



Utah Commission
on Criminal and
Juvenile Justice

HB 239, Juvenile Justice Amendments
Rep. Lowry Snow, 2017
April 4, 2017

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
Nonjudicial Adjustments			
<p><u>Mandatory Nonjudicial Adjustment Offers</u> The probation department shall offer a nonjudicial adjustment if the minor (1) is referred for a misdemeanor, infraction, or status offense; (2) has fewer than three prior adjudications; and (3) has no more than three prior unsuccessful nonjudicial attempts.</p>	78A-6-602	4450-4461	August 1, 2017
<p><u>Exceptions</u> The probation department may refer a minor who is otherwise eligible for a mandatory nonjudicial adjustment to the prosecutor for review if: (1) a risk and needs assessment indicates the minor is high risk; or (2) a risk and needs assessment indicates the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5 (person offenses) or Title 76, Chapter 9, Part 7 (voyeurism, sexual battery, lewdness involving a child).</p>	78A-6-602	4462-4469	August 1, 2017
<p><u>Optional Nonjudicial Adjustment Offers</u> The probation department may offer a nonjudicial adjustment to any minor who does not meet the criteria for a mandatory offer.</p>	78A-6-602	4470-4471	August 1, 2017
<p><u>Admission of Guilt</u> An offer of a nonjudicial adjustment may not be conditioned on an admission of guilt.</p>	78A-6-602	4472-4473	August 1, 2017

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
<p><u>Monetary Obligations</u> A minor may not be denied an offer of a nonjudicial adjustment due to an inability to pay a financial penalty.</p> <p>A fine, fee or restitution component of a nonjudicial adjustment shall be based upon the ability of the minor's family to pay as determined by a statewide sliding scale.</p> <p><u>Prosecutor Review</u> The prosecutor shall review the case if the minor fails to comply with the conditions of the nonjudicial adjustment or if the minor is not offered or declines a nonjudicial adjustment.</p>	<p>78A-6-602</p> <p>78A-6-602</p> <p>78A-6-602</p>	<p>4474-4475</p> <p>4492-4495</p> <p>4496-4513</p>	<p>August 1, 2017</p> <p>August 1, 2017</p> <p>August 1, 2017</p>
Responses to School-Based Behavior			
<p><u>New School-Based Behavior Policy</u> Prohibits referrals to law enforcement or juvenile court for truancy and for the following kinds of offenses committed on school grounds: class C misdemeanors, infractions, and status offenses. Allows referrals for these offenses to alternative school-related interventions including mobile crisis outreach teams, receiving centers operated by JJS, youth courts, and other restorative justice programs. Referrals for class B misdemeanors and nonperson class A misdemeanors may be made directly to juvenile court or to alternative school-based interventions. This policy also applies to minor offenses alleged to have been committed by an enrolled child on school property.</p> <p>Makes conforming changes to the youth court statute. Removes the following eligibility criteria for youth court: (1) youth must admit having committed the referred offense; and (2) youth and guardian must waive any privilege against self-incrimination. Allows local school boards to establish or partner with a youth court or other comparable restorative justice program.</p> <p><u>Truancy</u> Schools may impose penalties for truancy in accordance with a new statute on school-based behavior.</p>	<p>53A-11-911 76-10-105 78A-6-103 78A-6-603</p> <p>53A-3-402 78A-6-1203</p> <p>53A-11-101.7</p>	<p>847-872 2477-2487 2495-2496 4582-4584</p> <p>546-550 4837-4847</p> <p>558</p>	<p>August 1, 2017 August 1, 2017 July 1, 2018 August 1, 2017</p> <p>August 1, 2017 August 1, 2017</p> <p>August 1, 2017</p>

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
Removes provisions regarding habitual truants.	53A-11-101.7 53A-11-103 78A-6-103	577-596 617 2521	August 1, 2017 August 1, 2017 July 1, 2018
Law enforcement officers and school administrators may take truant youth to truancy centers.	53A-11-105	637-656	August 1, 2017
Requires exhaustion of other options before a truant youth may be referred to DCFS.	53A-11-105	648-649	August 1, 2017
<p><u>School Policies on Reporting and Discipline</u></p> <p>Local school board policies on conduct and discipline shall be in accordance with a new statute on school-based behavior.</p>	53A-11-403 53A-11-901 53A-11-908 53A -11 -910	681, 693 733-734 772-784; 796-797; 809-815; 838-844	August 1, 2017 August 1, 2017 August 1, 2017 August 1, 2017
A habitual disruptive student notice may not be referred to Juvenile Court.	53A-11-910	831-833	August 1, 2017
Pre-adjudication Detention			
A person who takes a minor to detention shall state in writing the eligibility of the minor for admission under the detention admission guidelines.	78A-6-112	3039-3041	July 1, 2018
Facility staff shall review the results of the detention risk assessment in determining whether to admit the minor or use an alternative to secure detention.	78A-6-112	3044-3045	July 1, 2018
A minor may be released to a less restrictive alternative even if the minor is eligible for secure detention.	78A-6-112	3064-3066	July 1, 2018
The court may order a minor to be held in secure detention prior to adjudication if the court finds at a detention hearing: (1) releasing the minor to a parent or guardian presents an unreasonable risk to public safety; (2) less restrictive alternatives have been considered	78A-6-113	3135-3144	July 1, 2018

