

# Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

## Meeting Agenda

*David W. Fureigh, Chair*

Location: Webex Meeting  
Date: May 6, 2022  
Time: 12:00 pm – 2:00 pm

<b>Action:</b> Welcome and approval of April 1, 2022 Meeting minutes	Tab 1	David Fureigh
<b>Discussion:</b> Staff Change and Appointing Vice Chair for the Committee		David Fureigh Raymundo Gallardo
<b>Discussion &amp; Action:</b> Rule 7: Warrants; Rule 25: Pleas; and Rule 60: Judicial Bypass Procedure to Authorize Minor Consent to an Abortion. <ul style="list-style-type: none"><li>• <i>Comment period closed April 24, 2022</i><ul style="list-style-type: none"><li>○ Rule 7 - no comments<ul style="list-style-type: none"><li>▪ April 14, 2022 Draft - Updated statutory references to Title 62A, Chapter 4a due to HB 248 Second Juvenile Code Recodification</li></ul></li><li>○ Rule 25 – 1 comment</li><li>○ Rule 60 – 1 comment</li></ul></li></ul>	Tab 2	David Fureigh
<b>Discussion &amp; Action:</b> Rule 25A: Withdrawal of Plea.	Tab 3	David Fureigh
<b>Discussion &amp; Action:</b> <ul style="list-style-type: none"><li>• Rule 12: Admission to shelter care</li><li>• Rule 13: Shelter hearings</li><li>• Rule 14: Reception of Referral; Preliminary Determination</li></ul>	Tab 4	Matthew Johnson & Janette White
<b>Discussion:</b> <a href="#">S.B. 161</a> - Child Welfare Appeals Amendments (2022) <ul style="list-style-type: none"><li>• <i>Consider if changes to Juvenile Rules 52 and 53 need to be made with regards to the appointment of qualified appellate counsel during a child welfare appeal.</i></li></ul>	Tab 5	All
<b>Discussion:</b> Update regarding 2022 Legislative Bills Possibly Requiring Rule Changes		All

<ul style="list-style-type: none"> <li>• <a href="#">SB 85</a>: Protective Order and Stalking Injunction Expungements – Jordan Putnam</li> <li>• <a href="#">HB 299</a>: Juvenile Justice Changes &amp; Rule 30 – Chris Yanelli</li> <li>• <a href="#">HB 277</a>: Juvenile Competency Amendments – Sophia Moore</li> <li>• Juvenile Rules 27A and 51 – Bill Russell reviewing to see if any changes needed to be made</li> </ul>		
<p><b>Discussion: Rule 22. Initial appearance and preliminary examination in cases under Utah Code section 80-6-503</b></p> <ul style="list-style-type: none"> <li>• <i>Discussion regarding possibly conflicting language in paragraph g.</i></li> <li>• <i>Attached previous versions of Rule 22 and memo from Meg Sternitzky, Juvenile Court Law Clerk, explaining issues and providing proposed language.</i></li> <li>• <i>Rule 22 amended in 2020 due to HB 384 Juvenile Justice Amendments and previous Utah Code sections 78A-6-702 and 78A-6-703 merged into Utah Code section 78A-6-703.3. Subsequently, Utah Code section 78A-6-703.3 was renumbered to 80-6-503 in 2021 due to first juvenile code recodification.</i></li> </ul>	Tab 6	Meg Sternitzky
<b>Discussion:</b> Old business or new business		All

<https://www.utcourts.gov/utc/juvenile-procedure/>

Meeting Schedule:

June 3, 2022

October 7, 2022

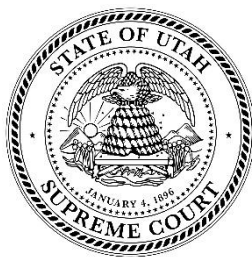
August 5, 2022

November 4, 2022

September 2, 2022

December 2, 2022

# TAB 1



**Utah Supreme Court's  
Advisory Committee on the Rules of Juvenile Procedure**

**Draft Meeting Minutes**

*David W. Fureigh, Chair*

Location: Webex Meeting:  
<https://utcourts.webex.com/utcourts/j.php?MTID=m1a3668e9b565aa17177801b9eafdec1e>

Date: April 1, 2022

Time: 12:00 pm – 2:00 pm

<b><u>Attendees:</u></b> David Fureigh, Chair Arek Butler Judge Paul Dame Michelle Jeffs Judge Debra Jensen Matthew Johnson Mikelle Ostler William Russell Chris Yanelli Janette White Carol Verdoia, Emeritus Member	<b><u>Excused Members:</u></b> Kristin Fadel Jordan Putnam Sophia Moore
	<b><u>Guests:</u></b> Chris Williams, Office of Legislative Research and General Counsel Judge Steven Beck
<b><u>Staff:</u></b> Bridget Koza Kiley Tilby, Recording Secretary Meg Sternitzky, Juvenile Court Law Clerk Savannah Schoon, Juvenile Court Law Clerk	

**1. Welcome and approval of the March 4, 2022 Meeting minutes: (David Fureigh)**

David Fureigh welcomed everyone to the meeting and asked for approval of the March 4, 2022 minutes.

*Judge Debra Jensen moved to approve the March 4, 2022 minutes. William Russell seconded the motion, and it passed unanimously.*

David introduced Kiley Tilby as the new recording secretary. Ms. Tilby will take minutes and assist in the preparation of the agendas. David announced Bridget Koza had accepted a new position and will be leaving the courts.

As a preliminary matter, David informed the committee that Rule 60 received one dissenting vote from the Supreme Court regarding a motion to go out for 45-day public comment but the motion passed. David received a request from the Supreme Court to contact the ACLU and Planned Parenthood and ask them if they would like to comment again while it is out for comment. He reached out to them and let them know they could e-mail him, send a letter, or submit comment through the website.

## **2. Discussion – Rule 25A. Withdrawal of Plea: (David Fureigh)**

Judge Steven Beck left a comment on the proposed repeal of Rule 25A and was invited by Judge Dame to the meeting to address his concerns to the committee. Judge Beck had previously attended a Judicial Council's committee meeting. During that meeting, the Judicial Council's position was that if there are procedures in legislation, they should be taken out of legislation and left in the rules. Judge Beck expressed his concern of removing a rule that contains procedure as the legislature could repeal that law by simple majority. This would subvert the constitutional requirement of 2/3 majority from both houses to amend a Rule of Juvenile Procedure. Judge Beck indicated his position that if a rule is procedural, it should remain in the Rules of Juvenile Procedure and not stricken in favor of legislation.

David Fureigh indicated this was a big discussion with the first juvenile code recodification because there were several substantive issues in the rules that the committee believed belonged in the statute but there was nothing in the statute addressing it. This led to the committee putting some of the substantive stuff in the rules because it was not otherwise addressed in the statute.

Carol Verdoia stated that issue as part of the first juvenile code recodification was being tracked closely by Jacqueline Carlton, Office of Legislative Research and

General Counsel. Carol's interpretation was that the intent was to ensure the procedural aspects stay in the rules even if there is also a statutory provision.

Judge Dame expressed the same concerns Judge Beck has as far as the Supreme Court having exclusive authority to make procedural rules. Judge Dame indicated he has concerns with repealing Rule 25A because it is a combination of substantive and procedural and believes Rule 25A should be left as-is.

Carol Verdoia indicated if the statute is repealed, the Supreme Court could to an emergency implantation of a rule, but it would still have to go through the committee and the comment period. This is a lengthy process and would take some time to get the rule back in place.

*The committee agreed to put Rules 25 and 25A on the May 6, 2022 agenda to continue the discussion.*

### **3. Discussion – Rule 12: Admission to shelter care; Rule 13: Shelter hearings; and Rule 14: Reception of Referral; Preliminary Determination:** (Matthew Johnson & Janette White)

Matthew Johnson discussed with the committee that he and Janette White went through Juvenile Rules 12, 13, and 14 to update the statutory citations to reflect the changes in the second juvenile code recodification (HB 248: Juvenile Amendments (2022)).

David proposed to the committee whether Rule 12 was necessary if the rule was merely citing to the statute. Matthew Johnson stated he would rather leave the rule for those attorneys who did not primarily practice in Juvenile Court. Janette White indicated she did not know if the rule was necessary as the statute is cited in the petitions in child welfare proceedings. Arek Butler would like to leave the rule.

Bridget Koza wanted to ensure the proposed statutory citations were updated correctly. Bridget will forward the chart showing the old statutory citation and the new one from the second juvenile code recodification from the Office of Legislative Research and General Counsel to all committee members.

*The committee will continue discussing Rule 12, 13 and 14 at the next committee meeting on May 6, 2022.*

#### **4. Discussion – Rule 13: Shelter hearings, Rule 35: Pre-trial procedures & SB 108 Indigent Defense Amendments (2022): (All)**

SB 108: Indigent Defense Amendments (2022) - Bridget Koza raised the question as to whether there needed to be changes to Juvenile Rule 13 based on S.B. 108 (lines 86 and 87) regarding the court informing parties of their right to counsel. David Fureigh commented that Rule 35 and the Indigent Defense Act already outlines the right to counsel. Judge Dame does not believe it is necessary to add anything additional to the rules because the statute already requires the court to advise parties of their right to counsel. Judge Jensen concurs and indicates all judges are aware they must advise the parties of their right to counsel at shelter hearings.

#### **5. Old business/new business: (All)**

Carol Verdoia outlined the committee may want to look at SB 161: Child Welfare Appeals Amendments (2022) and look at possibly amending Juvenile Rules 52 and 53. Carol indicated there were changes made about a parent's representation on appeal because of new processes with appointing the qualified appellate counsel. The process for appointing qualified appellate counsel is still being worked out. For example, a trial attorney attempted to withdraw as counsel before the appointment of qualified appellate counsel. Carol suggested the committee may want to outline in the rules the procedure for that process.

Mikelle Ostler and Bridget Koza discussed SB 85: Protective Order and Stalking Injunction Expungement (2022) regarding protective order and stalking injunction expungements. Bridget indicated she did not know whether the committee needed to reference anything in Juvenile Rule 37 about expunging child protective orders. Juvenile Rule 56 deals with expungement, but that is only regarding juvenile records. Jordan Putnam was assigned to review SB 85 to see if any changes need to be made to the Juvenile Rules.

*Both bills and rules will be placed on the May 6, 2022 agenda.*

*The meeting adjourned at 1:30 p.m. The next meeting will be held on May 6, 2022 at 12:00 p.m. via Webex.*



# TAB 2

**Rule 7. Warrants.**

(a) The issuance and execution of a warrant is governed by Title 77, Chapter 7, Arrest; Utah Code sections 62A-4a-202.1, 78A-6-102, 80-6-202, and 78A-6-352; and Rule 40 of the Utah Rules of Criminal Procedure.

(b) After a petition is filed, a warrant for immediate temporary custody of a minor may be issued if the court finds from the facts set forth in an affidavit filed with the court or in the petition that there is probable cause to believe that:

(1) the minor has committed an act which would be a felony if committed by an adult;

(2) the minor has failed to appear after the minor or the parent, guardian or custodian has been legally served with a summons;

(3) there is a substantial likelihood the minor will not respond to a summons;

(4) the summons cannot be served and the minor's present whereabouts are unknown;

(5) the minor seriously endangers others and immediate removal appears to be necessary for the protection of others or the public; or

(6) the minor is a runaway or has escaped from the minor's parent, guardian, or custodian.

