

House Bill 239 FAQs

Why was H.B. 239 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.

What is the purpose of H.B. 239?

H.B. 239 is a package of policies designed to promote public safety, hold juvenile offenders accountable, control costs, and improve outcomes. H.B. 239 seeks 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. H.B. 239 is designed to reallocate resources currently being spent on out-of-home placement towards evidence-based programs for youth residing at home.

When does H.B. 239 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, go 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.

How will H.B. 239 affect diversion?

H.B. 239 expands Utah's effective diversion program, called non-judicial adjustment, by requiring that it for youth who commit misdemeanor, status or infraction offenses if they have limited prior history. Probation officers maintain additional discretion to petition high risk cases and moderate risk cases involving misdemeanor persons offenses.

How does H.B. 239 affect length of probation?

H.B. 239 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.

How does H.B. 239 affect out-of-home placement?

H.B. 239 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. This legislation 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.

How does H.B. 239 affect disposition to DCFS custody?

H.B. 239 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 under H.B. 239?

H.B. 239 maintains discretion for judges to order up to 72 hours in detention in response to a contempt of court charge. H.B. 239 makes no changes to current 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, H.B. 239 requires the statewide expansion of detention alternatives such as receiving centers and home detention programs.

How does H.B. 239 affect the youth's court-ordered financial obligations?

H.B. 239 requires all work programs 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, H.B. 239 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.

How will H.B. 239 change the process of prosecutorial review for juvenile cases?

H.B. 239 requires prosecutors to screen cases for probable cause prior to court referral. This includes cases that are not eligible for nonjudicial adjustment, 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. H.B. 239 eliminates the practice of probation officers making charging decisions for petitioned cases.

Will H.B. 239 affect how schools handle delinquency cases?

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.

How does H.B. 239 affect dispositions for serious offenses?

H.B. 239 does not change 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 in H.B. 239 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 under H.B. 239?

The legislation will increase 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.