LEGISLATIVE GENERAL COUNSEL
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1 **TITLE 78 RECODIFICATION AND**
2 **REVISION**
3 2008 GENERAL SESSION
4 STATE OF UTAH
5 **Chief Sponsor: Jackie Biskupski**
6 Senate Sponsor: Gregory S. Bell
7

8 **LONG TITLE**
9 **Committee Note:**
10 The Judiciary Interim Committee recommended this bill.
11 **General Description:**
12 This bill is a Recodification, Revision, and Renumber of Title 78, Utah Code
13 Annotated, 1953.
14 **Highlighted Provisions:**
15 This bill:
16 ▸ creates new two new titles within the Utah Code;
17 ▸ Title 78A - Judiciary and Judicial Administration, which includes:
18 • Chapter 1: Judiciary;
19 • Chapter 2: Administration;
20 • Chapter 3: Supreme Court;
21 • Chapter 4: Court of Appeals;
22 • Chapter 5: District Court;
23 • Chapter 6: Juvenile Court;
24 • Chapter 7: Justice Court;
25 • Chapter 8: Small Claims Court;
26 • Chapter 9: Attorneys;
27 • Chapter 10: Judicial Selection Act; and

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28 • Chapter 11: Judicial Conduct Commission;
29 ▸ Title 78B - Judicial Code, which includes:
30 • Chapter 1: Juries and Witnesses;
31 • Chapter 2: Statutes of Limitations;
32 • Chapter 3: Actions and Venue;
33 • Chapter 4: Limitations on Liability;
34 • Chapter 5: Procedure and Evidence;
35 • Chapter 6: Particular Proceedings;
36 • Chapter 7: Protective Orders;
37 • Chapter 8: Miscellaneous;
38 • Chapter 9: Post-Conviction Remedies Act;
39 • Chapter 10: Utah Uniform Mediation Act;
40 • Chapter 11: Utah Uniform Arbitration Act;
41 • Chapter 12: Utah Child Support Act;
42 • Chapter 13: Utah Uniform Child Custody Jurisdiction and Enforcement Act;
43 • Chapter 14: Uniform Interstate Family Support Act;
44 • Chapter 15: Utah Uniform Parentage Act; and
45 • Chapter 16: Utah Uniform Child Abduction Prevention Act; and
46 ▸ makes other technical and stylistic changes.
47 **Monies Appropriated in this Bill:**
48 None
49 **Other Special Clauses:**
50 This bill provides an immediate effective date.
51 **Utah Code Sections Affected:**
52 AMENDS:
53 **7-1-301**, as last amended by Laws of Utah 2004, Chapter 92
54 **10-8-2**, as last amended by Laws of Utah 2007, Chapters 291 and 306
55 **11-13-313**, as last amended by Laws of Utah 2004, Chapter 90
56 **11-13-314**, as last amended by Laws of Utah 2007, Chapter 306
57 **11-36-402**, as last amended by Laws of Utah 2004, Chapter 90
58 **13-42-119**, as enacted by Laws of Utah 2006, Chapter 154

59 **13-43-203**, as enacted by Laws of Utah 2006, Chapter 258
60 **13-43-204**, as enacted by Laws of Utah 2006, Chapter 258
61 **13-43-206**, as enacted by Laws of Utah 2006, Chapter 258
62 **15-4-6.7**, as enacted by Laws of Utah 1995, Chapter 175
63 **17-20-1**, as last amended by Laws of Utah 2001, Chapter 241
64 **17-50-302**, as last amended by Laws of Utah 2005, Chapter 254
65 **17B-1-103**, as enacted by Laws of Utah 2007, Chapter 329
66 **17B-1-506**, as renumbered and amended by Laws of Utah 2007, Chapter 329
67 **17B-2a-820**, as enacted by Laws of Utah 2007, Chapter 329
68 **19-6-113**, as last amended by Laws of Utah 2005, Chapter 10
69 **19-9-106**, as renumbered and amended by Laws of Utah 2003, Chapter 184
70 **20A-1-506**, as last amended by Laws of Utah 2006, Chapter 16
71 **20A-7-702**, as last amended by Laws of Utah 2005, Chapter 236
72 **24-1-3.5**, as enacted by Laws of Utah 2004, Chapter 296
73 **26-2-5**, as last amended by Laws of Utah 2005, Chapter 150
74 **26-2-10**, as last amended by Laws of Utah 2000, Chapter 86
75 **26-2-15**, as last amended by Laws of Utah 1995, Chapter 202
76 **26-2-22**, as last amended by Laws of Utah 2006, Chapters 55 and 56
77 **26-2-28**, as last amended by Laws of Utah 2004, Chapter 56
78 **26-3-7**, as last amended by Laws of Utah 2000, Chapter 86
79 **26-6-6**, as last amended by Laws of Utah 1998, Chapter 143
80 **26-6-27**, as last amended by Laws of Utah 1998, Chapter 282
81 **26-6b-3.4**, as enacted by Laws of Utah 2006, Chapter 185
82 **26-21-9.5**, as last amended by Laws of Utah 2007, Chapter 43
83 **26-23b-102**, as enacted by Laws of Utah 2002, Chapter 155
84 **26-25-1**, as last amended by Laws of Utah 2003, Chapter 242
85 **26A-1-121**, as last amended by Laws of Utah 2002, Chapter 249
86 **30-1-17.2**, as last amended by Laws of Utah 2005, Chapter 150
87 **30-2-5**, as last amended by Laws of Utah 1995, Chapter 175
88 **30-2-11**, as last amended by Laws of Utah 2005, Chapter 102
89 **30-3-3**, as last amended by Laws of Utah 2001, Chapter 255