(c) A warrant for immediate temporary custody of a minor may be issued if the court finds from the affidavit that the minor is under the continuing jurisdiction of the court and probable cause to believe that the minor:

(1) has left the custody of the person or agency vested by the court with legal custody and guardianship without permission; or

(2) has violated a court order.

(d) A warrant for immediate custody shall be signed by a court and shall contain or be supported by the following:

(1) an order that the minor be returned home, taken to the court, taken to a juvenile detention, shelter facility, other nonsecure facility or an adult detention facility, if appropriate, designated by the court at the address specified pending a hearing or further order of the court;

(2) the name, date of birth and last known address of the minor;

(3) the reasons why the minor is being taken into custody;

(4) a time limitation on the execution of the warrant;

(5) the name and title of the person requesting the warrant unless ordered by the court on its own initiative pursuant to these rules; and

(6) the date, county and court location where the warrant is being issued.

(e) A peace officer who brings a minor to a detention facility pursuant to a court order for immediate custody shall so inform the person in charge of the facility and the existence of such order shall require the minor's immediate admission. A minor so admitted may not be released without court order.

(f) This rule shall not limit the statutory authority of a probation officer to take a minor who has violated a condition of probation into custody under Utah Code section 80-6-201.

(g) Return of service on a warrant shall be executed within 72 hours unless otherwise ordered by the Court.

(h) Prior to a peace officer or a child welfare worker executing a warrant issued pursuant to Utah Code section 62A-4a-202.1 for a child who is missing, has been abducted, or has run away, counsel for the Division of Child and Family Services may file an *ex parte* motion to vacate the warrant.

~~(hi)~~ The juvenile court to retain and file copies - Documents sealed for twenty days - Forwarding of record to court with jurisdiction.

(1) At the time of issuance, the juvenile court shall retain and seal a copy of the search warrant, the application and all affidavits or other recorded testimony on which the warrant is based and shall, within a reasonable time, file those sealed documents in court files which are secured against access by the public. Those documents shall remain sealed until twenty days following the issuance of the warrant unless that time is extended or reduced. Unsealed search warrant documents shall be filed in the court record.

(2) Sealing and retention of the file may be accomplished by:

(A) placing paper documents or storage media in a sealed envelope and filing the sealed envelope in a court file not available to the public;

(B) storing the documents by electronic or other means under the control of the court in a manner reasonably designed to preserve the integrity of the documents and protect them against disclosure to the public during the period in which they are sealed; or

(C) filing through the use of an electronic filing system operated by the State of Utah which system is designed to transmit accurate copies of the documents to the court file without allowing alteration to the documents after issuance of the warrant by the juvenile court.

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(b) After a petition is filed, a warrant for immediate temporary custody of a minor may be issued if the court finds from the facts set forth in an affidavit filed with the court or in the petition that there is probable cause to believe that:

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(5) the name and title of the person requesting the warrant unless ordered by the court on its own initiative pursuant to these rules; and

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(C) filing through the use of an electronic filing system operated by the State of Utah which system is designed to transmit accurate copies of the documents to the court file without allowing alteration to the documents after issuance of the warrant by the juvenile court.

## Rule 25. Pleas

~~(a) A minor may tender a denial of the alleged offense, may tender an admission of the alleged offense, or may, with the consent of the court, tender a plea of no contest which shall have the effect set forth in Utah Code Section 77-13-2. If the minor declines to plead, the court shall enter a denial. Counsel for the minor may enter a denial in the absence of the minor, parent, guardian or custodian.~~

A minor may tender a denial, an admission, or a plea of no contest pursuant to Utah Code Section 80-6-306.

(b) When a denial is entered, the court shall set the matter for a trial hearing or for a pre-trial conference.

(c) The court may refuse to accept an admission or a plea of no contest and may not accept such plea until the court has found:

(1) that the right to counsel has been knowingly waived if the minor is not represented by counsel;

(2) that the plea is voluntarily made;

(3) that the minor and, if present, the minor's parent, guardian, or custodian, have been advised of, and the minor understands and has knowingly waived, the right against compulsory self-incrimination, the right to be presumed innocent, the right to a speedy trial, the right to confront and cross-examine opposing witnesses, the right to testify and to have process for the attendance of witnesses;

(4) that the minor and, if present, the minor's parent, guardian, or custodian have been advised of the consequences which may be imposed after acceptance of the admission of the alleged offense or plea of no contest;

(5) that the minor understands the nature and elements of the offense to which the plea is entered, that upon trial the prosecution would have the burden of



proving each of those elements beyond a reasonable doubt, and that the plea is an admission of all those elements;

(6) that there is a factual basis for the plea; and

(7) where applicable, the provisions of paragraph (e) have been met.

~~(d) The minor may be allowed to tender an admission to a lesser included offense, or an offense of a lesser degree or a different offense which the court may enter, after amending the petition.~~

(ed) Plea discussions and agreements are authorized in conformity with the provisions of Utah Rule of Criminal Procedure 11. The prosecuting attorney may enter into discussions and reach a proposed plea agreement with the minor through the minor's counsel, or if the minor is not represented by counsel, directly with the minor. However, the prosecuting attorney may not enter into settlement discussions with a minor not represented by counsel unless the parent, guardian or custodian is advised of the discussion and given the opportunity to be present.

~~(fe) A minor may tender an admission which is not entered by the court for a stated period of time. Conditions may be imposed upon the minor in that period of time and successful completion of the conditions set shall result in dismissal upon motion. If the minor fails to complete the conditions set, the admission shall be entered and the court shall proceed to order appropriate dispositions.~~

If the court, pursuant to Utah Code section 80-6-306, delays entry of a minor's admission, the court will, upon motion of the court or any party, make a finding on whether the minor has successfully completed the imposed conditions. If the motion is unopposed, the court may make its finding without a hearing. If the motion is opposed, the court will hold a hearing, and then make its finding. After the court makes its finding, it will issue an order pursuant to Utah Code section 80-6-306.

## UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

To submit a comment or view the comments of others, click on “Continue Reading.” To submit a comment, scroll down to the “Leave a Reply” section, and type your comment in the “Comment” field. Type your name and email address in the designated fields and click “Post Comment.”

Comments cannot be acknowledged, but all will be considered. Comments are saved to a buffer for review before publication.

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Posted: March 10, 2022

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### Rules of Juvenile Procedure – Comment Period Closed April 24, 2022

**URJP007. Warrants.** Amend. Adds a statutory reference to Utah Code section 62A-4a-202.1 for warrants that are executed in child welfare proceedings. Proposal to allow counsel for the Division of Child and Family Services to file an ex parte motion to vacate a warrant issued pursuant to Utah Code section 62A-4a-202.1 for a child, who is missing, has been abducted, or has run away.

**URJP025. Pleas.** Amend. Reflects changes contained in H.B. 285 Juvenile Code Recodification (2021). Modifies paragraph (a) to add a statutory reference to Utah Code section 80-6-306. Deletes paragraph (d) to remove language contained in Utah Code section 80-6-306. Proposal detailing the procedure for how delayed admissions under Utah Code section 80-6-306 will be resolved.

**URJP060. Judicial bypass procedure to authorize minor to consent to an abortion.** Amend. Modifies the time frames in paragraph (d).

This entry was posted in [-Rules of Juvenile Procedure, URJP007, URJP025, URJP060.](#)

« [Rules of Appellate Procedure – Comment Period Closed April 24, 2022](#)

[Rules of Criminal Procedure – Comment Period Closed April 10, 2022](#) »

To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

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## UTAH COURTS

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One thought on “Rules of Juvenile Procedure – Comment Period Closed April 24, 2022”

**Steven Beck**  
**March 23, 2022 at 9:28 am**

I write to strongly urge the Committee on the Rules of Juvenile Procedure, or in the alternative, the Utah Supreme Court, to reject the proposed amendment to Rule 25(e) (currently 25(f)) of the Utah Rules of Juvenile Procedure.

Article VIII, Section 4 of the Utah Constitution provides, in part, “The Supreme Court shall adopt rules of procedure and evidence to be used in the courts of the state...” In *Brown v. Cox*, 2017 UT 3, ¶17, 387 P.3d 1040, the Utah Supreme Court unanimously stated, “By the constitution’s plain language, the Legislature does not adopt rules of procedure and evidence; it amends the rules the supreme court creates.” The proposed amendment of Rule 25(e) (currently 25(f)) does the exact opposite; it repeals a rule of procedure properly adopted by the Supreme Court in favor of a statute enacted by the Legislature. To illustrate, if the proposed amendment is adopted, the ability of the Court to delay entry of a minor’s admission (the authority for which is contained in the existing version of Rule 25 independent of any statute) is made dependent upon Utah Code Ann. 80-6-306. As such, by simple majority, the Legislature could repeal UCA 80-6-306(2) and the Court would no longer be able to delay entry of a minor’s admission. (The Utah Constitution requires a vote of two-thirds of all members of both houses of the Legislature to amend a rule). The Utah Constitution expressly grants the authority to establish rules regarding the procedure of entry of a plea to the Supreme Court. The proposed amendment subverts that authority and delegates it to the Legislature.

For these reasons, I strongly urge the Committee, or in the alternative, the Utah Supreme Court, to reject the proposed amendment to Rule 25(e) (currently 25(f)) of the Utah Rules of Juvenile Procedure and any other effort to repeal or change a properly adopted rule of procedure in favor of a statute enacted by the Legislature.

- [-Rules of Professional Practice](#)
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- [Appendix B](#)
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**Rule 60. Judicial bypass procedure to authorize minor to consent to an abortion.**

(a) **Petition.** An action for an order authorizing a minor to consent to an abortion without the consent of a parent or guardian is commenced by filing a petition. The petitioner is not required to provide an address or telephone number but must identify the county and state of residence. Blank petition forms will be available at all juvenile court locations. The court shall provide assistance and a private, confidential area for completing the petition.

(b) **Filing.** The petition may be filed in any county. No filing fee will be charged.

(c) **Appointment of Counsel.** If the petitioner is not represented by a private attorney, the juvenile court shall consider appointing an attorney under Utah Code sections 80-3-104, 80-4-106, and 80-6-602 and/or the Office of Guardian ad Litem under Utah Code section 78A-2-803. If the court appoints an attorney, it may also appoint the Office of Guardian ad Litem. The clerk shall immediately notify any attorney appointed.

(d) **Expedited Hearing.** Upon receipt of the petition, the court shall schedule a hearing and resolve the petition within three calendar days or two business days, whichever time period is longer~~three days~~. The court may continue the hearing for no more than one business day if the court determines that the additional time is necessary to gather and receive more evidence. The clerk shall immediately provide notice of the hearing date and time. The hearing shall be closed to everyone except the petitioner, the petitioner's attorney, the guardian ad litem, and any individual invited by the petitioner. The petitioner shall be present at the hearing. The hearing may be held in chambers if recording equipment or a reporter is available.

(e) **Findings and Order.** The court shall enter an order immediately after the hearing is concluded. The court shall grant the petition if the court finds by a preponderance of the evidence that one of the statutory grounds for dispensing with parental consent exists. Otherwise, the court shall deny the petition. If the petition is denied, the court shall inform the petitioner of her right to an expedited appeal to the Utah Court of

28 Appeals. The court shall provide a copy of the order to individuals designated by the  
29 petitioner.

30 (f) **Confidentiality.** The petition and all hearings, proceedings, and records are  
31 confidential. Court personnel are prohibited from notifying a minor's parents, guardian,  
32 or custodian that a minor is pregnant or wants to have an abortion, or from disclosing  
33 this information to any member of the public.

