**R547. Health and Human Services, Juvenile Justice and Youth Services.**

**R547-13. Guidelines for Admission to Secure Youth Detention Facilities.**

**R547-13-1. Purpose and Authority.**

(1) Section 26B-1-202 authorizes the Department of Health and Human Services to adopt administrative rules. Subsection 80-5-202(1)(a) authorizes the Division of Juvenile Justice and Youth Services to establish standards for the admission of minors to detention.

(2) This rule establishes guidelines for admission to secure detention to meet the requirements of Section 80-5-202.

(3) This rule shall be applied to minor candidates for placement in any secure detention facilities operated by the division.

(4) Pursuant to Subsection 80-5-202(3)(b), the division shall prioritize the use of home detention for a minor who might otherwise be held in secure detention.

**R547-13-2. Definitions.**

(1) Terms used in this rule are defined in Section 80-1-102.

(2) "Division" means the Division of Juvenile Justice and Youth Services.

(3) "Minor" means a person age ten or over and under the age of 25.

(4) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.

**R547-13-3. General Rules.**

(1) A minor under the age of 12 may not be detained in a secure detention facility, unless the minor is arrested for any of the following state or federal equivalent criminal offenses:

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

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

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-302, aggravated kidnapping;

(e) Section 76-5-405, aggravated sexual assault;

(f) Section 76-6-103, aggravated arson;

(g) Section 76-6-203, aggravated burglary;

(h) Section 76-6-302, aggravated robbery; or

(i) Section 76-10-508.1, felony discharge of a firearm.

(2) No child under the age of ten may be detained in a secure detention facility, except as authorized by the director. The director may authorize a child under the age of ten to be detained for up to 48 hours, excluding weekends and holidays, under extraordinary circumstances.

(a) Extraordinary circumstances exist when:

(i) a child under the age of ten is arrested for any of the state or federal equivalent criminal offenses listed in Subsections R547-13-3(1)(a) through R547-13-3(1)(i);

(ii) releasing the child under the age of ten to a parent, guardian, or custodian presents an unreasonable risk to public safety; and

(iii) there is no less restrictive alternative placement available.

(b) If the director makes a finding of extraordinary circumstance, as described in Subsection R547-13-3(2)(a), the finding shall be provided to the court before the probable cause determination required under Utah Rules of Juvenile Procedure, Section 9(b).

(c) A minor under the age of ten may be held longer than 48 hours if:

(i) a juvenile court judge finds detention is warranted; and

(ii) the director determines that the extraordinary circumstances in Subsection R547-13-3(2)(a) continue to exist.

(3) A minor age 12 or over may be detained in a secure detention facility if:

(a) a minor is arrested for any of the following state or federal equivalent criminal offenses;

(i) any offense that would be a felony if committed by an adult;

(ii) any attempt, conspiracy, or solicitation to commit a felony offense;

(iii) any class A misdemeanor violation of 76-5 Part 1, offense against the person; assault and related offenses;

(iv) any class A or B misdemeanor violation of Section 76-10-5, use of a firearm or other dangerous weapon;

(v) a class A misdemeanor violation of Section 76-5-206, negligent homicide;

(vi) a class A misdemeanor violation of Subsection 58-37-8(1)(b)(iii), a controlled substance violation;

(vii) any criminal offense defined as domestic violence by Subsections 77-36-1(4) and 78B-7-102(5)(a) and (b);

(viii) a class A or B misdemeanor violation of Subsection 76-6-104(1)(a) or (b), reckless burning that endangers human life;

(ix) a class A misdemeanor violation of Section 76-6-105, causing a catastrophe;

(x) a class A misdemeanor violation of Subsection 76-6-106(2)(b)(i)(a), criminal mischief involving tampering with property that endangers human life;

(xi) a class A misdemeanor violation of Section 76-6-406, theft by extortion;

(xii) a class A misdemeanor violation of Section 76-9-702.1, sexual battery;

(xiii) a class A misdemeanor violation of Subsection 76-5-401.3(2)(c) or (d), unlawful adolescent sexual activity;

(xiv) a class A misdemeanor violation of Section 76-9-702.5, lewdness involving a child;

(xv) a class A misdemeanor violation of Subsection 76-9-702.7(1), voyeurism with recording device;

(xvi) a class A misdemeanor violation of Subsection 41-6A-401.3(2), leaving the scene of an accident involving injury; and

(xvii) a class A misdemeanor violation of Subsection 41-6A-503(1)(b)(i) or (ii), driving under the influence involving injury, driving under the influence with a passenger under 16 years of age;

(b) the minor is an escapee or absconder from a Juvenile Justice and Youth Services secure facility or community placement; or

(c) the minor has been verified as a fugitive, absconder from probation or parole, or a runaway from another state and a formal request has been received, such as a National Crime Information Center verification, a telephone call, fax, or email from a law enforcement officer or a verified call, fax, or email from the institution, to hold, pending return to the other jurisdiction, whether or not an offense is currently charged.

(4) A minor not otherwise qualified for admission to a secure detention facility may not be detained for any of the following:

(a) ungovernable or runaway behavior;

(b) neglect, abuse, abandonment, dependency, or other status requiring protection for any other reason;

(c) status offenses such as curfew, possession or consumption of alcohol, tobacco, minor-in-a-tavern, truancy; or

(d) attempted suicide.