90 **30-3-4**, as last amended by Laws of Utah 2006, Chapter 55
91 **30-3-5.2**, as last amended by Laws of Utah 2001, Chapter 255
92 **30-3-10**, as last amended by Laws of Utah 2006, Chapter 314
93 **30-3-10.5**, as last amended by Laws of Utah 2000, Chapter 161
94 **30-3-15.3**, as last amended by Laws of Utah 2006, Chapter 55
95 **30-3-17.1**, as enacted by Laws of Utah 1969, Chapter 72
96 **30-3-32**, as last amended by Laws of Utah 2006, Chapter 287
97 **30-3-39**, as enacted by Laws of Utah 2005, Chapter 271
98 **31A-2-304**, as enacted by Laws of Utah 1985, Chapter 242
99 **31A-4-106**, as last amended by Laws of Utah 2003, Chapter 298
100 **31A-8a-102**, as enacted by Laws of Utah 2005, Chapter 58
101 **31A-21-313**, as last amended by Laws of Utah 1996, Chapter 193
102 **31A-22-303**, as last amended by Laws of Utah 2005, Chapter 295
103 **31A-22-305**, as last amended by Laws of Utah 2007, Chapter 307
104 **31A-22-305.3**, as last amended by Laws of Utah 2007, Chapter 307
105 **31A-22-321**, as last amended by Laws of Utah 2007, Chapter 236
106 **31A-22-610.5**, as last amended by Laws of Utah 2004, Chapters 108 and 185
107 **31A-22-617**, as last amended by Laws of Utah 2007, Chapter 309
108 **31A-23a-109**, as renumbered and amended by Laws of Utah 2003, Chapter 298
109 **31A-26-208**, as last amended by Laws of Utah 2001, Chapter 116
110 **31A-29-103**, as last amended by Laws of Utah 2007, Chapter 40
111 **32A-11a-108**, as last amended by Laws of Utah 2004, Chapter 90
112 **32A-12-209**, as last amended by Laws of Utah 2007, Chapter 284
113 **32A-12-209.5**, as enacted by Laws of Utah 2007, Chapter 284
114 **32A-14a-102**, as last amended by Laws of Utah 2007, Chapter 284
115 **34A-1-302**, as enacted by Laws of Utah 1997, Chapter 375
116 **34A-2-106**, as renumbered and amended by Laws of Utah 1997, Chapter 375
117 **34A-2-901**, as renumbered and amended by Laws of Utah 2005, Chapter 243
118 **34A-2-902**, as renumbered and amended by Laws of Utah 2005, Chapter 243
119 **34A-6-301**, as last amended by Laws of Utah 2007, Chapter 153
120 **34A-7-202**, as last amended by Laws of Utah 2006, Chapter 155

121 **35A-1-301**, as last amended by Laws of Utah 1997, Chapter 375
122 **35A-3-307**, as enacted by Laws of Utah 1997, Chapter 174
123 **35A-3-308**, as last amended by Laws of Utah 2004, Chapter 29
124 **35A-4-305**, as last amended by Laws of Utah 2007, Chapter 133
125 **36-14-5**, as last amended by Laws of Utah 1994, Chapter 191
126 **36-20-1**, as last amended by Laws of Utah 1995, Chapter 20
127 **38-1-11**, as last amended by Laws of Utah 2007, Chapter 332
128 **38-9-2**, as last amended by Laws of Utah 2005, Chapter 93
129 **40-10-22**, as last amended by Laws of Utah 1994, Chapter 219
130 **40-10-30**, as last amended by Laws of Utah 1994, Chapter 219
131 **41-6a-521**, as last amended by Laws of Utah 2007, Chapter 261
132 **49-17-102**, as renumbered and amended by Laws of Utah 2002, Chapter 250
133 **49-17-301**, as last amended by Laws of Utah 2007, Chapter 130
134 **49-18-102**, as renumbered and amended by Laws of Utah 2002, Chapter 250
135 **49-18-301**, as last amended by Laws of Utah 2007, Chapter 130
136 **53-3-204**, as last amended by Laws of Utah 2006, Chapters 46, 201, and 293
137 **53-3-219**, as last amended by Laws of Utah 2007, Chapter 284
138 **53-3-220**, as last amended by Laws of Utah 2007, Chapter 261
139 **53-3-223**, as last amended by Laws of Utah 2007, Chapter 261
140 **53-5-704**, as last amended by Laws of Utah 2006, Chapter 144
141 **53-10-108**, as last amended by Laws of Utah 2004, Chapter 122
142 **53-10-208**, as last amended by Laws of Utah 2000, Chapters 218 and 303
143 **53-10-208.1**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
144 **53-10-404**, as last amended by Laws of Utah 2006, Chapter 306
145 **53-10-407**, as last amended by Laws of Utah 2007, Chapter 125
146 **53A-1a-105.5**, as enacted by Laws of Utah 2000, Chapter 274
147 **53A-11-103**, as last amended by Laws of Utah 2007, Chapter 81
148 **53A-11-105**, as last amended by Laws of Utah 2007, Chapter 81
149 **53A-11-806**, as enacted by Laws of Utah 1994, Chapter 41
150 **53A-11-1001**, as last amended by Laws of Utah 2004, Chapter 102
151 **53A-11-1004**, as last amended by Laws of Utah 2004, Chapter 102