34 (g) **Appeal.** A petitioner may appeal an order denying or dismissing a petition to  
35 bypass parental consent by filing a notice of appeal with the clerk of the juvenile court  
36 within the time allowed under Rule 4 of the Utah Rules of Appellate Procedure. The  
37 clerk shall immediately notify the clerk of the court of appeals that the notice of appeal  
38 has been filed.

39 (h) This rule supersedes all other procedural rules that might otherwise apply to actions  
40 filed under Utah Code section 76-7-304.5.



AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC.  
355 NORTH 300 WEST, SALT LAKE CITY, UT 84103  
(801) 521-9862 PHONE • (801) 532-2850 FAX  
ACLU@ACLUUTAH.ORG • WWW.ACLUUTAH.ORG

April 22, 2022

Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure  
*via email*

Re: Proposed Amendment to URJP060, Judicial bypass procedure to authorize minor to consent to an abortion.

Dear Esteemed Committee:

On behalf of the American Civil Liberties Union ("ACLU") of Utah, we write to express that we have no position to the most recent proposed changes to Utah Rule of Juvenile Procedure 60. We thank you for the opportunity to participate in the rulemaking process and present our organization's concerns regarding the previous proposed amendments during the January 7, 2022 meeting.

We operate the Judicial Bypass Project, which connects young individuals seeking to file a Judicial Bypass Petition with *pro bono* counsel to represent them in these proceedings and help them navigate the judicial process. This has provided us extensive practical experience with the realities of the judicial bypass process and unique insight into the complex barriers that young people face.

We understand the concerns raised by certain committee members regarding the court's inability to comply with regulatory deadlines when petitions are filed on certain days of the week. As we indicated in our past letter and testimony, access to an expeditious hearing can be crucial to ensure that minors are able to legally access abortion care in Utah. *See Bellotti v. Baird*, 443 U.S. 622, 644 (1979) (noting that judicial bypass hearings and any appeals must be completed with "sufficient expedition to provide an effective opportunity for an abortion to be obtained.").<sup>1</sup> It is imperative that any amendment adopted carefully weigh the *Bellotti* mandate, and individuals' constitutional rights, against administrative concerns.

At this time, the ACLU takes no position regarding the proposed changes to URJP Rule 60. We thank you for the opportunity participate in this process and share our practical experience with the committee.

Sincerely,  
John Mejia, *Legal Director*  
Valentina De Fex, *Staff Attorney*

---

<sup>1</sup> *Bellotti v. Baird*, 443 U.S. 622, 644 (1979); *see also Ind. Planned Parenthood Affiliates Ass'n, Inc. v. Pearson*, 716 F.2d 1127 (7th Cir. 1983); *Manning v. Hunt*, 119 F.3d 254 (4th Cir. 1997); *Planned Parenthood of Greater Iowa, Inc. v. Miller*, No. Civ. 4-96-cv-10877, 1997 WL 33757491 (S.D. Iowa Oct. 17, 1997); *Margaret S. v. Edwards*, 488 F. Supp. 181 (E.D. La. 1980).

# TAB 3

Rule 25A. ~~Withdrawal of Plea~~

~~(a) A denial of an offense may be withdrawn at any time prior to adjudication.~~

~~(b)(1) An admission or a plea of no contest may be withdrawn only upon leave of the court and a showing that it was not knowingly and voluntarily made.~~

~~(2) A request to withdraw an admission or a plea of no contest, including a plea held in abeyance, shall be made within 30 days after entering the plea, even if the court has imposed disposition. If the court has not imposed dispositional orders then disposition shall not be announced unless the motion to withdraw is denied.~~

Repealed.



## UTAH COURT RULES – PUBLISHED FOR COMMENT

The Supreme Court and Judicial Council invite comments about amending these rules. To view the proposed amendment, click on the rule number.

To submit a comment or view the comments of others, click on “Continue Reading.” To submit a comment, scroll down to the “Leave a Reply” section, and type your comment in the “Comment” field. Type your name and email address in the designated fields and click “Post Comment.”

Comments cannot be acknowledged, but all will be considered. Comments are saved to a buffer for review before publication.

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Posted: January 19, 2022

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### Rules of Juvenile Procedure – Comment Period Closed March 5, 2022

**URJP025A. Withdrawal of Pleas.** REPEALED. Rule 25A will be repealed because procedures governing the withdrawal of pleas are contained in Utah Code section 80-6-306.

This entry was posted in [-Rules of Juvenile Procedure, URJP025A.](#)

« [Rules of Appellate Procedure – Comment Period Closed March 5, 2022](#)

[Rules of Evidence – Comment Period Closed February 26, 2022](#) »

To view all comments submitted during a particular comment period, click on the comment deadline date. To view all comments to an amendment, click on the rule number.

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- [-Code of Judicial Administration](#)
- [-Code of Judicial Conduct](#)
- [-Fourth District Court Local Rules](#)
- [-Licensed Paralegal Practitioners Rules of Professional Conduct](#)
- [-Rules Governing Licensed Paralegal Practitioner](#)
- [-Rules Governing the State Bar](#)
- [-Rules of Appellate Procedure](#)
- [-Rules of Civil Procedure](#)
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- [-Rules of Professional Conduct](#)

### UTAH COURTS

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One thought on “[Rules of Juvenile Procedure – Comment Period Closed March 5, 2022](#)”

Steven Beck

January 27, 2022 at 10:48 am

I write to strongly urge the Committee on the Rules of Juvenile Procedure, or in the alternative, the Utah Supreme Court, to not repeal Rule 25A of the Utah Rules of Juvenile Procedure.

Article VIII, Section 4 of the Utah Constitution provides, in part, “The Supreme Court shall adopt rules of procedure and evidence to be used in the courts of the state....” In *Brown v. Cox*, 2017 UT 3, ¶17, 387 P.3d 1040, the Utah Supreme Court unanimously stated, “By the constitution’s plain language, the Legislature does not adopt rules of procedure and evidence; it amends the rules the supreme court creates.” The proposed repeal of Rule 25A does the exact opposite; it repeals a rule of procedure properly adopted by the Supreme Court in favor of a statute enacted by the Legislature. To be clear, this issue does not involve a situation where the Legislature has amended a rule of the Supreme Court, nor does it involve a debate about whether the rule is procedural or substantive. Rather, the explanation for the change states, “Rule 25A will be repealed because procedures governing the withdrawal of pleas are contained in Utah Code section 80-6-306.”

For these reasons, I strongly urge the Committee, or in the alternative, the Utah Supreme Court, to abandon the effort to repeal Rule 25A of the Utah Rules of Juvenile Procedure and any other effort to repeal or change a properly adopted rule of procedure in favor of a statute enacted by the Legislature.

- -Rules of Professional Practice
- -Rules of Small Claims Procedure
- ADR101
- ADR103
- Appendix B
- Appendix F
- CJA Appendix F
- CJA01-0201
- CJA01-0204
- CJA01-0205
- CJA01-0205
- CJA01-0303
- CJA01-0304
- CJA01-0305
- CJA10-01-0404
- CJA10-1-020
- CJA02-0101
- CJA02-0103
- CJA02-0104
- CJA02-0106.01
- CJA02-0106.02
- CJA02-0106.03
- CJA02-0106.04
- CJA02-0106.05
- CJA02-0204
- CJA02-0206
- CJA02-0208
- CJA02-0208
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- CJA03-0116
- CJA03-0117
- CJA03-0201
- CJA03-0201.02
- CJA03-0202
- CJA03-0301
- CJA03-0301.01
- CJA03-0302
- CJA03-0303
- CJA03-0304
- CJA03-0304.01

# TAB 4

1 **Rule 12. Admission to shelter care.**

2 Admission to shelter care is governed by Utah Code Title ~~62A80~~, Chapter ~~4a, Part 22~~,  
3 Child Welfare Services; Chapter 2a, Removal and Protective Custody of a Child; and  
4 ~~by Title 80~~, Chapter 3, ~~Part 1~~, Abuse, Neglect, and Dependency Proceedings.

**Rule 13. Shelter hearings.**

(a) Shelter hearings shall be conducted in accordance with Utah Code sections 80-3-301 and 80-3-302.

(b) The Division of Child and Family Services shall file with the court at or before the shelter hearing a copy of the notice form required by Utah Code section ~~80-2a-20362A-4a-202.2~~ and the notice required by Utah Code section 80-3-301.

(c) At the beginning of the shelter hearing, the court shall advise all persons present of the information submitted to the court as a basis for the admission of the minor into shelter care and of the scope and purpose of the hearing.

(d) The court may receive any information, including hearsay and opinions, that is relevant to the issue of whether it is safe to release the minor to the parent, guardian or custodian. Privileged communications may be admitted only in accordance with the rules of evidence.

(e) If the parent, guardian, or custodian of the minor cannot be notified as provided in Utah Code section 80-3-301, a shelter hearing may be held without the minor's parent, guardian or custodian. Upon a finding that a continuance is necessary for the protection of the minor, for the accumulation or presentation of necessary evidence, to protect the rights of a party, or for other good cause, the court may continue the hearing in accordance with Utah Code section 80-3-301.

(f) If the minor is not released, the order for continued shelter shall be furnished to the agency responsible for shelter care of minors in the county. Orders for continued shelter care shall be of definite duration and may be extended upon review at a hearing in conformity with Utah Code section 80-3-301 and this rule.

(g) The release of the minor from shelter care may be requested by the court, a party, or any person interested in the minor at any time on the grounds that the conditions giving rise to the placement no longer exist or no longer justify continuing shelter. Such

- 27 request shall be considered by the court at a hearing in conformity with Utah Code  
28 section 80-3-301 and this rule.

**Rule 14. Reception of Referral; Preliminary Determination.****(a) Delinquency Cases.**

(1) A law enforcement officer or any other person having knowledge of or reason to believe facts that would bring a minor within the court's jurisdiction for delinquency may refer the minor to the court by submitting a written report, on forms prescribed by the court. The report shall indicate whether the alleged offense is a felony, misdemeanor, infraction, or status offense. An intake officer of the probation department shall make a preliminary determination, with the assistance of the prosecuting attorney if necessary, as to whether the minor qualifies for a nonjudicial adjustment. If the referral does not establish that the minor qualifies for a nonjudicial adjustment, the intake officer shall forward the referral to the prosecutor.

(b) **Cases Involving Neglect, Dependency or Abuse.** Pursuant to ~~Utah Code, Title 80, Chapter 2, Child Welfare Services~~Title 62A, Chapter 4a, complaints and reports involving the neglect, abuse or dependency of minors shall be directed to the nearest office of the Division of Child and Family Services for investigation, which agency may, with the assistance of the attorney general, file a petition with the court to initiate judicial proceedings.

**(c) Coordination of Cases Pending in District Court and Juvenile Court.**

(1) Criminal and delinquency cases; Notice to the court.

(A) In a criminal case all parties have a continuing duty to notify the court of a delinquency case pending in juvenile court in which the defendant is a party.

(B) In a delinquency case all parties have a continuing duty to notify the court:

(i) of a criminal or delinquency case in which the respondent or the respondent's parent is a party; and

28 (ii) of an abuse, neglect or dependency case in which the  
29 respondent is the subject of the petition or the respondent's parent  
30 is a party.

31 (C) The notice shall be filed with a party's initial pleading or as soon as  
32 practicable after the party becomes aware of the other pending case. The  
33 notice shall include the case caption, file number and name of the judge or  
34 commissioner in the other case.



# TAB 5

**CHILD WELFARE APPEALS AMENDMENTS**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Jefferson S. Burton

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**LONG TITLE**

**General Description:**

This bill addresses an appeal from a juvenile court order related to adoption or child welfare.