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
<p>and, where appropriate, attempted; and (3) the minor is eligible under the detention guidelines.</p> <p>A minor may not be held in detention longer than 72 hours following a disposition order of the court. The court may extend the period of detention for seven calendar days. The court may further extend the period of detention if the Court finds that JJS does not have space for the minor and the safety of the minor and community requires an extension. JJS shall report to the Court every 48 hours regarding the status of a placement for the minor.</p>	78A-6-113	3164-3182	July 1, 2018
Dispositions			
<p><u>Screening and Assessment</u> Adjudicated minors shall undergo a risk screening and, if indicated, a needs assessment. The results shall inform disposition decisions. Minors shall also undergo a risk and needs assessment within seven days of the day on which an order terminating jurisdiction is issued.</p> <p><u>Probation</u> Probation conditions shall be: individualized, based on risk and needs, and based on information provided to the court. Prohibits standard orders that include control-oriented conditions.</p> <p>The court shall establish a presumptive term of probation. The presumptive maximum for intake probation shall not exceed three months. The presumptive maximum for formal probation shall not exceed four to six months. The court shall terminate probation after the presumptive term unless:</p> <ul style="list-style-type: none"> • termination of jurisdiction would interrupt a necessary treatment program; • the minor commits a new misdemeanor or felony offense; • service hours have not been completed; or • there is an outstanding fine. <p><u>Detention</u> JJS rules may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions alleged in the same criminal episode.</p>	<p>78A-6-117 78A-6-120</p> <p>78A-6-117</p> <p>78A-6-117</p> <p>62A-7-104</p>	<p>3312-3315 3858-3861</p> <p>3312-3333</p> <p>3691-3699; 3709-3727</p> <p>1754-1756</p>	<p>July 1, 2018 July 1, 2018</p> <p>July 1, 2018</p> <p>July 1, 2018</p> <p>August 1, 2017</p>

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
Directs JJS to provide home detention services in every judicial district.	62A-7-202	1873-1875	July 1, 2018
Directs JJS to prioritize use of home detention even when secure detention is an option.	62A-7-202	1879-1880	July 1, 2018
The court may order detention for a period of 30 cumulative days per adjudication. Time spent in detention pre-adjudication shall be credit toward the 30 day maximum.	78A-6-117	3427-3428; 3441-3444	July 1, 2018
The court may commit a minor to detention for a maximum of seven days while the minor is awaiting placement.	78A-6-117	3445-3448	July 1, 2018
JJS shall administer a detention risk assessment tool for each youth under consideration for detention.	78A-6-124	3913-3922	July 1, 2018
The court may order a minor found in contempt of court to detention for no more than 72 hours.	78A-6-1101	4776-4781	July 1, 2018
<u><i>Out-of-Home Placement</i></u>			
<p>The court may commit a minor to the custody of JJS for out-of-home placement only if:</p> <ol style="list-style-type: none"> 1. nonresidential treatment options have been exhausted or are not appropriate; and 2. the minor is adjudicated for one of the following: <ol style="list-style-type: none"> a. felony offense; b. misdemeanor and the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or c. misdemeanor involving the use of a dangerous weapon. 	78A-6-117	3348-3379	July 1, 2018
The court may commit a minor to secure detention for no more than seven days while the minor is awaiting placement.	78A-6-117	3445-3448	July 1, 2018
The court shall establish a maximum length of custody for out-of-home placement and a maximum length of aftercare. The presumptive maximum length of out-of-home placement may not exceed three to six months. The presumptive maximum length of aftercare is three to four months. Provides a list of offenses that are not subject to the presumptive maximum.	78A-6-117	3700-3758	July 1, 2018

