

Juvenile Justice in Utah

Frequently Asked Questions

(Updated June 2018)

Why was H.B. 239 and H.B. 132 introduced and enacted?

The provisions in H.B. 239 are based on recommendations from the Utah Juvenile Justice Working Group, which was comprised of 19 stakeholders representing all areas of the juvenile justice system. The Working Group found that public safety and rehabilitation outcomes for youth in the juvenile justice system were poor, especially given the high costs of out-of-home placements. The Working Group made policy recommendations based on Utah's data findings, and these recommendations served as the basis of H.B. 239. H.B. 132 was developed by members of the Juvenile Justice Oversight Committee, in response to concerns raised about policy changes in H.B. 239 from educators, law enforcement and other juvenile justice stakeholders in Utah.

What is the purpose of juvenile justice policy changes in Utah?

H.B. 239 is a package of policies designed to promote public safety, hold juvenile offenders accountable, control costs, and improve outcomes. These juvenile justice policy changes seek to improve the juvenile justice system by expanding and strengthening effective early intervention and diversion, standardizing responses to reduce disparities based on race, ethnicity and geography, and reserving system resources for those youth who pose the highest risk to public safety. The changes to the law are designed to reallocate resources currently being spent on out-of-home placement towards evidence-based programs for youth residing at home.

H.B. 132 is intended to clarify key provisions from H.B. 239 and address implementation concerns from key stakeholder groups. The law clarifies the role of School Resource Officers (SROs), options available to schools to address low-level offenses, including truancy, and gives juvenile justice system stakeholders an extended implementation period – two more years – to develop even more options to deal with truancy offenses. In the meantime, schools will still be able to rely on court referral in certain circumstances. H.B. 132 further clarifies the role that prosecutors have in screening cases prior to filing a petition and the circumstances under which non-judicial adjustments must be offered.¹

When did juvenile justice policy changes in Utah go into effect?

The Commission on Criminal and Juvenile Justice is tasked with oversight of implementation of juvenile justice reforms effective May 2017. Some major policy changes, such as the elimination of custody to the Division of Child and Family Services (DCFS) based solely on delinquency and the closure of work camps, went into effect in August 2017. The remainder of the major policy changes, including presumptive lengths of stay for out-of-home placement and probation, go into effect on July 2018. Additional policy provisions in H.B. 132 went into effect upon Governor Herbert signing the bill into law on March 16th, 2018.

How will the statutory changes affect diversion?

The law expands Utah's effective diversion program, called non-judicial adjustment, by requiring it for youth who commit misdemeanor, status or infraction offenses if they have limited prior history. Probation officers

¹ For the full non-judicial adjustment process, see Nonjudicial Adjustment Flow Chart

maintain additional discretion to petition high risk cases and moderate risk cases involving misdemeanor persons offenses. The law also clarifies the role that prosecutors have in screening cases prior to filing a petition and the circumstances under which non-judicial adjustments must be offered. It carves out certain offenses that are now required to receive a formal petition and prosecutorial review, for example – negligent homicide and Class A DUI.

What does the law say about length of juvenile probation?

State law sets a presumptive length of formal probation of 4-6 months, and a presumptive length of intake probation of 3-4 months. These lengths may be extended for the completion of a necessary treatment program, or if the youth commits a new delinquency offense.

What changes have been made to youth in out-of-home placement?

State law sets a presumptive length of out-of-home placement, which may be extended if necessary for the youth to complete a treatment program, or if the youth commits a new delinquency offense. The presumption does not apply to the most serious offenses. The law also tailors custody eligibility for the Division of Juvenile Justice Services (JJS) to those youth who pose the highest risk to public safety. JJS custody may only be ordered if the youth is adjudicated for a felony or if the youth is adjudicated for a misdemeanor and has five prior felony or misdemeanor episodes. In addition, the court must also find that nonresidential options have been exhausted or are not appropriate. JJS custody may not be ordered for contempt; probation violations that are not new offenses; failure to pay fines, fees or restitution; failure to complete community service hours; or for an infraction or status offense.

What changes were made to state law about youth in DCFS custody who commit a delinquent act or status offense?

State law eliminates the use of custody in the Division of Child and Family Services (DCFS) for youth charged with delinquency or status offenses without a finding of abuse, neglect or dependency. If the court determines there is a risk of removal or the family is in crisis, it may order an assessment for in-home family preservation services. If the DCFS agrees there is a need, in-home services may be provided without a finding of abuse, neglect or dependency. As is the case under current law, if a youth is the victim of abuse or neglect or is found to be dependent on the state, a youth may be placed in DCFS custody under the abuse, neglect, and dependency statute.

What detention options are available to the courts?

Judges have discretion to order youth into detention for up to 72 hours in response to a contempt of court charge. No changes were made to state law regarding the ability of the court to order a detention disposition for up to 30 days if a youth commits a felony or misdemeanor offense. In addition, the law requires the statewide expansion of alternatives to detention such as receiving centers and home detention programs.

What changes have been made to youth's court-ordered financial obligations?

All work programs are required to be nonresidential, eliminating the use of work camps. Restitution may not be ordered if the court finds the minor is unable to pay or acquire the means to pay, and may only be ordered up to the total material loss. Cases may no longer be referred to the Office of State Debt Collection. For those under age 16, the law sets a maximum \$180 fine and maximum 24 community service hours per episode. For those 16 or older, the maximum is a \$270 fine and 36 community service hours per episode. There is a presumption of 5-10 community service hours. The rate of conversion between fines and community service hours may not be less than the minimum wage.

What is the process for prosecutorial review for juvenile cases?

Prosecutors are required to screen cases for probable cause prior to court referral. This includes cases where

the youth has failed nonjudicial adjustment, or high risk or certain moderate risk cases that are referred to the prosecutor at the discretion of the probation officer. The law eliminates the practice of probation officers making charging decisions for petitioned cases and requires that some cases that are not eligible for nonjudicial adjustment be reviewed by the prosecutor.

How should schools address delinquent behaviors occurring at school?

School boards are authorized but not required to partner with youth court programs and make referrals to those programs, or to other restorative justice programs, for non-persons Class A and Class B misdemeanors. Schools do not have to utilize those programs and can continue to refer those misdemeanor offenses to law enforcement. However, Class C misdemeanors, infractions, and status offenses that occur on school grounds may not be referred to law enforcement or court. Instead, schools can utilize mobile crisis outreach teams, receiving centers, youth court, or other restorative justice programs to respond to these charges, and can continue to utilize existing systems for cases that amount to dependency or neglect or initiate charges against parents. Schools may make a referral to court for Class C misdemeanors and habitual truancy only if the youth refuses to participate in an evidence-based program. This provision will “sunset” after two years (July 2020) and schools will no longer be permitted to refer these types of cases to the juvenile court.

What does current state law say about dispositions for serious offenses?

No changes have been made to the available disposition options for the most serious felony offenses. For all offenses listed in the Serious Youth Offender Act, the criteria for out-of-home placement and the presumptive lengths of stay do not apply even if the youth remains in the juvenile justice system. There was only one minor change made recently to direct filing in adult court: the juvenile court now has discretion through the Serious Youth Offender Act to keep youth in the juvenile justice system or send the youth to the adult system if they committed a new Serious Youth Offender Act offense after being released from secure care.

What options are available to the courts for juvenile sex offenses where the victim resides in the same home?

State law increases evidence-based options for treating and holding accountable youth in sex offense cases where the victim resides in the home. When necessary, the court will still be able to rely on DCFS custody for juvenile sex offenders in these cases through a dependency petition.