**Highlighted Provisions:**

This bill:

- ▶ removes provisions requiring a party in an adoption or child welfare-related case to keep other parties and the appellate court informed of the party's whereabouts;
- ▶ requires a party to an adoption or child welfare-related case to keep the party's counsel informed of the party's whereabouts after a juvenile court disposition;
- ▶ removes the requirement that certain claims be made in an adoption or child welfare-related appeal;
- ▶ modifies the appeals information a juvenile court is required to provide a party at the conclusion of an adoption or child welfare-related case; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78A-6-359**, as renumbered and amended by Laws of Utah 2021, Chapter 261

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

Section 1. Section **78A-6-359** is amended to read:

**78A-6-359. Appeals.**

(1) An appeal to the Court of Appeals may be taken from any order, decree, or judgment of the juvenile court.

(2) (a) An appeal of right from an order, decree, or judgment by a juvenile court related to a proceeding under Title 78B, Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Title 80, Chapter 4, Termination and Restoration of Parental Rights, shall be filed within 15 days after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal must be signed by appellant's counsel, if any, and by appellant, unless the appellant is a child or state agency.

(c) If an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed.

(3) An order for a disposition from the juvenile court shall include the following information:

(a) notice that the right to appeal described in Subsection (2)(a) is time sensitive and must be taken within 15 days after the day on which the juvenile court enters the order, decree, or judgment appealed from;

(b) the right to appeal within the specified time limits;

(c) the need for the signature of the parties on a notice of appeal in an appeal described in Subsection (2)(a); and

(d) the need for ~~[parties]~~ each party to maintain regular contact with the ~~[parties']~~ the party's counsel and to keep ~~[all other parties and the appellate court]~~ the party's counsel informed of the ~~[parties']~~ party's whereabouts.

(4) If ~~[the parties are]~~ a party is not present in the courtroom, the juvenile court shall provide a statement containing the information provided in Subsection (3) to the ~~[parties]~~ party at the ~~[parties']~~ party's last known address.

(5) ~~[(a)]~~ The juvenile court shall inform ~~[the parties' counsel]~~ each party's counsel at

the conclusion of the proceedings that, if an appeal is filed, ~~[the parties' counsel]~~ appellate counsel must represent the ~~[parties]~~ party throughout the appellate process ~~[unless relieved of that obligation by the juvenile court upon a showing of extraordinary circumstances]~~ unless appellate counsel is not appointed under the Utah Rules of Appellate Procedure, Rule 55.

~~[(b) (i) Until the petition on appeal is filed, claims of ineffective assistance of counsel do not constitute extraordinary circumstances.]~~

~~[(ii) If a claim is raised by trial counsel or a party, the claim must be included in the petition on appeal.]~~

(6) During the pendency of an appeal under Subsection (2)(a), ~~[parties]~~ a party shall maintain regular contact with the ~~[parties']~~ party's appellate counsel, if any, and keep ~~[all other parties and the appellate court]~~ the party's appellate counsel informed of the ~~[parties']~~ party's whereabouts.

(7) (a) In all other appeals of right, the appeal shall be taken within 30 days after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal under Subsection (7)(a) must be signed by appellant's counsel, if any, or by appellant.

(8) The attorney general shall represent the state in all appeals under this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination and Restoration of Parental Rights, and Title 80, Chapter 6, Juvenile Justice.

(9) Unless the juvenile court stays the juvenile court's order, the pendency of an appeal does not stay the order or decree appealed from in a minor's case, unless otherwise ordered by the Court of Appeals, if suitable provision for the care and custody of the minor involved is made pending the appeal.

(10) Access to the record on appeal is governed by Title 63G, Chapter 2, Government Records Access and Management Act.

**Rule 52. Appeals.**

(a) Except as otherwise provided by law, an appeal may be taken from the juvenile court to the Court of Appeals from a final judgment, order, or decree by filing a Notice of Appeal with the clerk of the juvenile court within 30 days after the entry of the judgment, order, or decree appealed from.

(b) Appeals taken from juvenile court orders related to abuse, neglect, dependency, termination and adoption proceedings must be filed within 15 days of the entry of the order appealed from. In non-delinquency cases, a Notice of Appeal of a party who is not a minor or a state agency must be signed by each party himself or herself.

(c) An appeal from an interlocutory order may be sought by any party by filing a petition for permission to appeal from the interlocutory order with the Court of Appeals within 21 days after the entry of the order of the juvenile court.

(d) The Utah Rules of Appellate Procedure shall govern the appeal process, including preparation of the record and transcript.

(e) No separate order of the juvenile court directing a county to pay transcript costs is required to file a Request for Transcript in an appeal by an impecunious party who was represented during the juvenile court proceedings by court-appointed counsel.

(f) A party claiming entitlement to court-appointed counsel has a continuing duty to inform the court of any material changes that affect indigent status. If at any stage in the trial or appellate proceedings the court makes a finding that a party does not qualify, or no longer qualifies for indigent status, the court may order the party to reimburse the county or municipality for the reasonable value of the services rendered, including all costs.

**Rule 53. Appearance and withdrawal of counsel.**

(a) Appearance. An attorney shall appear in proceedings by filing a written notice of appearance with the court or by appearing personally at a court hearing and advising the court that the attorney is representing a party. Once an attorney has entered an appearance in a proceeding, the attorney shall receive copies of all notices served on the parties.

(b) Withdrawal.

(1) Retained Counsel. Consistent with the Rules of Professional Conduct, a retained attorney may withdraw as counsel of record unless: 1) withdrawal will result in a delay of trial; or 2) a final appealable order has been entered and the time period for a notice of appeal or post-judgment motion on such order has not expired. In such circumstances, a retained attorney may not withdraw except upon motion and order of the court. Retained counsel shall file a notice of withdrawal including the address of the counsel's client.

(2) Court-appointed counsel. Court-appointed counsel may not withdraw as counsel of record except upon motion and order of the court. If the court grants appointed counsel's motion to withdraw, the court shall consider the appointment of new counsel.

(c) Motions to Withdraw.

(1) A motion to withdraw shall be made either in writing or orally before the court at a hearing. The motion shall include the following:

(i) A certification from counsel that the represented party has been informed of the motion to withdraw and their right to counsel; and

(ii) A certification from counsel that the represented party has been informed of their rights to appeal, and the availability of post judgment motions and motion to stay pending appeal; or

(iii) The efforts counsel has made to inform the represented party of subsections (c)(1)(i) and (c)(1)(ii).

(2) Whenever possible, the court shall inquire of the represented party's knowledge and understanding of the motion to withdraw, right to counsel, right to appeal, availability of post judgment motions and motion to stay pending appeal.

(3) A guardian ad litem may not withdraw except upon order of the court.

(d) Parties must submit a notice of substitution of counsel at least seven days prior to the next scheduled hearing date unless otherwise allowed by the court.

# TAB 6



## LAW CLERK MEMORANDUM

TO: Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

FROM: Meg Sternitzky, Juvenile Law Clerk & Daniel Meza Rincón, Assistant Juvenile Court Administrator

RE: Utah Rule of Juvenile Procedure 22(g)

DATE: April 25, 2022

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### ISSUE:

There is a conflict in Utah Rule of Juvenile Procedure 22(g) on when the court must hold a preliminary examination. Yet, based on a prior version of this rule, the different preliminary examination timelines are meant to distinguish between 16–17-year-olds and 14–15-year-olds. The rule should be amended to reestablish this distinction.

### ANALYSIS:

Until October 31, 2020, [Utah Rule of Juvenile Procedure 22\(g\)](#) (previously Utah Rule of Juvenile Procedure 22(f)) distinguished between 16–17-year-olds and 14–15-year-olds in the scheduling of a preliminary examination. See [Utah R. Juv. P. 22\(f\)\(1\),\(2\) \(West 2020\)](#). Under the prior version of the rule, the 10-day timeline for preliminary examinations applied to an information filed under section [78A-6-702](#).<sup>1</sup> This was the serious youth offender statute, which applied to minors 16 years of age or older charged with one of the listed felony offenses in that section. The 30-day timeline applied to an information filed under section [78A-6-703](#), which were certification cases involving minors 14 years of age or older for a felony offense. The rule lost this distinction when sections 78A-6-702 and 78A-6-703 merged into Utah Code section 78A-6-703.3 and Rule 22(f) was revised in June 2020.<sup>2</sup> The current version of the rule should be amended to reestablish this distinction because there

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<sup>1</sup> SUPREME CT.'S ADVISORY COMM. ON THE RULES OF JUV. P., *Agenda: Tab 4* (June 5, 2020), <https://www.utcourts.gov/utc/juvenile-procedure/wp-content/uploads/sites/44/2020/06/Agenda-Packet-06.05.2020.pdf>.

<sup>2</sup> See *id.*

is a conflict in the rule on when the court must hold the preliminary examination without it.

Currently, the second sentence of Utah Rule of Juvenile Procedure 22(g) states that “[t]he preliminary examination shall be held within a reasonable time, but **not later than ten days** after the initial appearance if the minor is in custody for the offense charged and the information is filed under Utah Code section 80-6-503.” Yet, Utah Rule of Juvenile Procedure 22(g)(1) states that “[t]he preliminary examination shall be held within a reasonable time, but **not later than 30 days** after the initial appearance if the minor is in custody for the offense charged and the information is filed under Utah Code section 80-6-503.” This allows the court to schedule a preliminary hearing not later than 10 days **or** not later than 30 days after the initial appearance under the same conditions – when the minor is in custody for the offense charged and the information is filed under Utah Code section 80-6-503. Subsections 80-6-503(1)(a),(b) distinguish between 16–17-year-olds and 14–15-year-olds charged with certain felonies. The current rule, however, does not make this distinction so the 10 day and 30-day timeline apply to both 16–17-year-olds and 14–15-year-olds.

Yet, based on a prior version of the rule, these different timelines are meant to apply to 16–17-year-olds and 14–15-year-olds, respectively. *See supra*. Accordingly, based on the current statute, the rule should probably state that a preliminary examination should be held within at least 10 days for a minor 16 or 17 charged with a felony violation under Utah Code section [80-6-503\(1\)\(a\)](#), and a preliminary examination should be held within at least 30 days for a minor 14 or 15 charged with a felony violation under Utah Code section [80-6-503\(1\)\(b\)](#).

## CONCLUSION:

Utah Rule of Juvenile Procedure 22(g) should be amended to reestablish the distinction between 16–17-year-olds and 14–15-year-olds in the scheduling of a preliminary examination.

**Rule 22. Initial appearance and preliminary examination in cases under Utah Code section 80-6-503**

(a) When a summons is issued in lieu of a warrant of arrest, the minor shall appear before the court as directed in the summons.

(b) When any peace officer or other person makes an arrest of a minor without a warrant, the minor shall be taken to a juvenile detention facility pending a detention hearing, which shall be held as provided by these rules. When any peace officer makes an arrest of a minor with a warrant, the minor shall be taken to the place designated on the warrant. If an information has not been filed, one shall be filed without delay in the court with jurisdiction over the offense.

(c) If a minor is arrested in a county other than where the offense was committed the minor shall without unnecessary delay be returned to the county where the crime was committed and shall be taken before a judge of the juvenile court.

(d) The court shall, upon the minor's first appearance, inform the minor:

(1) of the charge in the information or indictment and furnish the minor with a copy;

(2) of any affidavit or recorded testimony given in support of the information and how to obtain them;

(3) of the right to retain counsel or have counsel appointed by the court;

(4) of rights concerning detention, pretrial release, and bail in the event the minor is bound over to stand trial in district court; and

(5) that the minor is not required to make any statement, and that any statements made may be used against the minor in a court of law.

