ii) the minor's history of prior criminal acts;]~~  
 492 ~~[(iii) whether detention in a juvenile detention facility will adequately serve the need~~  
 493 ~~for community protection pending the outcome of any criminal proceedings;]~~  
 494 ~~[(iv) the relative ability of the facility to meet the needs of the minor and protect the~~  
 495 ~~public;]~~  
 496 ~~[(v) the physical maturity of the minor;]~~  
 497 ~~[(vi) the current mental state of the minor as evidenced by relevant mental health or~~  
 498 ~~psychological assessments or screenings that are made available to the court; and]~~  
 499 ~~[(vii) any other factors the court considers relevant.]~~

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

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

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

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

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

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

509 ~~[(6)]~~ (3) If a minor is bound over to the district court and detained in a juvenile  
 510 detention facility, the district court may order the minor be detained in another place of  
 511 confinement that is considered appropriate by the district court, including a jail or other place  
 512 of pretrial confinement for adults if the minor's conduct or condition endangers the safety and  
 513 welfare of others in the facility.

514 ~~[(7)]~~ (4) If the district court obtains jurisdiction over a minor under Section  
 515 78A-6-703.5, the district court is not divested of jurisdiction for a qualifying offense or a  
 516 separate offense listed in the criminal information when the minor is allowed to enter a plea to,  
 517 or is found guilty of, another offense in the same criminal information.

518 Section 6. Section 78A-6-705 is amended to read:

519 **78A-6-705. Youth prison commitment.**

520 ~~[(1) (a) Before sentencing a minor, who was bound over to the district court under~~  
 521 ~~Section 78A-6-703.5 to be tried as an adult, to prison the district court shall request a report~~

522 from the Division of Juvenile Justice Services regarding the potential risk to other minors if the  
523 minor were to be committed to the custody of the Division of Juvenile Justice Services.]

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

526 [~~(2) If, after receiving the report described in Subsection (1),~~ (1) When sentencing a  
527 minor, if the district court determines that probation is not appropriate and commitment to  
528 prison is an appropriate sentence, the district court shall order the minor committed to prison  
529 and the minor shall be provisionally housed in a secure facility operated by the Division of  
530 Juvenile Justice Services until the minor reaches [~~18~~] 21 years old, unless released earlier from  
531 incarceration by the Board of Pardons and Parole.

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

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

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

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

539 [~~(4)~~ (2) (a) The Division of Juvenile Justice Services shall adopt procedures by rule, in  
540 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the  
541 transfer of a minor provisionally housed in a division facility under Subsection [~~(2)~~] (1) to the  
542 physical custody of the Department of Corrections.

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

548 [~~(5)~~] (3) (a) When a minor is committed to prison but [~~ordered by a district court to be~~]  
549 provisionally housed in a Division of Juvenile Justice Services facility under this section, the  
550 district court and the Division of Juvenile Justice Services shall immediately notify the Board  
551 of Pardons and Parole so that the minor may be scheduled for a hearing according to board  
552 procedures.

553 (b) If a minor who is provisionally housed in a Division of Juvenile Justice Services  
554 facility under this section has not been paroled or otherwise released from incarceration by the  
555 time the minor reaches [~~18~~] 21 years old, the Division of Juvenile Justice Services shall as soon  
556 as reasonably possible, but not later than when the minor reaches [~~18~~] 21 years and 6 months  
557 old, transfer the minor to the physical custody of the Department of Corrections.

558 [~~6~~] (4) Upon the commitment of a minor to the custody of the Division of Juvenile  
559 Justice Services or the Department of Corrections under this section, the Board of Pardons and  
560 Parole has authority over the minor for purposes of parole, pardon, commutation, termination  
561 of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes  
562 authorized by law.

563 [~~7~~] (5) The Youth Parole Authority [~~may~~] shall:

564 (a) hold hearings, receive reports, or otherwise keep informed of the progress of a  
565 minor in the custody of the Division of Juvenile Justice Services under this section [~~and may~~];  
566 and

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

569 [~~8~~] (6) Commitment of a minor under this section is a prison commitment for all  
570 sentencing purposes.

571 Section 7. **Coordinating H.B. 410 with H.B. 285 -- Substantive and technical**  
572 **amendments.**

573 If this H.B. 410 and H.B. 285, Juvenile Recodification, both pass and become law, the  
574 Legislature intends that, on September 1, 2021, the Office of Legislative Research and General  
575 Counsel prepare the Utah Code database for publication by:

576 (1) not making the changes in H.B. 285 in:

577 (a) Subsection 80-6-502(4)(d) and (h);

578 (b) Subsections 80-6-504(13) and (14);

579 (c) Subsections 80-6-505(3) and (5); and

580 (d) Subsections 80-6-507(1) and (3);

581 (2) changing the cross-reference in Subsections 77-41-102(9)(f)(ii) and (17)(f)(ii) from  
582 Section 78A-6-703.4 to Section 80-6-605; and

583 (3) omitting the word "juvenile" in Subsections 78A-6-703.5(12)(a) and (13) in this

584 H.B. 410.