152 **53B-8d-102**, as last amended by Laws of Utah 2005, Chapter 286
153 **54-8a-8.5**, as last amended by Laws of Utah 2004, Chapter 90
154 **57-3-106**, as last amended by Laws of Utah 2007, Chapters 268 and 287
155 **57-8-38**, as last amended by Laws of Utah 2004, Chapter 90
156 **57-16-6**, as last amended by Laws of Utah 2001, Chapter 256
157 **57-16-15.1**, as last amended by Laws of Utah 2001, Chapter 256
158 **57-18-7**, as last amended by Laws of Utah 1999, Chapter 24
159 **57-19-19**, as enacted by Laws of Utah 1987, Chapter 73
160 **57-22-4**, as enacted by Laws of Utah 1990, Chapter 314
161 **57-22-5.1**, as enacted by Laws of Utah 2005, Chapter 120
162 **57-22-6**, as last amended by Laws of Utah 1996, Chapter 198
163 **58-13-4**, as last amended by Laws of Utah 2003, Chapter 131
164 **58-13-5**, as enacted by Laws of Utah 1996, Chapter 248
165 **58-31b-701**, as last amended by Laws of Utah 2004, Chapter 247
166 **58-37-6**, as last amended by Laws of Utah 2006, Chapters 21 and 281
167 **58-60-114**, as last amended by Laws of Utah 1997, Chapter 10
168 **58-60-509**, as last amended by Laws of Utah 2007, Chapter 283
169 **58-61-602**, as last amended by Laws of Utah 2003, Chapter 131
170 **58-74-401**, as enacted by Laws of Utah 1997, Chapter 372
171 **58-74-502**, as last amended by Laws of Utah 2004, Chapter 77
172 **59-1-403**, as last amended by Laws of Utah 2007, Chapter 250
173 **59-12-102**, as last amended by Laws of Utah 2007, Chapters 9, 214, 224, and 288
174 **61-1-21.1**, as last amended by Laws of Utah 1992, Chapter 216
175 **61-2-12**, as last amended by Laws of Utah 2007, Chapter 325
176 **61-2b-31**, as last amended by Laws of Utah 2007, Chapter 325
177 **61-2c-402.1**, as enacted by Laws of Utah 2005, Chapter 199
178 **61-2d-106**, as enacted by Laws of Utah 2004, Chapter 252
179 **62A-1-111**, as last amended by Laws of Utah 2005, Chapter 212
180 **62A-2-117.5**, as enacted by Laws of Utah 2000, Chapter 285
181 **62A-2-120**, as last amended by Laws of Utah 2007, Chapter 152
182 **62A-2-121**, as last amended by Laws of Utah 2007, Chapter 152

183 **62A-4a-101**, as last amended by Laws of Utah 2006, Chapters 75 and 281
184 **62A-4a-102**, as last amended by Laws of Utah 2005, Chapter 188
185 **62A-4a-103**, as last amended by Laws of Utah 2002, Chapter 281
186 **62A-4a-105**, as last amended by Laws of Utah 2006, Chapter 281
187 **62A-4a-113**, as last amended by Laws of Utah 2002, Chapter 149
188 **62A-4a-114**, as last amended by Laws of Utah 2003, Chapter 176
189 **62A-4a-118**, as last amended by Laws of Utah 2003, Chapters 94 and 232
190 **62A-4a-201**, as last amended by Laws of Utah 2006, Chapter 75
191 **62A-4a-202.1**, as last amended by Laws of Utah 2007, Chapter 169
192 **62A-4a-202.2**, as last amended by Laws of Utah 2006, Chapters 55, 75, and 281
193 **62A-4a-202.3**, as last amended by Laws of Utah 2007, Chapter 169
194 **62A-4a-202.4**, as last amended by Laws of Utah 1998, Chapter 263
195 **62A-4a-202.6**, as last amended by Laws of Utah 2006, Chapter 55
196 **62A-4a-202.8**, as last amended by Laws of Utah 2005, Chapter 22
197 **62A-4a-203**, as last amended by Laws of Utah 2006, Chapter 75
198 **62A-4a-203.5**, as last amended by Laws of Utah 2005, Chapter 286
199 **62A-4a-205**, as last amended by Laws of Utah 2007, Chapter 169
200 **62A-4a-205.5**, as last amended by Laws of Utah 1997, Chapter 329
201 **62A-4a-205.6**, as last amended by Laws of Utah 2000, Chapter 39
202 **62A-4a-206**, as last amended by Laws of Utah 2002, Chapter 306
203 **62A-4a-207**, as last amended by Laws of Utah 2006, Chapter 14
204 **62A-4a-208**, as enacted by Laws of Utah 1998, Chapter 274
205 **62A-4a-209**, as last amended by Laws of Utah 2007, Chapter 169
206 **62A-4a-250**, as last amended by Laws of Utah 1998, Chapter 274
207 **62A-4a-409**, as last amended by Laws of Utah 2006, Chapter 75
208 **62A-4a-412**, as last amended by Laws of Utah 2006, Chapters 77 and 281
209 **62A-4a-602**, as last amended by Laws of Utah 2000, Chapter 208
210 **62A-4a-607**, as last amended by Laws of Utah 2006, Chapter 223
211 **62A-4a-702**, as renumbered and amended by Laws of Utah 1994, Chapter 260
212 **62A-4a-708**, as renumbered and amended by Laws of Utah 1994, Chapter 260
213 **62A-4a-802**, as last amended by Laws of Utah 2002, Chapter 246