(e) The court shall, after providing the information under paragraph (d) and before proceeding further, allow the minor reasonable time and opportunity to consult counsel

and shall allow the minor to contact any attorney by any reasonable means, without delay and without fee.

(f) The minor may not be called on to enter a plea. During the initial appearance, the minor shall be advised of the right to a preliminary examination. If the minor waives the right to a preliminary examination the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504.

(g) If the minor does not waive a preliminary examination, the court shall schedule the preliminary examination. The time periods of this rule may be extended by the court for good cause shown. The preliminary examination shall be held within a reasonable time, but not later than ten days after the initial appearance if the minor is in custody for the offense charged and the information is filed under Utah Code section 80-6-503. The preliminary examination shall be held within a reasonable time, but not later than 30 days after the initial appearance if:

(1) the minor is in custody for the offense charged and the information is filed under Utah Code section 80-6-503; or

(2) the minor is not in custody.

(h) A preliminary examination may not be held if the minor is indicted. If the indictment is filed under Utah Code section 80-6-503, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-503.

(i) A preliminary examination shall be held under the rules and laws applicable to criminal cases tried before a court. The state has the burden of proof and shall proceed first with its case. At the conclusion of the state's case, the minor may testify under oath, call witnesses, and present evidence. The minor may cross-examine adverse witnesses.

(j) If from the evidence the court finds probable cause to believe that the crime charged has been committed, that the minor has committed it, and the information is filed under Utah Code section 80-6-503, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 80-6-504.

(k) The finding of probable cause may be based on hearsay in whole or in part. Objections to evidence on the ground that it was acquired by unlawful means are not properly raised at the preliminary examination.

(l) If the court does not find probable cause to believe that the crime charged has been committed or that the minor committed it, the court shall dismiss the information and discharge the minor. The court may enter findings of fact, conclusions of law, and an order of dismissal. The dismissal and discharge do not preclude the state from instituting a subsequent prosecution for the same offense.

(m) At a preliminary examination, upon request of either party, and subject to Title 77, Chapter 38, Victim Rights, the court may:

(1) exclude witnesses from the courtroom;

(2) require witnesses not to converse with each other until the preliminary examination is concluded; and

(3) exclude spectators from the courtroom.

**Rule 22. Initial appearance and preliminary examination in cases under Utah Code section 78A-6-703.3**

(a) When a summons is issued in lieu of a warrant of arrest, the minor shall appear before the court as directed in the summons.

(b) When any peace officer or other person makes an arrest of a minor without a warrant, the minor shall be taken to a juvenile detention facility pending a detention hearing, which shall be held as provided by these rules. When any peace officer makes an arrest of a minor with a warrant, the minor shall be taken to the place designated on the warrant. If an information has not been filed, one shall be filed without delay in the court with jurisdiction over the offense.

(c) If a minor is arrested in a county other than where the offense was committed the minor shall without unnecessary delay be returned to the county where the crime was committed and shall be taken before a judge of the juvenile court.

(d) The court shall, upon the minor's first appearance, inform the minor:

(d)(1) of the charge in the information or indictment and furnish the minor with a copy;

(d)(2) of any affidavit or recorded testimony given in support of the information and how to obtain them;

(d)(3) of the right to retain counsel or have counsel appointed by the court;

(d)(4) of rights concerning detention, pretrial release, and bail in the event the minor is bound over to stand trial in district court; and

(d)(5) that the minor is not required to make any statement, and that any statements made may be used against the minor in a court of law.

(e) The court shall, after providing the information under paragraph (d) and before proceeding further, allow the minor reasonable time and opportunity to consult counsel

and shall allow the minor to contact any attorney by any reasonable means, without delay and without fee.

(f)(1) The minor may not be called on to enter a plea. During the initial appearance, the minor shall be advised of the right to a preliminary examination. If the minor waives the right to a preliminary examination the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 78A-6-703.5.

(f)(2) If the minor does not waive a preliminary examination, the court shall schedule the preliminary examination. The time periods of this rule may be extended by the court for good cause shown. The preliminary examination shall be held within a reasonable time, but not later than ten days after the initial appearance if the minor is in custody for the offense charged and the information is filed under Utah Code section 78A-6-703.3. The preliminary examination shall be held within a reasonable time, but not later than 30 days after the initial appearance if:

(f)(2)(A) the minor is in custody for the offense charged and the information is filed under Utah Code section 78A-6-703.3; or

(f)(2)(B) the minor is not in custody.

(f)(3) A preliminary examination may not be held if the minor is indicted. If the indictment is filed under Utah Code section 78A-6-703.3, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 78A-6-703.5.

(g) A preliminary examination shall be held under the rules and laws applicable to criminal cases tried before a court. The state has the burden of proof and shall proceed first with its case. At the conclusion of the state's case, the minor may testify under oath, call witnesses, and present evidence. The minor may cross-examine adverse witnesses.

(h) If from the evidence the court finds probable cause to believe that the crime charged has been committed, that the minor has committed it, and the information is filed under

Utah Code section 78A-6-703.3, the court shall proceed in accordance with Rule 23A to hear evidence regarding the factors contained in Utah Code section 78A-6-703.5.

(i) The finding of probable cause may be based on hearsay in whole or in part. Objections to evidence on the ground that it was acquired by unlawful means are not properly raised at the preliminary examination.

(j) If the court does not find probable cause to believe that the crime charged has been committed or that the minor committed it, the court shall dismiss the information and discharge the minor. The court may enter findings of fact, conclusions of law, and an order of dismissal. The dismissal and discharge do not preclude the state from instituting a subsequent prosecution for the same offense.

(k) At a preliminary examination, upon request of either party, and subject to Title 77, Chapter 38, Victim Rights, the court may:

(k)(1) exclude witnesses from the courtroom;

(k)(2) require witnesses not to converse with each other until the preliminary examination is concluded; and

(k)(3) exclude spectators from the courtroom.

*Effective November 1, 2020.*



**Rule 22. Initial appearance and preliminary examination in cases under Section 78A-6-702 and Section 78A-6-703.**

(a) When a summons is issued in lieu of a warrant of arrest, the minor shall appear before the court as directed in the summons.

(b) When any peace officer or other person makes an arrest of a minor without a warrant, the minor shall be taken to a detention center pending a detention hearing, which shall be held as provided by these rules. When any peace officer makes an arrest of a minor with a warrant, the minor shall be taken to the place designated on the warrant. If an information has not been filed, one shall be filed without delay in the court with jurisdiction over the offense.

(c) If a minor is arrested in a county other than where the offense was committed the minor shall without unnecessary delay be returned to the county where the crime was committed and shall be taken before a judge of the juvenile court.

(d) The court shall, upon the minor's first appearance, inform the minor:

(d)(1) of the charge in the information or indictment and furnish the minor with a copy;

(d)(2) of any affidavit or recorded testimony given in support of the information and how to obtain them;

(d)(3) of the right to retain counsel or have counsel appointed by the court without expense if the minor is unable to obtain counsel;

(d)(4) of rights concerning detention, pretrial release, and bail in the event the minor is bound over to stand trial in district court; and

(d)(5) that the minor is not required to make any statement, and that any statements made may be used against the minor in a court of law.

(e) The court shall, after providing the information under paragraph (d) and before proceeding further, allow the minor reasonable time and opportunity to consult counsel and shall allow the minor to contact any attorney by any reasonable means, without delay and without fee.

(f)(1) The minor may not be called on to enter a plea. During the initial appearance, the minor shall be advised of the right to a preliminary examination and, as applicable, to a certification hearing pursuant to Section 78A-6-703 or to the right to present evidence regarding the conditions established by Section 78A-6-702. If the minor waives the right to a preliminary examination and, if applicable, a certification hearing, and if the prosecuting attorney consents, the court shall order the minor bound over to answer in the district court.

(f)(2) If the minor does not waive a preliminary examination, the court shall schedule the preliminary examination. The time periods of this rule may be extended by the court for good cause shown. The preliminary examination shall be held within a reasonable time, but not later than ten days after the initial appearance if the minor is in custody for the offense charged and the information is filed under Section 78A-6-702. The preliminary examination shall be held within a reasonable time, but not later than 30 days after the initial appearance if:

(f)(2)(A) the minor is in custody for the offense charged and the information is filed under Section 78A-6-703; or

(f)(2)(B) the minor is not in custody.

(f)(3) A preliminary examination may not be held if the minor is indicted. If the indictment is filed under 78A-6-703, the court shall proceed in accordance with Rule 23 to hear evidence presented by the prosecutor regarding the factors of Section 78A-6-703 for waiver of jurisdiction and certification, unless the hearing is waived. If the indictment is filed under Section 78A-6-702, the court shall proceed in accordance with Rule 23A to hear evidence presented by the minor regarding the conditions of Section 78A-6-702, if requested.

(g) A preliminary examination shall be held under the rules and laws applicable to criminal cases tried before a court. The state has the burden of proof and shall proceed first with its case. At the conclusion of the state's case, the minor may testify under oath, call witnesses, and present evidence. The minor may cross-examine adverse witnesses.

(h) If from the evidence the court finds probable cause to believe that the crime charged has been committed and that the minor has committed it, and if the information is filed under Section 78A-6-703, the court shall proceed in accordance with Rule 23 to hear evidence presented by the prosecutor regarding the factors of Section 78A-6-703 for waiver of jurisdiction and certification.

(i) If from the evidence the court finds probable cause to believe that the crime charged has been committed and that the minor has committed it, and if the information is filed under Section 78A-6-702, the court shall proceed in accordance with Rule 23A to hear evidence presented by the minor regarding the conditions of Section 78A-6-702.

(j) The finding of probable cause may be based on hearsay in whole or in part. Objections to evidence on the ground that it was acquired by unlawful means are not properly raised at the preliminary examination.

(k) If the court does not find probable cause to believe that the crime charged has been committed or that the minor committed it, the court shall dismiss the information and discharge the minor. The court may enter findings of fact, conclusions of law, and an order of dismissal. The dismissal and discharge do not preclude the state from instituting a subsequent prosecution for the same offense.

(l) At a preliminary examination, upon request of either party, and subject to Title 77, Chapter 38, Victim Rights, the court may:

(l)(1) exclude witnesses from the courtroom;

(l)(2) require witnesses not to converse with each other until the preliminary examination is concluded; and

(l)(3) exclude spectators from the courtroom.

**JUVENILE JUSTICE AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: V. Lowry Snow**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill addresses provisions related to juvenile justice.