**R547-13-4. Juvenile Court Warrants for Custody or Pickup Orders.**

A minor shall be admitted to a secure detention facility when a juvenile court judge or commissioner has issued a warrant for custody pursuant to Section 80-2-202.

**R547-13-5. Juvenile Justice and Youth Services' Cases.**

A minor who is on parole or involved in a trial placement from a secure facility, and who is detained solely on a warrant from the division may be held in a secure detention facility up to 48 hours excluding weekends and legal holidays.

**R547-13-6. DCFS Cases.**

A minor in the custody or under the supervision of the Division of Child and Family Services (DCFS) cannot be held in a secure detention facility unless the minor qualifies for detention under this rule.

**R547-13-7. Traffic Cases.**

A minor brought to detention for a traffic violation cannot be held in a secure detention facility unless the minor qualifies for detention under this rule.

**R547-13-8. Interstate Cases.**

(1) An out-of-state minor who is an escapee, absconder, or runaway shall be detained in accordance with Subsection R547-13-3(3)(c).

(2) A minor who is an out-of-state runaway brought to a secure detention facility with an alleged non-status criminal offense may be admitted to a secure detention facility.

(3) An out-of-state, non-runaway minor, when brought to a secure detention facility with an alleged criminal offense, may be detained or released based on the same criteria that applies to a resident minor.

(4) An out-of-state minor being returned to either the home or demanding state pursuant to the Interstate Compact for Juveniles (ICJ) but whose return travel plans have been interrupted or changed due to an emergency situation may be temporarily admitted to a secure detention facility pending rearrangement or completion of transport.

**R547-13-9. Immigration Cases.**

A minor may be detained at a secure detention facility when a lawful detainer or order is presented to the division by United States Immigration and Customs Enforcement.

**R547-13-10. AWOL Military Personnel.**

An absent without leave (AWOL) military personnel who is a minor shall be admitted to a secure detention facility.

**R547-13-11. Home Detention.**

(1) In accordance with Section 88-2-202, the division establishes the following guidelines for use of home detention:

(2) Home detention is a court-ordered program that is an alternative to being placed into secure detention. The minor and parent or guardian shall sign the home detention program expectations before being released from secure detention.

(3) Division staff will monitor the minor's compliance to the home detention program expectations and any additional special conditions ordered by the Juvenile Court.

(4) Division will provide juvenile court probation weekly updates on the minor's behavior and compliance on home detention.

**R547-13-12. Home Detention Violations.**

(1) If a home detention violation is alleged, the home detention counselor may cause the alleged violator to be brought to a secure detention facility by filing an affidavit in support of a request for a warrant for custody or requesting an expedited hearing for the court to review allegations for a probable cause determination.

(2) If the case involves a violator who is a runaway where a warrant for custody or pickup order has not yet been issued, a law enforcement officer may bring the violator to a secure detention facility. The home detention counselor may then transfer the minor back to the status of home detention, if appropriate, or may authorize the minor to be held in secure detention for another detention hearing.

(3) A minor placed on home detention who is arrested by a law enforcement officer for an alleged non-status criminal offense shall be admitted to a secure detention facility.

**R547-13-13. Probation Violation - Contempt of Court - Stayed Order for Detention.**

A minor may be admitted to a secure detention facility for conditions such as:

(1) an alleged probation violation;

(2) contempt of court; or

(3) a stayed order for detention when it has been ordered by a judge.

(a) When it is not possible to get a written order, verbal authorization from a judge to detention is sufficient to hold a minor in a secure detention facility pursuant to Utah Rule of Juvenile Procedure 7a.

(b) A request for warrant, supported by an affidavit from the requesting authority, shall be the next business day.

**R547-13-14. Other Court Orders for Detention.**

A minor brought to a secure detention facility pursuant to either federal or out-of-state court orders shall be admitted unless otherwise directed by a juvenile court judge.

**R547-13-15. Detention Risk Assessment Tool.**

(1) A minor who meets the detention admission guidelines shall receive the Detention Risk Assessment Tool (DRAT) to inform placement decisions. A minor that scores below the cutoff on the DRAT will be diverted and not admitted to locked detention.

(2) A minor and parent or guardian will sign an Alternative to Detention Contract (ADC) before leaving detention. If the parent or guardian is unavailable, the minor will sign the ADC and be transported to the local Youth Services Center.

(3) Division staff will create a supervision plan based on the minor's recent behavior in the community, school, and home. The level of supervision may include the following based on the current needs:

(a) parent or guardian restrictions;

(b) division staff supervision; and

(c) youth services crisis residential.

(4) A minor and parent or guardian will sign an agreement to appear at meetings with probation and the Juvenile Court, and the minor's behavior and compliance with the agreement will be reported to the Juvenile Court.

**R547-13-16. Authority of the Division.**

The director has full authority to limit or adjust individual admissions to a secure detention facility in accordance with Section 80-5-201 and this rule.

**KEY: juvenile corrections, juvenile detention, admission guidelines, juvenile justice and youth services**

**Date of Last Change: June 24, 2024**

**Notice of Continuation: March 23, 2022**

**Authorizing, and Implemented or Interpreted Law: 80-5-201; 80-5-202; 80-5-203; 80-5-204; 80-5-205**