

## Part 12 Utah Youth Court Diversion Act

### **78A-6-1201 Title.**

This part is known as the "Utah Youth Court Diversion Act."

Renumbered and Amended by Chapter 3, 2008 General Session

### **78A-6-1202 Definitions.**

- (1) "Adult" means a person 18 years of age or older.
- (2) "Gang activity" means any criminal activity that is conducted as part of an organized youth gang. It includes any criminal activity that is done in concert with other gang members, or done alone if it is to fulfill gang purposes. "Gang activity" does not include graffiti.
- (3) "Minor offense" means any unlawful act that is a status offense or would be a class B or C misdemeanor, infraction, or violation of a municipal or county ordinance if the youth were an adult. "Minor offense" does not include:
  - (a) class A misdemeanors;
  - (b) felonies of any degree;
  - (c) any offenses that are committed as part of gang activity;
  - (d) any of the following offenses which would carry mandatory dispositions if referred to the juvenile court under Section 78A-6-606:
    - (i) a second violation of Section 32B-4-409, Unlawful Purchase, Possession or Consumption by Minors -- Measurable Amounts in Body;
    - (ii) a violation of Section 41-6a-502, Driving Under the Influence;
    - (iii) a violation of Section 58-37-8, Controlled Substances Act;
    - (iv) a violation of Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
    - (v) a violation of Title 58, Chapter 37b, Imitation Controlled Substances Act; or
    - (vi) a violation of Section 76-9-701, Intoxication; or
  - (e) any offense where a dangerous weapon, as defined in Subsection 76-1-601(5), is used in the commission of the offense.
- (4) "Sponsoring entity" means any political subdivision of the state, including a school or school district, juvenile court, law enforcement agency, prosecutor's office, county, city, or town.
- (5) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.
- (6) "Youth" means a person under the age of 18 years or who is 18 but still attending high school.

Amended by Chapter 276, 2010 General Session

### **78A-6-1203 Youth court -- Authorization -- Referral.**

- (1) Youth court is a diversion program which provides an alternative disposition for cases involving juvenile offenders in which youth participants, under the supervision of an adult coordinator, may serve in various capacities within the courtroom, acting in the role of jurors, lawyers, bailiffs, clerks, and judges.
  - (a) Youth who appear before youth courts have been identified by law enforcement personnel, school officials, a prosecuting attorney, or the juvenile court as having committed acts which indicate a need for intervention to prevent further development toward juvenile delinquency,

- but which appear to be acts that can be appropriately addressed outside the juvenile court process.
- (b) Youth courts may only hear cases as provided for in this part.
  - (c) Youth court is a diversion program and not a court established under the Utah Constitution, Article VIII.
- (2) A youth court may not accept referrals from law enforcement, schools, prosecuting attorneys, or a juvenile court unless the youth court is certified by the Utah Youth Court Board.
  - (3) Any person may refer youth to a youth court for minor offenses. Once a referral is made, the case shall be screened by an adult coordinator to determine whether it qualifies as a youth court case.
  - (4) Youth courts have authority over youth:
    - (a) referred for a minor offense or offenses, or who are granted permission for referral under this part;
    - (b) who, along with a parent, guardian, or legal custodian, voluntarily and in writing, request youth court involvement;
    - (c) who admit having committed the referred offense;
    - (d) who, along with a parent, guardian, or legal custodian, waive any privilege against self-incrimination and right to a speedy trial; and
    - (e) who, along with their parent, guardian, or legal custodian, agree to follow the youth court disposition of the case.
  - (5) Except with permission granted under Subsection (6), youth courts may not exercise authority over youth who are under the continuing jurisdiction of the juvenile court for law violations, including any youth who may have a matter pending which has not yet been adjudicated. Youth courts may, however, exercise authority over youth who are under the continuing jurisdiction of the juvenile court as set forth in this Subsection (5) if the offense before the youth court is not a law violation, and the referring agency has notified the juvenile court of the referral.
  - (6) Youth courts may exercise authority over youth described in Subsection (5), and over any other offense with the permission of the juvenile court and the prosecuting attorney in the county or district that would have jurisdiction if the matter were referred to juvenile court.
  - (7) Permission of the juvenile court may be granted by a probation officer of the court in the district that would have jurisdiction over the offense being referred to youth court.
  - (8) Youth courts may decline to accept a youth for youth court disposition for any reason and may terminate a youth from youth court participation at any time.
  - (9) A youth or the youth's parent, guardian, or legal custodian may withdraw from the youth court process at any time. The youth court shall immediately notify the referring source of the withdrawal.
  - (10) The youth court may transfer a case back to the referring source for alternative handling at any time.
  - (11) Referral of a case to youth court may not prohibit the subsequent referral of the case to any court.
  - (12) Proceedings and dispositions of a youth court may only be shared with the referring agency, juvenile court, and victim.
  - (13) When a person does not complete the terms ordered by a youth court, and the case is referred to a juvenile court, the youth court shall provide the case file to the juvenile court.