**Highlighted Provisions:**

This bill:

- ▶ adds and modifies definitions;
- ▶ amends provisions regarding offenses committed by minors on school property, including requiring a referral to the Division of Juvenile Justice Services if a minor refuses to participate in an evidence-based intervention;
- ▶ amends a sunset date related to offenses committed by minors on school property;
- ▶ clarifies a reporting requirement for the Division of Juvenile Justice Services;
- ▶ defines the term "defendant" in Title 77, Chapter 38a, Crime Victims Restitution Act, to exclude a minor who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 78A, Chapter 6, Juvenile Court Act;
- ▶ amends and clarifies the jurisdiction of the juvenile court, district court, and justice court regarding offenses committed by minors;
- ▶ requires a peace officer to have probable cause in order to take a minor into custody;
- ▶ requires a probable cause determination and detention hearing within 24 hours of a minor being held for detention;
- ▶ allows a court to order secure confinement for a minor if a minor's conduct resulted in death;
- ▶ requires a prosecutor or the court's probation department to notify a victim of the

restitution process;

- requires a victim to provide the prosecutor with certain information for restitution;
- amends the amount of time that restitution may be requested;
- exempts certain offenses committed by a minor from the presumptive timeframes

for custody and supervision;

- modifies the continuing jurisdiction of the juvenile court;
- amends the exclusive jurisdiction of the district court over minors who committed

certain offenses;

- amends requirements for minors who are charged in the district court for certain offenses;

▸ repeals the certification and transfer of minors who committed certain offenses to the district court;

▸ allows that a criminal information may be filed for minors who are 14 years old or older and are alleged to have committed certain offenses;

▸ requires a preliminary hearing before a juvenile court to determine whether a minor, for which a criminal information or indictment has been filed, will be bound over to the district court to be held for trial;

- provides the requirements for binding a minor over to the district court;

▸ provides the detention requirements for a minor who has been bound over to the district court;

▸ allows a juvenile court to extend continuing jurisdiction over a minor to the age of 25 years old if a minor is not bound over to the district court; and

- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

56           This bill provides coordination clauses.

57   **Utah Code Sections Affected:**

58   AMENDS:

59           17-18a-404, as last amended by Laws of Utah 2017, Chapter 330  
60           53-10-403, as last amended by Laws of Utah 2017, Chapter 289  
61           53G-8-211, as last amended by Laws of Utah 2019, Chapter 293  
62           62A-4a-201, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388  
63           62A-7-101, as last amended by Laws of Utah 2019, Chapters 162 and 246  
64           62A-7-104, as last amended by Laws of Utah 2019, Chapter 246  
65           62A-7-105.5, as renumbered and amended by Laws of Utah 2005, Chapter 13  
66           62A-7-107.5, as last amended by Laws of Utah 2017, Chapter 330  
67           62A-7-108.5, as renumbered and amended by Laws of Utah 2005, Chapter 13  
68           62A-7-109.5, as last amended by Laws of Utah 2017, Chapter 330  
69           62A-7-111.5, as last amended by Laws of Utah 2007, Chapter 308  
70           62A-7-113, as enacted by Laws of Utah 2019, Chapter 162  
71           62A-7-201, as last amended by Laws of Utah 2019, Chapter 246  
72           62A-7-401.5, as last amended by Laws of Utah 2019, Chapter 246  
73           62A-7-402, as renumbered and amended by Laws of Utah 2005, Chapter 13  
74           62A-7-403, as renumbered and amended by Laws of Utah 2005, Chapter 13  
75           62A-7-501, as last amended by Laws of Utah 2019, Chapter 246  
76           62A-7-502, as last amended by Laws of Utah 2019, Chapter 246  
77           62A-7-504, as last amended by Laws of Utah 2017, Chapter 330  
78           62A-7-505, as renumbered and amended by Laws of Utah 2005, Chapter 13  
79           62A-7-506, as last amended by Laws of Utah 2019, Chapter 246  
80           62A-7-507, as renumbered and amended by Laws of Utah 2005, Chapter 13  
81           62A-7-701, as last amended by Laws of Utah 2019, Chapter 246  
82           62A-7-702, as renumbered and amended by Laws of Utah 2005, Chapter 13

83           **63I-1-253**, as last amended by Laws of Utah 2019, Chapters 90, 136, 166, 173, 246,  
84   325, 344 and last amended by Coordination Clause, Laws of Utah 2019, Chapter  
85   246  
86           **76-3-406**, as last amended by Laws of Utah 2019, Chapter 189  
87           **76-5-401.3**, as enacted by Laws of Utah 2017, Chapter 397  
88           **76-10-105 (Superseded 07/01/20)**, as last amended by Laws of Utah 2018, Chapter 415  
89           **76-10-105 (Effective 07/01/20)**, as last amended by Laws of Utah 2019, Chapter 232  
90           **76-10-1302**, as last amended by Laws of Utah 2019, Chapters 26, 189, and 200  
91           **77-2-9**, as last amended by Laws of Utah 2017, Chapter 397  
92           **77-38a-102**, as last amended by Laws of Utah 2017, Chapter 304  
93           **77-38a-302**, as last amended by Laws of Utah 2019, Chapter 171  
94           **77-38a-404**, as last amended by Laws of Utah 2017, Chapter 304  
95           **78A-5-102**, as last amended by Laws of Utah 2010, Chapter 34  
96           **78A-6-103**, as last amended by Laws of Utah 2019, Chapter 300  
97           **78A-6-104**, as last amended by Laws of Utah 2019, Chapter 188  
98           **78A-6-105**, as last amended by Laws of Utah 2019, Chapters 335 and 388  
99           **78A-6-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
100          **78A-6-112**, as last amended by Laws of Utah 2018, Chapter 415  
101          **78A-6-113**, as last amended by Laws of Utah 2018, Chapter 285  
102          **78A-6-116**, as last amended by Laws of Utah 2010, Chapter 38  
103          **78A-6-117**, as last amended by Laws of Utah 2019, Chapters 162 and 335  
104          **78A-6-118**, as last amended by Laws of Utah 2017, Chapter 330  
105          **78A-6-120**, as last amended by Laws of Utah 2017, Chapter 330  
106          **78A-6-306**, as last amended by Laws of Utah 2019, Chapters 136, 326, and 335  
107          **78A-6-312**, as last amended by Laws of Utah 2019, Chapters 136, 335, and 388  
108          **78A-6-601**, as last amended by Laws of Utah 2010, Chapter 38  
109          **78A-6-602**, as last amended by Laws of Utah 2018, Chapters 117 and 415

110        **78A-6-603**, as last amended by Laws of Utah 2018, Chapters 117 and 415  
111        **78A-6-704**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
112        **78A-6-705**, as enacted by Laws of Utah 2015, Chapter 338  
113        **78A-6-1107**, as renumbered and amended by Laws of Utah 2008, Chapter 3  
114        **78A-6-1108**, as last amended by Laws of Utah 2011, Chapter 208  
115        **78A-7-106**, as last amended by Laws of Utah 2019, Chapter 136  
116        **78B-6-105**, as last amended by Laws of Utah 2013, Chapter 458

117    ENACTS:

118        **62A-7-404.5**, Utah Code Annotated 1953  
119        **78A-6-703.1**, Utah Code Annotated 1953  
120        **78A-6-703.2**, Utah Code Annotated 1953  
121        **78A-6-703.3**, Utah Code Annotated 1953  
122        **78A-6-703.4**, Utah Code Annotated 1953  
123        **78A-6-703.5**, Utah Code Annotated 1953  
124        **78A-6-703.6**, Utah Code Annotated 1953

125    REPEALS AND REENACTS:

126        **62A-7-404**, as last amended by Laws of Utah 2017, Chapter 330

127    REPEALS:

128        **78A-6-701**, as last amended by Laws of Utah 2017, Chapter 330  
129        **78A-6-702**, as last amended by Laws of Utah 2015, Chapter 338  
130        **78A-6-703**, as last amended by Laws of Utah 2019, Chapter 326

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

132        **76-10-105**, as last amended by Laws of Utah 2019, Chapter 232  
133        **76-10-1302**, as last amended by Laws of Utah 2019, Chapters 26, 189, and 200  
134        **78A-6-105**, as last amended by Laws of Utah 2019, Chapters 335 and 388  
135        **78A-6-116**, as last amended by Laws of Utah 2010, Chapter 38  
136        **78A-6-117**, as last amended by Laws of Utah 2019, Chapters 162 and 335



137 **78A-6-601**, as last amended by Laws of Utah 2010, Chapter 38

138 **78A-6-602**, as last amended by Laws of Utah 2018, Chapters 117 and 415

139 **78A-6-602.5**, Utah Code Annotated 1953

140 **78A-6-603**, as last amended by Laws of Utah 2018, Chapters 117 and 415

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

143 Section 1. Section **17-18a-404** is amended to read:

144 **17-18a-404. Juvenile proceedings.**

145 For a proceeding involving [~~a charge of juvenile delinquency, infraction, or a status~~  
146 ~~offense~~] an offense committed by a minor as defined in Section **78A-6-105**, a prosecutor shall:

147 (1) review cases pursuant to Section **78A-6-602**; and

148 (2) appear and prosecute for the state in the juvenile court of the county.

149 Section 2. Section **53-10-403** is amended to read:

150 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

151 (1) Sections **53-10-404**, **53-10-404.5**, **53-10-405**, and **53-10-406** apply to any person  
152 who:

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

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

158 (c) has been booked on or after January 1, 2011, through December 31, 2014, for any  
159 offense under Subsection (2)(c);

160 (d) has been booked:

161 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,  
162 2014, through December 31, 2014, under Subsection **53-10-404(4)(b)** for any felony offense; or

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

juvenile court designated in the citation on the time and date specified in the citation or when notified by the juvenile court.

(b) A citation may not require a minor to appear sooner than five days following ~~[its]~~ the citation's issuance.

~~[(11)]~~ (10) A minor who receives a citation and willfully fails to appear before the juvenile court pursuant to a citation may be found in contempt of court. The court may proceed against the minor as provided in Section 78A-6-1101.

~~[(12)]~~ (11) When a citation is issued under this section, bail may be posted and forfeited under Section 78A-6-113 with the consent of:

(a) the court; and

(b) if the minor is a child, the parent or legal guardian of the child cited.

Section 53. Section 78A-6-703.1 is enacted to read:

**78A-6-703.1. Definitions.**

As used in this part:

(1) "Qualifying offense" means an offense described in Subsection 78A-6-703.3(1) or (2)(b).

(2) "Separate offense" means any offense that is not a qualifying offense.

Section 54. Section 78A-6-703.2 is enacted to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the age of the minor;

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

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

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

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

(f) the physical maturity of the minor;

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

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

(5) A minor ordered to a juvenile detention facility under Subsection (4) shall remain in the facility:

(a) until released by the district court; or

3674 (b) if convicted, until sentencing.  
3675 (6) If a minor is held in a juvenile detention facility under Subsection (4), the court  
3676 shall:  
3677 (a) advise the minor of the right to bail; and  
3678 (b) set initial bail in accordance with Title 77, Chapter 20, Bail.  
3679 (7) If the minor ordered to a juvenile detention facility under Subsection (4) attains the  
3680 age of 18 years, the minor shall be transferred within 30 days to an adult jail until:  
3681 (a) released by the district court judge; or  
3682 (b) if convicted, sentencing.  
3683 (8) If a minor is ordered to a juvenile detention facility under Subsection (4) and the  
3684 minor's conduct or condition endangers the safety or welfare of others in the juvenile detention  
3685 facility, the court may find that the minor shall be detained in another place of confinement  
3686 considered appropriate by the court, including a jail or an adult facility for pretrial confinement.  
3687 (9) If a minor is charged for aggravated murder or murder in the district court under  
3688 this section, and all charges for aggravated murder or murder result in an acquittal, a finding of  
3689 not guilty, or a dismissal:  
3690 (a) the juvenile court gains jurisdiction over all other offenses committed by the minor;  
3691 and  
3692 (b) the Division of Juvenile Justice Services gains jurisdiction over the minor.  
3693 Section 55. Section **78A-6-703.3** is enacted to read:  
3694 **78A-6-703.3. Criminal information for a minor in juvenile court.**  
3695 Notwithstanding Section [78A-6-602.5](#), if a prosecuting attorney charges a minor with a  
3696 felony, the prosecuting attorney may file a criminal information in the court if the minor was a  
3697 principal actor in an offense and the information alleges:  
3698 (1) (a) the minor was 16 or 17 years old at the time of the offense; and  
3699 (b) the offense for which the minor is being charged is a felony violation of:  
3700 (i) Section [76-5-103](#), aggravated assault resulting in serious bodily injury to another;