214 **62A-4a-1003**, as last amended by Laws of Utah 2007, Chapter 152
215 **62A-4a-1005**, as renumbered and amended by Laws of Utah 2006, Chapter 77
216 **62A-4a-1006**, as renumbered and amended by Laws of Utah 2006, Chapter 77
217 **62A-4a-1010**, as renumbered and amended by Laws of Utah 2006, Chapter 77
218 **62A-5-103.5**, as last amended by Laws of Utah 2007, Chapter 152
219 **62A-5-109**, as last amended by Laws of Utah 1995, Chapter 258
220 **62A-7-101**, as last amended by Laws of Utah 2005, Chapter 13
221 **62A-7-102**, as last amended by Laws of Utah 2003, Chapter 171
222 **62A-7-104**, as last amended by Laws of Utah 2006, Chapter 269
223 **62A-7-201**, as last amended by Laws of Utah 2005, Chapter 13
224 **62A-11-104**, as last amended by Laws of Utah 2006, Chapter 55
225 **62A-11-107**, as last amended by Laws of Utah 1997, Chapter 232
226 **62A-11-303**, as last amended by Laws of Utah 2000, Chapter 161
227 **62A-11-304.2**, as last amended by Laws of Utah 2002, Chapter 60
228 **62A-11-304.4**, as last amended by Laws of Utah 2006, Chapter 77
229 **62A-11-305**, as last amended by Laws of Utah 2000, Chapter 161
230 **62A-11-312.5**, as last amended by Laws of Utah 2003, Chapter 176
231 **62A-11-333**, as enacted by Laws of Utah 2000, Chapter 161
232 **62A-11-401**, as last amended by Laws of Utah 2000, Chapter 161
233 **62A-15-202**, as last amended by Laws of Utah 2003, Chapter 22
234 **62A-15-204**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
235 Chapter 8
236 **62A-15-607**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
237 Chapter 8
238 **62A-15-626**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
239 Chapter 8
240 **62A-15-630**, as renumbered and amended by Laws of Utah 2002, Fifth Special Session,
241 Chapter 8
242 **62A-15-703**, as last amended by Laws of Utah 2003, Chapter 171
243 **63-2-304**, as last amended by Laws of Utah 2007, Chapters 66 and 352
244 **63-5a-8**, as last amended by Laws of Utah 2007, Chapters 66 and 328

245 **63-11-17**, as last amended by Laws of Utah 2003, Chapter 328
246 **63-30d-302**, as enacted by Laws of Utah 2004, Chapter 267
247 **63-46b-15**, as last amended by Laws of Utah 2001, Chapters 120 and 138
248 **63-46c-102**, as enacted by Laws of Utah 2001, Chapter 173
249 **63-46c-103**, as enacted by Laws of Utah 2001, Chapter 173
250 **63-55-278**, as last amended by Laws of Utah 2007, Chapters 216 and 324
251 **63-55b-178**, as last amended by Laws of Utah 2007, Chapters 216, 306, and 354
252 **63-56-207**, as renumbered and amended by Laws of Utah 2005, Chapter 25
253 **63-63a-1**, as last amended by Laws of Utah 2005, Chapter 2
254 **63-63a-2**, as last amended by Laws of Utah 2007, Chapter 330
255 **63-63a-5**, as last amended by Laws of Utah 1998, Chapter 171
256 **63-63a-8**, as last amended by Laws of Utah 2007, Chapter 326
257 **63-63a-8.5**, as enacted by Laws of Utah 1997, Chapter 194
258 **63-75-6**, as last amended by Laws of Utah 2005, Chapter 81
259 **63A-8-201**, as last amended by Laws of Utah 2006, Chapter 65
260 **63A-9-801**, as last amended by Laws of Utah 2006, Chapter 139
261 **63A-11-102**, as last amended by Laws of Utah 2006, Chapters 55 and 76
262 **63A-11-201**, as last amended by Laws of Utah 2006, Chapter 76
263 **63D-2-102**, as last amended by Laws of Utah 2007, Chapter 329
264 **63D-2-104**, as enacted by Laws of Utah 2004, Chapter 175
265 **67-19-15**, as last amended by Laws of Utah 2007, Chapters 34 and 166
266 **72-5-111**, as last amended by Laws of Utah 2003, Chapter 300
267 **72-5-404**, as last amended by Laws of Utah 2003, Chapter 300
268 **72-7-510**, as last amended by Laws of Utah 1999, Chapter 21
269 **73-3-3.5**, as last amended by Laws of Utah 2006, Chapter 85
270 **73-26-404**, as enacted by Laws of Utah 1991, Chapter 251
271 **73-28-104**, as enacted by Laws of Utah 2006, Chapter 216
272 **75-2-114**, as last amended by Laws of Utah 2005, Chapter 150
273 **75-2a-103**, as enacted by Laws of Utah 2007, Chapter 31
274 **75-5-209**, as last amended by Laws of Utah 2005, Chapter 137
275 **76-3-406.5**, as enacted by Laws of Utah 2006, Chapter 348