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
<p>The court shall terminate jurisdiction after the presumptive term unless:</p> <ul style="list-style-type: none"> • termination of jurisdiction would interrupt a necessary treatment program; • the minor commits a new misdemeanor or felony offense; • service hours have not been completed; or • there is an outstanding fine. <p>The court may not commit a minor to the custody of JJS for community placement for any of the following: contempt, probation violation, failure to pay a financial obligation, unfinished community service hours, an infraction, or a status offense.</p>	78A-6-117	3372-3379	July 1, 2018
<p><u>Secure Confinement</u></p> <p>The court may only commit a minor to secure confinement if the minor:</p> <ol style="list-style-type: none"> 3. is a risk of harm to others and; 4. is adjudicated for the one of the following: <ol style="list-style-type: none"> a. felony offense; b. misdemeanor and the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or c. misdemeanor involving the use of a dangerous weapon. 	78A-6-117	3402-3409	July 1, 2018
<p>The court may not commit a minor to the custody of JJS for secure confinement for any of the following: contempt, probation violation, failure to pay a financial obligation, unfinished community service hours, an infraction, or a status offense.</p>	78A-6-117	3372-3379	July 1, 2018
<p><u>Suspended Dispositions</u></p> <p>The court may suspend disposition for no more than three months unless:</p> <ul style="list-style-type: none"> • termination of jurisdiction would interrupt a necessary treatment program; • the minor commits a new misdemeanor or felony offense; • service hours have not been completed; or • there is an outstanding fine. 	78A-6-117	3671-3690	July 1, 2018

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
<p><u>Substance Use Disorder Treatment</u></p> <p>The court may order substance use disorder treatment or an education series only if the minor has an assessed need for the intervention. Eliminates mandatory offense-based treatment.</p>	<p>32B-4-409 32B-4-410 32B-4-411 58-37-8 58-37a-7 58-37b-9 76-9-701 78A-6-103</p>	<p>215-218 280-283 325-328 1223-1236 1239-1254 1257-1271 2459-2462 2554-2556</p>	<p>July 1, 2018 July 1, 2018 July 1, 2018 August 1, 2017 August 1, 2017 August 1, 2017 July 1, 2018 July 1, 2018</p>
<p><u>Use of DCFS Custody in Delinquency Cases</u></p> <p>The court may not order custody to DCFS in delinquency cases not involving abuse, neglect, or dependency. Courts may order an assessment of a minor by DCFS to determine whether in-home family preservation services are appropriate.</p> <ul style="list-style-type: none"> • Requires DCFS to provide in-home family services if ordered by the court. • Removes mandate for JJS to provide services to minors placed in the custody of DCFS for reasons other than abuse or neglect. <p>Removes requirement to establish programs for minors who are placed with DCFS based on delinquency. Makes conforming changes to the Attorney General responsibilities.</p>	<p>78A-6-117 78A-6-117.5 62A-4a-202 62A-4a-105 62A-4a-250 78A-6-401</p>	<p>3348-3365 3762-3769 1514-1515 1306-1307 1603-1614 4410-4428</p>	<p>July 1, 2018 August 1, 2017 August 1, 2017 August 1, 2017 August 1, 2017 August 1, 2017</p>
Compensatory Service			
<p>Compensatory service work programs may not be residential.</p>	<p>62A-7-104</p>	<p>1757-1759</p>	<p>August 1, 2017</p>
<p>Limits orders for compensatory service hours per episode as follows: up to 24 hours for minors under age 16 at adjudication; and up to 36 hours for minors 16 and older at the time of adjudication.</p>	<p>78A-6-117</p>	<p>3502-3513</p>	<p>July 1, 2018</p>
<p>Changes the presumptive number of compensatory service hours to a range of five to 10.</p>	<p>78A-6-117</p>	<p>3532-3535</p>	<p>July 1, 2018</p>
<p>Removes mandatory compensatory service provisions.</p>	<p>78A-6-117</p>	<p>3527-3531; 3539-3545</p>	<p>July 1, 2018</p>

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
Financial Orders			
The juvenile court does not have jurisdiction over persons over the age of 21 who fail to comply with an order to pay a fine or restitution.	78A-6-103	2498-2501	July 1, 2018
If a court converts a fine, fee, or restitution to service hours, the rate shall be no less than minimum wage.	78A-6-117	3515-3516	July 1, 2018
A court order to pay a fine or restitution does not operate after the minor becomes 21 years of age.	78A-6-118 78A-6-120	3777-3784 3834-3837	August 1, 2017 July 1, 2018
The court may not transfer responsibility to collect unpaid fines, fees, surcharges, and restitution to the Office of State Debt Collection. The court shall reduce a restitution order to a civil judgment.	78A-6-121	3867-3874	July 1, 2018
<i>Restitution</i>			
Establishes procedures for ordering restitution. Prioritizes restitution among financial orders.	78A-6-117	3462-3491	July 1, 2018
Defines material loss.	78A-6-105	2694-2698	August 1, 2017
Places exclusive authority to order restitution with the courts. Removes the authority of JJS to order restitution.	62A-7-109.5	1807-1811	August 1, 2017
<i>Fines</i>			
Limits orders for fines per episode as follows: up to \$180 for minors under age 16 at adjudication; and up to \$270 for minors 16 and older at the time of adjudication.	78A-6-117	3502-3513	July 1, 2018
Driver License Suspensions			
Driver license suspensions associated with certain offenses are discretionary with the court rather than mandatory. The suspensions apply only to minors who are old enough to drive rather than to minors who are at least 13. The suspensions apply only when the minor is	78A-6-606	4612-4704	August 1, 2017