- 3701 (ii) Section 76-5-202, attempted aggravated murder;  
3702 (iii) Section 76-5-203, attempted murder;  
3703 (iv) Section 76-5-302, aggravated kidnapping;  
3704 (v) Section 76-5-405, aggravated sexual assault;  
3705 (vi) Section 76-6-103, aggravated arson;  
3706 (vii) Section 76-6-203, aggravated burglary;  
3707 (viii) Section 76-6-302, aggravated robbery;  
3708 (ix) Section 76-10-508.1, felony discharge of a firearm; or  
3709 (x) an offense other than an offense listed in Subsections (1)(b)(i) through (ix)  
3710 involving the use of a dangerous weapon:  
3711 (A) if the offense would be a felony had an adult committed the offense; and  
3712 (B) the minor has been previously adjudicated or convicted of an offense involving the  
3713 use of a dangerous weapon that would have been a felony if committed by an adult; or  
3714 (2) (a) the minor was 14 or 15 years old at the time of the offense; and  
3715 (b) the offense for which the minor is being charged is a felony violation of:  
3716 (i) Section 76-5-202, aggravated murder or attempted aggravated murder; or  
3717 (ii) Section 76-5-203, murder or attempted murder.  
3718 Section 56. Section 78A-6-703.4 is enacted to read:  
3719 **78A-6-703.4. Extension of juvenile court jurisdiction -- Procedure.**  
3720 (1) At the time that a prosecuting attorney charges a minor who is 14 years old or older  
3721 with a felony, either party may file a motion to extend the juvenile court's continuing  
3722 jurisdiction over the minor's case until the minor is 25 years old if:  
3723 (a) the minor was the principal actor in the offense; and  
3724 (b) the petition or criminal information alleges a felony violation of:  
3725 (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;  
3726 (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;  
3727 (iii) Section 76-5-203, murder or attempted murder;

3728 (iv) Section 76-5-302, aggravated kidnapping;  
3729 (v) Section 76-5-405, aggravated sexual assault;  
3730 (vi) Section 76-6-103, aggravated arson;  
3731 (vii) Section 76-6-203, aggravated burglary;  
3732 (viii) Section 76-6-302, aggravated robbery;  
3733 (ix) Section 76-10-508.1, felony discharge of a firearm; or  
3734 (x) (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix)  
3735 involving the use of a dangerous weapon that would be a felony if committed by an adult; and  
3736 (B) the minor has been previously adjudicated or convicted of an offense involving the  
3737 use of a dangerous weapon that would have been a felony if committed by an adult.  
3738 (2) (a) Notwithstanding Subsection (1), either party may file a motion to extend the  
3739 court's continuing jurisdiction after a determination by the court that the minor will not be  
3740 bound over to the district court under Section 78A-6-703.5.  
3741 (3) The court shall make a determination on a motion under Subsection (1) or (2) at the  
3742 time of disposition.  
3743 (4) The court shall extend the continuing jurisdiction over the minor's case until the  
3744 minor is 25 years old if the court finds, by a preponderance of the evidence, that extending  
3745 continuing jurisdiction is in the best interest of the minor and the public.  
3746 (5) In considering whether it is in the best interest of the minor and the public for the  
3747 court to extend jurisdiction over the minor's case until the minor is 25 years old, the court shall  
3748 consider and base the court's decision on:  
3749 (a) whether the protection of the community requires an extension of jurisdiction  
3750 beyond the age of 21;  
3751 (b) the extent to which the minor's actions in the offense were committed in an  
3752 aggressive, violent, premeditated, or willful manner;  
3753 (c) the minor's mental, physical, educational, trauma, and social history; and  
3754 (d) the criminal record and previous history of the minor.

(6) The amount of weight that each factor in Subsection (5) is given is in the court's discretion.

(7) (a) The court may consider written reports and other materials relating to the minor's mental, physical, educational, trauma, and social history.

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

(8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (5).

Section 57. Section **78A-6-703.5** is enacted to read:

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

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

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

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

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

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

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

(b) the extent to which the minor's actions in the qualifying offense were committed in

3782 an aggressive, violent, premeditated, or willful manner;  
3783 (c) the minor's mental, physical, educational, trauma, and social history;  
3784 (d) the criminal record or history of the minor; and  
3785 (e) the likelihood of the minor's rehabilitation by the use of services and facilities that  
3786 are available to the court.

3787 (4) The amount of weight that each factor in Subsection (3) is given is in the court's  
3788 discretion.

3789 (5) (a) The court may consider any written report or other material that relates to the  
3790 minor's mental, physical, educational, trauma, and social history.

3791 (b) Upon request by the minor, the minor's parent, guardian, or other interested party,  
3792 the court shall require the person preparing the report, or other material, under Subsection  
3793 (5)(a) to appear and be subject to direct and cross-examination.

3794 (6) At the preliminary hearing under Subsection (1), a minor may testify under oath,  
3795 call witnesses, cross-examine witnesses, and present evidence on the factors described in  
3796 Subsection (3).

3797 (7) (a) A proceeding before the court related to a charge filed under this part shall be  
3798 conducted in conformity with the Utah Rules of Juvenile Procedure.

3799 (b) Title 78B, Chapter 22, Indigent Defense Act, and Section 78A-6-115 are applicable  
3800 to the preliminary hearing under this section.

3801 (8) If the court finds that the prosecuting attorney has met the burden of proof under  
3802 Subsection (2), the court shall bind the minor over to the district court to be held for trial.

3803 (9) (a) If the court finds that a qualifying offense has been committed by a minor, but  
3804 the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the court  
3805 shall:

3806 (i) proceed upon the criminal information as if the information were a petition under  
3807 Section 78A-6-602.5;

3808 (ii) release or detain the minor in accordance with Section 78A-6-113; and



3809 (iii) proceed with an adjudication for the minor in accordance with this chapter.

3810 (b) If the court finds that the prosecuting attorney has not met the burden under  
3811 Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a  
3812 motion to extend the court's continuing jurisdiction over the minor's case until the minor is 25  
3813 years old in accordance with Section [78A-6-703.4](#).

3814 (10) (a) A prosecuting attorney may charge a minor with a separate offense in the same  
3815 criminal information as the qualifying offense if the qualifying offense and separate offense  
3816 arise from a single criminal episode.

3817 (b) If the prosecuting attorney charges a minor with a separate offense as described in  
3818 Subsection (10)(a):

3819 (i) the prosecuting attorney shall have the burden of establishing probable cause to  
3820 believe that the separate offense was committed and the minor committed the separate offense;  
3821 and

3822 (ii) if the prosecuting attorney establishes probable cause for the separate offense under  
3823 Subsection (10)(b)(i) and the court binds the minor over to the district court for the qualifying  
3824 offense, the court shall also bind the minor over for the separate offense to the district court.

3825 (11) If a grand jury indicts a minor for a qualifying offense:

3826 (a) the prosecuting attorney does not need to establish probable cause under Subsection  
3827 (2)(a) for the qualifying offense and any separate offense included in the indictment; and

3828 (b) the court shall proceed with determining whether the minor should be bound over  
3829 to the district court for the qualifying offense and any separate offense included in the  
3830 indictment in accordance with Subsections (2)(b) and (3).

3831 (12) If a minor is bound over to the district court, the court shall:

3832 (a) issue a criminal warrant of arrest;

3833 (b) advise the minor of the right to bail; and

3834 (c) set initial bail in accordance with Title 77, Chapter 20, Bail.

3835 (13) (a) At the time that a minor is bound over to the district court, the court shall make

an initial determination on where the minor is held until the time of trial.

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

(i) the age of the minor;

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

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

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

(v) the physical maturity of the minor;

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

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

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

(a) until released by a district court; or

(b) if convicted, until sentencing.

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

(a) until released by the district court; or

(b) if convicted, until sentencing.

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

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

3863 (a) the juvenile court regains jurisdiction over any separate offense committed by the  
3864 minor; and

3865 (b) the Division of Juvenile Justice Services regains jurisdiction over the minor.

3866 Section 58. Section **78A-6-703.6** is enacted to read:

3867 **78A-6-703.6. Criminal proceedings for a minor bound over to district court.**

3868 (1) If the juvenile court binds a minor over to the district court in accordance with  
3869 Section [78A-6-703.5](#), the prosecuting attorney shall try the minor as if the minor is an adult in  
3870 the district court except:

3871 (a) the minor is not subject to a sentence of death in accordance with Subsection  
3872 [76-3-206](#)(2)(b); and

3873 (b) the minor is not subject to a sentence of life without parole in accordance with  
3874 Subsection [76-3-206](#)(2)(b) or [76-3-207.5](#)(3) or Section [76-3-209](#).

3875 (2) A minor who is bound over to the district court to answer as an adult is not entitled  
3876 to a preliminary hearing in the district court.

3877 (3) (a) If a minor is bound over to the district court by the juvenile court, the district  
3878 court may reconsider the juvenile court's decision under Subsection [78A-6-703.5](#)(13) as to  
3879 where the minor is being held until trial.

3880 (b) If the district court reconsiders the juvenile court's decision as to where the minor is  
3881 held, the district court shall consider and make findings on:

3882 (i) the age of the minor;

3883 (ii) the minor's history of prior criminal acts;

3884 (iii) whether detention in a juvenile detention facility will adequately serve the need for  
3885 community protection pending the outcome of any criminal proceedings;

3886 (iv) the relative ability of the facility to meet the needs of the minor and protect the  
3887 public;

3888 (v) the physical maturity of the minor;

3889 (vi) the current mental state of the minor as evidenced by relevant mental health or

3890 psychological assessments or screenings that are made available to the court; and

3891 (vii) any other factors the court considers relevant.

3892 (4) A minor who is ordered to a juvenile detention facility under Subsection (3) shall

3893 remain in the facility:

3894 (a) until released by a district court; or

3895 (b) if convicted, until sentencing.

3896 (5) If the district court orders the minor to be detained in a juvenile detention facility

3897 under Subsection (3) and the minor attains the age of 18 while detained at the facility, the

3898 minor shall be transferred within 30 days to an adult jail to remain:

3899 (a) until released by the district court; or

3900 (b) if convicted, until sentencing.

3901 (6) If a minor is bound over to the district court and detained in a juvenile detention

3902 facility, the district court may order the minor be detained in another place of confinement that

3903 is considered appropriate by the district court, including a jail or other place of pretrial

3904 confinement for adults if the minor's conduct or condition endangers the safety and welfare of

3905 others in the facility.

3906 (7) If the district court obtains jurisdiction over a minor under Section [78A-6-703.5](#),

3907 the district court is not divested of jurisdiction for a qualifying offense or a separate offense

3908 listed in the criminal information when the minor is allowed to enter a plea to, or is found

3909 guilty of, another offense in the same criminal information.

3910 Section 59. Section **78A-6-704** is amended to read:

3911 **78A-6-704. Appeals from bind over proceedings.**

3912 (1) A minor may, as a matter of right, appeal from~~[-(a)]~~ an order of the juvenile court

3913 binding the minor over to the district court ~~[as a serious youth offender pursuant to Section~~

3914 ~~[78A-6-702](#), or (b) an order of the juvenile court, after certification proceedings pursuant to~~

3915 ~~Section [78A-6-703](#), directing that the minor be held for criminal proceedings in the district~~

3916 ~~court.]~~ under Section [78A-6-703.5](#).