276 **76-5-102.7**, as last amended by Laws of Utah 1999, Chapter 141
277 **76-5-108**, as last amended by Laws of Utah 2006, Chapter 157
278 **76-5-109.1**, as last amended by Laws of Utah 2002, Chapter 81
279 **76-5-110**, as last amended by Laws of Utah 2006, Chapter 75
280 **76-5-413**, as last amended by Laws of Utah 2003, Chapter 171
281 **76-7-305**, as last amended by Laws of Utah 2006, Chapter 207
282 **76-8-601**, as last amended by Laws of Utah 1998, Chapter 13
283 **76-9-701**, as last amended by Laws of Utah 2007, Chapter 284
284 **76-10-306**, as last amended by Laws of Utah 2002, Chapter 166
285 **76-10-523.5**, as last amended by Laws of Utah 2002, Chapter 323
286 **76-10-803**, as last amended by Laws of Utah 2002, Chapter 183
287 **76-10-1605**, as last amended by Laws of Utah 1993, Chapter 38
288 **77-1-3**, as last amended by Laws of Utah 1995, Chapter 201
289 **77-2-4.2**, as last amended by Laws of Utah 2006, Chapter 315
290 **77-2a-3**, as last amended by Laws of Utah 2006, Chapter 341
291 **77-3a-101**, as enacted by Laws of Utah 2001, Chapter 276
292 **77-7-6**, as last amended by Laws of Utah 1995, Chapter 118
293 **77-10a-5**, as repealed and reenacted by Laws of Utah 1994, Chapter 218
294 **77-13-6**, as last amended by Laws of Utah 2004, Chapter 90
295 **77-18-1**, as last amended by Laws of Utah 2007, Chapter 218
296 **77-18-3**, as last amended by Laws of Utah 1996, Chapter 198
297 **77-18-6**, as last amended by Laws of Utah 2002, Chapter 35
298 **77-18-10**, as last amended by Laws of Utah 2001, Chapter 46
299 **77-19-8**, as last amended by Laws of Utah 2004, Chapters 137 and 139
300 **77-20-9**, as last amended by Laws of Utah 1996, Chapter 198
301 **77-32-303**, as last amended by Laws of Utah 2007, Chapter 306
302 **77-36-1**, as last amended by Laws of Utah 2006, Chapter 46
303 **77-36-2.1**, as last amended by Laws of Utah 2003, Chapter 68
304 **77-36-2.4**, as last amended by Laws of Utah 2006, Chapter 157
305 **77-36-2.5**, as last amended by Laws of Utah 2004, Chapter 341
306 **77-36-2.7**, as last amended by Laws of Utah 1999, Chapter 54

307 **77-36-6**, as last amended by Laws of Utah 2006, Chapter 157
308 **77-38-5**, as last amended by Laws of Utah 1997, Chapters 10, 103, and 365
309 **77-38a-404**, as last amended by Laws of Utah 2007, Chapters 154 and 305
310 ENACTS:
311 **77-38-301**, Utah Code Annotated 1953
312 **78A-6-301**, Utah Code Annotated 1953
313 **78A-8-101**, Utah Code Annotated 1953
314 **78A-8-109**, Utah Code Annotated 1953
315 **78A-10-101**, Utah Code Annotated 1953
316 **78A-10-201**, Utah Code Annotated 1953
317 **78A-10-202**, Utah Code Annotated 1953
318 **78A-10-203**, Utah Code Annotated 1953
319 **78A-10-204**, Utah Code Annotated 1953
320 **78A-10-205**, Utah Code Annotated 1953
321 **78A-10-301**, Utah Code Annotated 1953
322 **78A-10-302**, Utah Code Annotated 1953
323 **78A-10-303**, Utah Code Annotated 1953
324 **78A-10-304**, Utah Code Annotated 1953
325 **78A-10-305**, Utah Code Annotated 1953
326 **78A-11-101**, Utah Code Annotated 1953
327 **78A-11-104**, Utah Code Annotated 1953
328 **78A-11-109**, Utah Code Annotated 1953
329 **78A-11-110**, Utah Code Annotated 1953
330 **78A-11-111**, Utah Code Annotated 1953
331 **78A-11-112**, Utah Code Annotated 1953
332 **78B-3-101**, Utah Code Annotated 1953
333 **78B-3-104**, Utah Code Annotated 1953
334 **78B-3-108**, Utah Code Annotated 1953
335 **78B-3-109**, Utah Code Annotated 1953
336 **78B-5-613**, Utah Code Annotated 1953
337 **78B-6-101**, Utah Code Annotated 1953