Amended by Chapter 27, 2013 General Session

**78A-6-1204 Parental involvement -- Victims -- Restitution.**

- (1) Every youth appearing before the youth court shall be accompanied by a parent, guardian, or legal custodian.
- (2) Victims shall have the right to attend hearings and be heard.
- (3) Any restitution due a victim of an offense shall be made in full prior to the time the case is completed by the youth court. Restitution shall be agreed upon between the youth and victim.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-6-1205 Dispositions.**

- (1) Youth court dispositional options include:
  - (a) compensatory service;
  - (b) participation in law-related educational classes, appropriate counseling, treatment, or other educational programs;
  - (c) providing periodic reports to the youth court;
  - (d) participating in mentoring programs;
  - (e) participation by the youth as a member of a youth court;
  - (f) letters of apology;
  - (g) essays; and
  - (h) any other disposition considered appropriate by the youth court and adult coordinator.
- (2) Youth courts may not impose a term of imprisonment or detention and may not impose fines.
- (3) Youth court dispositions shall be completed within 180 days from the date of referral.
- (4) Youth court dispositions shall be reduced to writing and signed by the youth and a parent, guardian, or legal custodian indicating their acceptance of the disposition terms.
- (5) Youth court shall notify the referring source if a participant fails to successfully complete the youth court disposition. The referring source may then take any action it considers appropriate.

Amended by Chapter 356, 2009 General Session

**78A-6-1206 Liability.**

- (1) A person or entity associated with the referral, evaluation, adjudication, disposition, or supervision of matters under this part may not be held civilly liable for any injury occurring to any person performing compensatory service or any other activity associated with a certified youth court unless the person causing the injury acted in a willful or wanton manner.
- (2) Persons participating in a certified youth court shall be considered to be volunteers for purposes of Workers' Compensation and other risk-related issues.

Amended by Chapter 356, 2009 General Session

**78A-6-1207 Fees.**

- (1) Youth courts may require that the youth pay a reasonable fee, not to exceed \$50, to participate in youth court. This fee may be reduced or waived by the youth court in exigent circumstances. This fee shall be paid to and accounted for by the sponsoring entity. The fees collected shall be used for supplies and any training requirements.
- (2) Youth court participants are responsible for the all expenses of any classes, counseling, treatment, or other educational programs that are the disposition of the youth court.

Amended by Chapter 27, 2013 General Session

**78A-6-1208 Youth Court Board -- Membership -- Responsibilities.**

- (1) The Utah attorney general's office shall provide staff support and assistance to a Youth Court Board comprised of the following:
  - (a) the Utah attorney general or the attorney general's designee;
  - (b) one prosecuting attorney appointed by the Utah Prosecution Council;
  - (c) one juvenile court judge appointed by the Board of Juvenile Court Judges;
  - (d) the juvenile court administrator or the administrator's designee;
  - (e) the executive director of the Utah Commission on Criminal and Juvenile Justice or the director's designee;
  - (f) the state superintendent of education or the state superintendent's designee;
  - (g) two representatives, appointed by the Youth Court Association, from youth courts based primarily in schools;
  - (h) two representatives, appointed by the Youth Court Association, from youth courts based primarily in communities;
  - (i) one member from the law enforcement community appointed by the Youth Court Board;
  - (j) one member from the community at large appointed by the Youth Court Board; and
  - (k) the president of the Utah Youth Court Association.
- (2) The members selected to fill the positions in Subsections (1)(a) through (f) shall jointly select the members to fill the positions in Subsections (1)(g) through (j).
- (3) Members shall serve two-year staggered terms beginning July 1, 2012, except the initial terms of the members designated by Subsections (1)(b), (c), (i), and (j) and one of the members from Subsections (1)(g) and (h) shall serve two-year terms, but may be reappointed for a full four-year term upon the expiration of their initial term.
- (4) The Youth Court Board shall meet at least quarterly to:
  - (a) set minimum standards for the establishment of youth courts, including an application process, membership and training requirements, and the qualifications for the adult coordinator;
  - (b) review certification applications; and
  - (c) provide for a process to recertify each youth court every three years.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Youth Court Board shall make rules to accomplish the requirements of Subsection (3).
- (6) The Youth Court Board may deny certification, recertification, or withdraw the certification of any youth court for failure to comply with program requirements.
- (7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (8) The Youth Court Board shall provide a list of certified youth courts to the Board of Juvenile Court Judges, all law enforcement agencies in the state, all school districts, and the Utah Prosecution Council by October 1 of each year.

Amended by Chapter 27, 2013 General Session

**78A-6-1209 Establishing a youth court -- Sponsoring entity responsibilities.**

- (1) Youth courts may be established by a sponsoring entity or by a private nonprofit entity which contracts with a sponsoring entity.

(2) The sponsoring entity shall:

- (a) oversee the formation of the youth court;
- (b) provide assistance with the application for certification from the Youth Court Board; and
- (c) provide assistance for the training of youth court members.

Renumbered and Amended by Chapter 3, 2008 General Session

**78A-6-1210 School credit.**

Local school boards may provide school credit for participation as a member of a youth court.

Renumbered and Amended by Chapter 123, 2008 General Session