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
found by the court to be in actual physical control of a motor vehicle.			
Warrants			
The court may not issue a warrant if the welfare of a minor requires the minor be brought immediately into the custody of the court.	78A-6-111	2970-2971	August 1, 2017
Juvenile courts may not issue an arrest warrant for a minor for an infraction or a status offense. The court may issue a warrant directing the minor be returned home or to a nonsecure facility.	78A-6-106.5	2848-2857	August 1, 2017
Responses to Behavior of Minors			
JJS and AOC shall use a system of responses to the behavior of minors that include sanctions and incentives, a continuum of community-based options, and responses that target criminogenic risks and needs.	78A-6-123	3877-3910	July 1, 2018
The Utah Sentencing Commission shall establish guidelines addressing responses to behavior of minors.	63M-7-404	2298-2314	July 1, 2018
Parole			
A youth offender who has been committed to a secure facility shall appear before the Youth Parole Authority with 45 days (rather than 90 days) of commitment.	62A-7-404	1889	July 1, 2018
The YPA shall establish a presumptive term of commitment of 3 to 6 months. The YPA shall release a minor at the end of the presumptive term unless termination would interrupt completion of a necessary treatment program or the youth commits a new felony offense. The YPA shall record grounds for extensions and report annually to CCJJ.	62A-7-404	1891-1906	July 1, 2018
The YPA shall establish a presumptive length of parole of 3 to 4 months. The YPA shall terminate parole after the presumptive time unless: termination would interrupt the completion of a necessary treatment program, the youth commits a new felony offense, or the youth has not completed service hours. The YPA shall record grounds for extensions and report annually to CCJJ.	62A-7-404	1907-1926	July 1, 2018

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
The parole period is tolled for an unauthorized leave lasting more than 24 hours.	62A-7-404	1927-1928	July 1, 2018
Provides a list of offenses that are not subject to the presumptive length of stay in secure care and presumptive length of parole.	62A-7-404	1929-1944	July 1, 2018
A minor may request aftercare services.	62A-7-404	1945-1956	July 1, 2018
The YPA shall hold parole rescission hearings.	62A-7-504	2009-2014	August 1, 2017
The YPA shall follow the new statute on case planning in making decisions about parole revocation or rescission.	62A-7-504	2015-2017	August 1, 2017
JJS shall provide services for minors on parole.	62A-7-701	2074-2076	August 1, 2017
Juvenile Court Jurisdiction			
Minors who have previously been committed to a secure facility for certain aggravated offenses are subject to the jurisdiction of the Juvenile Court under the Serious Youth Offender Law rather than the exclusive original jurisdiction of the District Court.	78A-6-701	4707-4724	August 1, 2017
Juvenile Justice Services			
<u>Observation and Assessment</u> Observation and assessment programs shall be nonresidential.	62A-7-104	1729-1732	August 1, 2017
<u>Evidence-Based Programs</u> JJS shall deliver evidence-based programs.	62A-7-104	1787-1788	August 1, 2017
<u>Performance-Based Contracting</u> JJS shall use a performance-based contracting system when contracting for the care, treatment, and supervision of youth.	62A-7-107.5	1798-1800	July 1, 2018
Defines performance-based contracting.	62A-7-101	1654-1658	August 1, 2017
CCJJ shall assist in the establishment of a performance-based contracting system.	63M-7-208	2217-2220	August 1, 2017

Policy Change	Statute Affected	HB 239 Line Numbers	Effective Date
<u>Case Planning</u> JJS shall create an individualized case plan for each minor.	78A-6-123	3877-3882	July 1, 2018
Oversight and Implementation			
Directs CCJJ to oversee and evaluate implementation of juvenile justice reforms.	63M-7-204	2142-2143 2147-2150	May 9, 2017
	63M-7-208	2153-2245	July 1, 2018
Other			
<u>State Board of Education</u> The State Board of Education has responsibility for all minors receiving services from the Department of Human Services rather than minors in the custody of the Department of Human Services.	53A-1-403	363	August 1, 2017
<u>DHS Budget</u> DHS may, in FY18, transfer money from savings related to this bill and nonlapsing balances from FY17 between appropriation line items to allocate resources between JJS, DCFS, and DSAMH to facilitate implementation of this bill.	62A-1-111.5	1274-1279	May 9, 2017
<u>Children Detained in Adult Facilities</u> Transfers rulemaking authority regarding children detained in adult facilities from JJS to CCJJ.	62A-7-201 63M-7-204	1825-1860 2144-2146	August 1, 2017 May 9, 2017
<u>Minor Offenses</u> Amends the definition of minor offenses.	78A-6-1202	4795-4812	August 1, 2017