338 **78B-6-103**, Utah Code Annotated 1953
339 **78B-6-104**, Utah Code Annotated 1953
340 **78B-6-117**, Utah Code Annotated 1953
341 **78B-6-120**, Utah Code Annotated 1953
342 **78B-6-121**, Utah Code Annotated 1953
343 **78B-6-122**, Utah Code Annotated 1953
344 **78B-6-128**, Utah Code Annotated 1953
345 **78B-6-129**, Utah Code Annotated 1953
346 **78B-6-130**, Utah Code Annotated 1953
347 **78B-6-131**, Utah Code Annotated 1953
348 **78B-6-313**, Utah Code Annotated 1953
349 **78B-6-605**, Utah Code Annotated 1953
350 **78B-6-702**, Utah Code Annotated 1953
351 **78B-6-801**, Utah Code Annotated 1953
352 **78B-6-1102**, Utah Code Annotated 1953
353 **78B-6-1106**, Utah Code Annotated 1953
354 **78B-6-1201**, Utah Code Annotated 1953
355 **78B-6-1211**, Utah Code Annotated 1953
356 **78B-6-1301**, Utah Code Annotated 1953
357 **78B-6-1302**, Utah Code Annotated 1953
358 **78B-6-1303**, Utah Code Annotated 1953
359 **78B-6-1304**, Utah Code Annotated 1953
360 **78B-6-1313**, Utah Code Annotated 1953
361 **78B-7-101**, Utah Code Annotated 1953
362 **78B-8-101**, Utah Code Annotated 1953
363 **78B-8-104**, Utah Code Annotated 1953
364 **78B-8-105**, Utah Code Annotated 1953
365 **78B-8-106**, Utah Code Annotated 1953
366 **78B-8-107**, Utah Code Annotated 1953
367 **78B-8-108**, Utah Code Annotated 1953
368 **78B-8-109**, Utah Code Annotated 1953

369 **78B-8-110**, Utah Code Annotated 1953
370 **78B-8-601**, Utah Code Annotated 1953
371 **78B-8-602**, Utah Code Annotated 1953
372 **78B-12-302**, Utah Code Annotated 1953
373 **78B-12-402**, Utah Code Annotated 1953
374 **78B-12-403**, Utah Code Annotated 1953
375 RENUMBERS AND AMENDS:
376 **7-1-1001**, (Renumbered from 78-27-45, as last amended by Laws of Utah 1999,
377 Chapter 184)
378 **7-1-1002**, (Renumbered from 78-27-46, as last amended by Laws of Utah 1999,
379 Chapter 184)
380 **7-1-1003**, (Renumbered from 78-27-47, as last amended by Laws of Utah 1999,
381 Chapter 184)
382 **7-1-1004**, (Renumbered from 78-27-48, as last amended by Laws of Utah 1999,
383 Chapter 184)
384 **7-1-1005**, (Renumbered from 78-27-49, as last amended by Laws of Utah 1999,
385 Chapter 184)
386 **7-1-1006**, (Renumbered from 78-27-50, as last amended by Laws of Utah 2005,
387 Chapter 82)
388 **7-1-1007**, (Renumbered from 78-27-50.5, as enacted by Laws of Utah 1999, Chapter
389 184)
390 **53A-11-1301**, (Renumbered from 78-3e-1, as last amended by Laws of Utah 1988,
391 Chapter 2)
392 **53A-11-1302**, (Renumbered from 78-3e-2, as enacted by Laws of Utah 1986, Chapter
393 96)
394 **53A-11-1303**, (Renumbered from 78-3e-3, as enacted by Laws of Utah 1986, Chapter
395 96)
396 **53A-11-1304**, (Renumbered from 78-3e-4, as enacted by Laws of Utah 1986, Chapter
397 96)
398 **53A-11-1305**, (Renumbered from 78-3e-5, as enacted by Laws of Utah 1986, Chapter
399 96)

400 **76-6-107.1**, (Renumbered from 78-11-20.7, as last amended by Laws of Utah 1998,
401 Chapter 94)
402 **77-38-201**, (Renumbered from 78-3c-1, as enacted by Laws of Utah 1983, Chapter 158)
403 **77-38-202**, (Renumbered from 78-3c-2, as enacted by Laws of Utah 1983, Chapter 158)
404 **77-38-203**, (Renumbered from 78-3c-3, as enacted by Laws of Utah 1983, Chapter 158)
405 **77-38-204**, (Renumbered from 78-3c-4, as last amended by Laws of Utah 2000,
406 Chapter 1)
407 **77-38-302**, (Renumbered from 78-61-101, as enacted by Laws of Utah 2004, Chapter
408 368)
409 **77-38-303**, (Renumbered from 78-61-102, as enacted by Laws of Utah 2004, Chapter
410 368)
411 **78A-1-101**, (Renumbered from 78-1-1, as last amended by Laws of Utah 1996, Chapter
412 198)
413 **78A-1-102**, (Renumbered from 78-1-2.1, as enacted by Laws of Utah 1988, Chapter
414 115)
415 **78A-1-103**, (Renumbered from 78-1-2.2, as last amended by Laws of Utah 2006,
416 Chapter 241)
417 **78A-1-104**, (Renumbered from 78-1-2.3, as last amended by Laws of Utah 2007,
418 Chapter 319)
419 **78A-1-105**, (Renumbered from 78-1-2, as repealed and reenacted by Laws of Utah
420 1996, Chapter 198)
421 **78A-2-101**, (Renumbered from 78-3-18, as last amended by Laws of Utah 1988,
422 Chapter 248)
423 **78A-2-102**, (Renumbered from 78-3-19, as last amended by Laws of Utah 1986,
424 Chapter 47)
425 **78A-2-103**, (Renumbered from 78-3-20, as last amended by Laws of Utah 1988,
426 Chapter 248)
427 **78A-2-104**, (Renumbered from 78-3-21, as last amended by Laws of Utah 2003,
428 Chapters 51, and 332)
429 **78A-2-105**, (Renumbered from 78-3-23, as repealed and reenacted by Laws of Utah
430 1973, Chapter 202)