***Effective 5/12/2015***

***Repealed 5/12/2020***

**78A-6-702 Serious youth offender -- Procedure.**

- (1) Any action filed by a county attorney, district attorney, or attorney general charging a minor 16 years of age or older with a felony may be by criminal information and filed in the juvenile court if the minor was a principal actor in the offense and the information charges any of the following offenses:
  - (a) any felony violation of:
    - (i) Section 76-6-103, aggravated arson;
    - (ii) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
    - (iii) Section 76-5-302, aggravated kidnapping;
    - (iv) Section 76-6-203, aggravated burglary;
    - (v) Section 76-6-302, aggravated robbery;
    - (vi) Section 76-5-405, aggravated sexual assault;
    - (vii) Section 76-10-508.1, felony discharge of a firearm;
    - (viii) Section 76-5-202, attempted aggravated murder; or
    - (ix) Section 76-5-203, attempted murder; or
  - (b) an offense other than those listed in Subsection (1)(a) involving the use of a dangerous weapon, which would be a felony if committed by an adult, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, which also would have been a felony if committed by an adult.
- (2) All proceedings before the juvenile court related to charges filed under Subsection (1) shall be conducted in conformity with the rules established by the Utah Supreme Court.
- (3)
  - (a) If the information alleges the violation of a felony listed in Subsection (1), the state shall have the burden of going forward with its case and the burden of proof to establish probable cause to believe that one of the crimes listed in Subsection (1) has been committed and that the defendant committed it. If proceeding under Subsection (1)(b), the state shall have the additional burden of proving by a preponderance of the evidence that the defendant has previously been adjudicated or convicted of an offense involving the use of a dangerous weapon.
  - (b) If the juvenile court judge finds the state has met its burden under this Subsection (3), the court shall order that the defendant be bound over and held to answer in the district court in the same manner as an adult unless the juvenile court judge finds that it would be contrary to the best interest of the minor and to the public to bind over the defendant to the jurisdiction of the district court.
  - (c) In making the bind over determination in Subsection (3)(b), the judge shall consider only the following:
    - (i) whether the minor has been previously adjudicated delinquent for an offense involving the use of a dangerous weapon which would be a felony if committed by an adult;
    - (ii) if the offense was committed with one or more other persons, whether the minor appears to have a greater or lesser degree of culpability than the codefendants;
    - (iii) the extent to which the minor's role in the offense was committed in a violent, aggressive, or premeditated manner;
    - (iv) the number and nature of the minor's prior adjudications in the juvenile court; and
    - (v) whether public safety and the interests of the minor are better served by adjudicating the minor in the juvenile court or in the district court, including whether the resources of the

adult system or juvenile system are more likely to assist in rehabilitating the minor and reducing the threat which the minor presents to the public.

- (d) Once the state has met its burden under Subsection (3)(a) as to a showing of probable cause, the defendant shall have the burden of going forward and presenting evidence that in light of the considerations listed in Subsection (3)(c), it would be contrary to the best interest of the minor and the best interests of the public to bind the defendant over to the jurisdiction of the district court.
- (e) If the juvenile court judge finds by a preponderance of evidence that it would be contrary to the best interest of the minor and the best interests of the public to bind the defendant over to the jurisdiction of the district court, the court shall so state in its findings and order the minor held for trial as a minor and shall proceed upon the information as though it were a juvenile petition.
- (4) If the juvenile court judge finds that an offense has been committed, but that the state has not met its burden of proving the other criteria needed to bind the defendant over under Subsection (1), the juvenile court judge shall order the defendant held for trial as a minor and shall proceed upon the information as though it were a juvenile petition.
- (5) At the time of a bind over to district court a criminal warrant of arrest shall issue. The defendant shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.
- (6) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.
- (7) The juvenile court shall consider the following when determining where the minor shall be held until the time of trial:
  - (a) the age of the minor;
  - (b) the nature, seriousness, and circumstances of the alleged offense;
  - (c) the minor's history of prior criminal acts;
  - (d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;
  - (e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;
  - (f) the relative ability of the facility to meet the needs of the minor and protect the public;
  - (g) whether the minor presents an imminent risk of harm to the minor or others within the facility;
  - (h) the physical maturity of the minor;
  - (i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and
  - (j) any other factors the court considers relevant.
- (8) If a minor is ordered to a juvenile detention facility under Subsection (7), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.
- (9) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.
- (10) If the minor ordered to a juvenile detention facility under Subsection (7) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.
- (11) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be

detained in another place of pretrial confinement considered appropriate by the court, including jail or other place of confinement for adults.

- (12) The district court may reconsider the decision on where the minor will be held pursuant to Subsection (6).
- (13) If an indictment is returned by a grand jury charging a violation under this section, the preliminary examination held by the juvenile court judge need not include a finding of probable cause that the crime alleged in the indictment was committed and that the defendant committed it, but the juvenile court shall proceed in accordance with this section regarding the additional considerations listed in Subsection (3)(b).
- (14) When a defendant is charged with multiple criminal offenses in the same information or indictment and is bound over to answer in the district court for one or more charges under this section, other offenses arising from the same criminal episode and any subsequent misdemeanors or felonies charged against him shall be considered together with those charges, and where the court finds probable cause to believe that those crimes have been committed and that the defendant committed them, the defendant shall also be bound over to the district court to answer for those charges.
- (15) When a minor has been bound over to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection (19) or Section 78A-6-705.
- (16) A minor who is bound over to answer as an adult in the district court under this section or on whom an indictment has been returned by a grand jury is not entitled to a preliminary examination in the district court.
- (17) Allegations contained in the indictment or information that the defendant has previously been adjudicated or convicted of an offense involving the use of a dangerous weapon, or is 16 years of age or older, are not elements of the criminal offense and do not need to be proven at trial in the district court.
- (18) If a minor enters a plea to, or is found guilty of, any of the charges filed or any other offense arising from the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.
- (19) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.

***Effective 5/14/2019***

***Repealed 5/12/2020***

**78A-6-703 Certification hearings -- Juvenile court to hold preliminary hearing -- Factors considered by juvenile court for waiver of jurisdiction to district court.**

- (1) If a criminal information filed in accordance with Subsection 78A-6-602(3) alleges the commission of an act which would constitute a felony if committed by an adult, the juvenile court shall conduct a preliminary hearing.
- (2) At the preliminary hearing the state shall have the burden of going forward with its case and the burden of establishing:
  - (a) probable cause to believe that a crime was committed and that the defendant committed it; and
  - (b) by a preponderance of the evidence, that it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction.
- (3) In considering whether or not it would be contrary to the best interests of the minor or of the public for the juvenile court to retain jurisdiction, the juvenile court shall consider, and may base its decision on, the finding of one or more of the following factors:
  - (a) the seriousness of the offense and whether the protection of the community requires isolation of the minor beyond that afforded by juvenile facilities;
  - (b) whether the alleged offense was committed by the minor under circumstances which would subject the minor to enhanced penalties under Section 76-3-203.1 if the minor were adult and the offense was committed:
    - (i) in concert with two or more persons;
    - (ii) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or
    - (iii) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802;
  - (c) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;
  - (d) whether the alleged offense was against persons or property, greater weight being given to offenses against persons, except as provided in Section 76-8-418;
  - (e) the maturity of the minor as determined by considerations of the minor's home, environment, emotional attitude, and pattern of living;
  - (f) the record and previous history of the minor;
  - (g) the likelihood of rehabilitation of the minor by use of facilities available to the juvenile court;
  - (h) the desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime in the district court;
  - (i) whether the minor used a firearm in the commission of an offense; and
  - (j) whether the minor possessed a dangerous weapon on or about school premises as provided in Section 76-10-505.5.
- (4) The amount of weight to be given to each of the factors listed in Subsection (3) is discretionary with the court.
- (5)
  - (a) Written reports and other materials relating to the minor's mental, physical, educational, and social history may be considered by the court.
  - (b) If requested by the minor, the minor's parent, guardian, or other interested party, the court shall require the person or agency preparing the report and other material to appear and be subject to both direct and cross-examination.



- (6) At the conclusion of the state's case, the minor may testify under oath, call witnesses, cross-examine adverse witnesses, and present evidence on the factors required by Subsection (3).
- (7) At the time the minor is bound over to the district court, the juvenile court shall make the initial determination on where the minor shall be held.
- (8) The juvenile court shall consider the following when determining where the minor will be held until the time of trial:
  - (a) the age of the minor;
  - (b) the nature, seriousness, and circumstances of the alleged offense;
  - (c) the minor's history of prior criminal acts;
  - (d) whether detention in a juvenile detention facility will adequately serve the need for community protection pending the outcome of any criminal proceedings;
  - (e) whether the minor's placement in a juvenile detention facility will negatively impact the functioning of the facility by compromising the goals of the facility to maintain a safe, positive, and secure environment for all minors within the facility;
  - (f) the relative ability of the facility to meet the needs of the minor and protect the public;
  - (g) whether the minor presents an imminent risk of harm to the minor or others within the facility;
  - (h) the physical maturity of the minor;
  - (i) the current mental state of the minor as evidenced by relevant mental health or psychological assessments or screenings that are made available to the court; and
  - (j) any other factors the court considers relevant.
- (9) If a minor is ordered to a juvenile detention facility under Subsection (8), the minor shall remain in the facility until released by a district court judge, or if convicted, until sentencing.
- (10) A minor held in a juvenile detention facility under this section shall have the same right to bail as any other criminal defendant.
- (11) If the minor ordered to a juvenile detention facility under Subsection (8) attains the age of 18 years, the minor shall be transferred within 30 days to an adult jail until released by the district court judge, or if convicted, until sentencing.
- (12) A minor 16 years of age or older whose conduct or condition endangers the safety or welfare of others in the juvenile detention facility may, by court order that specifies the reasons, be detained in another place of confinement considered appropriate by the court, including jail or other place of confinement for adults.
- (13) The district court may reconsider the decision on where the minor shall be held pursuant to Subsection (7).
- (14) If the court finds the state has met its burden under Subsection (2), the court may enter an order:
  - (a) certifying that finding; and
  - (b) directing that the minor be held for criminal proceedings in the district court.
- (15) If an indictment is returned by a grand jury, the preliminary examination held by the juvenile court need not include a finding of probable cause, but the juvenile court shall proceed in accordance with this section regarding the additional consideration referred to in Subsection (2) (b).
- (16) Title 78B, Chapter 22, Indigent Defense Act, Section 78A-6-115, and other provisions relating to proceedings in juvenile cases are applicable to the hearing held under this section to the extent they are pertinent.
- (17) A minor who has been directed to be held for criminal proceedings in the district court is not entitled to a preliminary examination in the district court.

- (18) A minor who has been certified for trial in the district court shall have the same right to bail as any other criminal defendant and shall be advised of that right by the juvenile court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20, Bail.
- (19) When a minor has been certified to the district court under this section, the jurisdiction of the Division of Juvenile Justice Services and the jurisdiction of the juvenile court over the minor is terminated regarding that offense, any other offenses arising from the same criminal episode, and any subsequent misdemeanors or felonies charged against the minor, except as provided in Subsection (21) or Section 78A-6-705.
- (20) If a minor enters a plea to, or is found guilty of any of the charges filed or on any other offense arising out of the same criminal episode, the district court retains jurisdiction over the minor for all purposes, including sentencing.
- (21) The juvenile court under Section 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and any authority previously exercised over the minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the district court.