431 **78A-2-106**, (Renumbered from 78-3-22, as last amended by Laws of Utah 1986,
432 Chapter 47)
433 **78A-2-107**, (Renumbered from 78-3-24, as last amended by Laws of Utah 1997,
434 Chapter 10)
435 **78A-2-108**, (Renumbered from 78-3-25, as last amended by Laws of Utah 2007,
436 Chapter 324)
437 **78A-2-109**, (Renumbered from 78-3-26, as enacted by Laws of Utah 1973, Chapter
438 202)
439 **78A-2-110**, (Renumbered from 78-3-21.5, as enacted by Laws of Utah 1993, Chapter
440 11)
441 **78A-2-111**, (Renumbered from 78-3-27, as last amended by Laws of Utah 1988,
442 Chapter 248)
443 **78A-2-112**, (Renumbered from 78-3-24.1, as enacted by Laws of Utah 2005, First
444 Special Session, Chapter 4)
445 **78A-2-201**, (Renumbered from 78-7-5, as last amended by Laws of Utah 1988, Chapter
446 248)
447 **78A-2-202**, (Renumbered from 78-7-24, as repealed and reenacted by Laws of Utah
448 1988, Chapter 248)
449 **78A-2-203**, (Renumbered from 78-7-6, as last amended by Laws of Utah 2002, Chapter
450 216)
451 **78A-2-204**, (Renumbered from 78-7-14, as last amended by Laws of Utah 1988,
452 Chapter 248)
453 **78A-2-205**, (Renumbered from 78-7-15, as last amended by Laws of Utah 1988,
454 Chapter 248)
455 **78A-2-206**, (Renumbered from 78-7-22, as last amended by Laws of Utah 1988,
456 Chapter 248)
457 **78A-2-207**, (Renumbered from 78-7-32, as last amended by Laws of Utah 2001,
458 Chapter 255)
459 **78A-2-208**, (Renumbered from 78-7-3, as last amended by Laws of Utah 1995, Chapter
460 20)
461 **78A-2-209**, (Renumbered from 78-7-13, as last amended by Laws of Utah 1993,

462 Chapter 227)
463 **78A-2-210**, (Renumbered from 78-7-12, Utah Code Annotated 1953)
464 **78A-2-211**, (Renumbered from 78-7-7, Utah Code Annotated 1953)
465 **78A-2-212**, (Renumbered from 78-7-8, as last amended by Laws of Utah 1991, Chapter
466 268)
467 **78A-2-213**, (Renumbered from 78-7-21, Utah Code Annotated 1953)
468 **78A-2-214**, (Renumbered from 78-7-33, as last amended by Laws of Utah 2002,
469 Chapter 135)
470 **78A-2-215**, (Renumbered from 78-7-23, Utah Code Annotated 1953)
471 **78A-2-216**, (Renumbered from 78-7-44, as renumbered and amended by Laws of Utah
472 2001, Chapter 46)
473 **78A-2-217**, (Renumbered from 78-7-34, as last amended by Laws of Utah 2006,
474 Chapter 21)
475 **78A-2-218**, (Renumbered from 78-7-17, Utah Code Annotated 1953)
476 **78A-2-219**, (Renumbered from 78-7-16, Utah Code Annotated 1953)
477 **78A-2-220**, (Renumbered from 78-7-17.5, as last amended by Laws of Utah 2004,
478 Chapter 150)
479 **78A-2-221**, (Renumbered from 78-7-2, as enacted by Laws of Utah 1986, Chapter 47)
480 **78A-2-222**, (Renumbered from 78-7-1, as last amended by Laws of Utah 1990, Chapter
481 59)
482 **78A-2-223**, (Renumbered from 78-7-25, as last amended by Laws of Utah 1998,
483 Chapter 171)
484 **78A-2-224**, (Renumbered from 78-7-46, as enacted by Laws of Utah 2004, Chapter
485 344)
486 **78A-2-225**, (Renumbered from 78-7-9.5, as enacted by Laws of Utah 1988, Chapter
487 248)
488 **78A-2-226**, (Renumbered from 78-7-19, as last amended by Laws of Utah 1996,
489 Chapter 198)
490 **78A-2-227**, (Renumbered from 78-7-9, as last amended by Laws of Utah 2002, Chapter
491 168)
492 **78A-2-228**, (Renumbered from 78-7-45, as last amended by Laws of Utah 2002,

493 Chapter 168)
494 **78A-2-301**, (Renumbered from 78-7-35, as last amended by Laws of Utah 2007,
495 Chapters 301, and 326)
496 **78A-2-302**, (Renumbered from 78-7-36, as renumbered and amended by Laws of Utah
497 2001, Chapter 46)
498 **78A-2-303**, (Renumbered from 78-7-43, as renumbered and amended by Laws of Utah
499 2001, Chapter 46)
500 **78A-2-304**, (Renumbered from 78-7-37, as renumbered and amended by Laws of Utah
501 2001, Chapter 46)
502 **78A-2-305**, (Renumbered from 78-7-38, as renumbered and amended by Laws of Utah
503 2001, Chapter 46)
504 **78A-2-306**, (Renumbered from 78-7-39, as renumbered and amended by Laws of Utah
505 2001, Chapter 46)
506 **78A-2-307**, (Renumbered from 78-7-40, as renumbered and amended by Laws of Utah
507 2001, Chapter 46)
508 **78A-2-308**, (Renumbered from 78-7-41, as renumbered and amended by Laws of Utah
509 2001, Chapter 46)
510 **78A-2-309**, (Renumbered from 78-7-42, as renumbered and amended by Laws of Utah
511 2001, Chapter 46)
512 **78A-2-401**, (Renumbered from 78-56-101, as enacted by Laws of Utah 1997, Chapter
513 372)
514 **78A-2-402**, (Renumbered from 78-56-102, as last amended by Laws of Utah 2004,
515 Chapter 77)
516 **78A-2-403**, (Renumbered from 78-56-103, as last amended by Laws of Utah 2004,
517 Chapter 77)
518 **78A-2-404**, (Renumbered from 78-56-104, as last amended by Laws of Utah 2004,
519 Chapter 77)
520 **78A-2-405**, (Renumbered from 78-56-105, as renumbered and amended by Laws of
521 Utah 1997, Chapter 372)
522 **78A-2-406**, (Renumbered from 78-56-106, as last amended by Laws of Utah 2004,
523 Chapter 77)

524 **78A-2-407**, (Renumbered from 78-56-107, as renumbered and amended by Laws of
525 Utah 1997, Chapter 372)
526 **78A-2-408**, (Renumbered from 78-56-108, as last amended by Laws of Utah 2001,
527 Chapter 46)
528 **78A-2-409**, (Renumbered from 78-56-109, as renumbered and amended by Laws of
529 Utah 1997, Chapter 372)
530 **78A-2-410**, (Renumbered from 78-56-110, as renumbered and amended by Laws of
531 Utah 1997, Chapter 372)
532 **78A-2-411**, (Renumbered from 78-56-111, as renumbered and amended by Laws of
533 Utah 1997, Chapter 372)
534 **78A-2-501**, (Renumbered from 78-28-1, as last amended by Laws of Utah 2001,
535 Chapter 46)
536 **78A-2-502**, (Renumbered from 78-28-2, as last amended by Laws of Utah 2000,
537 Chapter 112)
538 **78A-2-601**, (Renumbered from 63-63c-101, as enacted by Laws of Utah 2003, Chapter
539 340)
540 **78A-2-602**, (Renumbered from 63-63c-102, as last amended by Laws of Utah 2004,
541 Chapter 301)
542 **78A-3-101**, (Renumbered from 78-2-1, as last amended by Laws of Utah 1990, Chapter
543 80)
544 **78A-3-102**, (Renumbered from 78-2-2, as last amended by Laws of Utah 2001, Chapter
545 302)
546 **78A-3-103**, (Renumbered from 78-2-4, as enacted by Laws of Utah 1986, Chapter 47)
547 **78A-3-104**, (Renumbered from 78-2-6, as last amended by Laws of Utah 1986, Chapter
548 47)
549 **78A-3-105**, (Renumbered from 78-2-7.5, as enacted by Laws of Utah 1988, Chapter
550 248)
551 **78A-4-101**, (Renumbered from 78-2a-1, as enacted by Laws of Utah 1986, Chapter 47)
552 **78A-4-102**, (Renumbered from 78-2a-2, as last amended by Laws of Utah 1988,
553 Chapter 248)
554 **78A-4-103**, (Renumbered from 78-2a-3, as last amended by Laws of Utah 2001,

555 Chapters 255, and 302)
556 **78A-4-104**, (Renumbered from 78-2a-5, as enacted by Laws of Utah 1986, Chapter 47)
557 **78A-4-105**, (Renumbered from 78-2a-4, as enacted by Laws of Utah 1986, Chapter 47)
558 **78A-4-106**, (Renumbered from 78-2a-6, as last amended by Laws of Utah 2005,
559 Chapter 102)
560 **78A-5-101**, (Renumbered from 78-3-11.5, as last amended by Laws of Utah 1993,
561 Chapter 159)
562 **78A-5-102**, (Renumbered from 78-3-4, as last amended by Laws of Utah 2004, Chapter
563 201)
564 **78A-5-103**, (Renumbered from 78-3-14.2, as enacted by Laws of Utah 1996, Chapter
565 198)
566 **78A-5-104**, (Renumbered from 78-3-6, as last amended by Laws of Utah 1988, Chapter
567 248)
568 **78A-5-105**, (Renumbered from 78-3-3, as last amended by Laws of Utah 1988, Chapter
569 248)
570 **78A-5-106**, (Renumbered from 78-3-29, as last amended by Laws of Utah 2007,
571 Chapter 326)
572 **78A-5-107**, (Renumbered from 78-3-31, as last amended by Laws of Utah 1995,
573 Chapter 62)
574 **78A-5-108**, (Renumbered from 78-3-30, as enacted by Laws of Utah 1989, Chapter
575 153)
576 **78A-5-109**, (Renumbered from 78-3-12.5, as last amended by Laws of Utah 1997,
577 Chapter 10)
578 **78A-5-110**, (Renumbered from 78-3-14.5, as last amended by Laws of Utah 2004,
579 Chapters 273, and 349)
580 **78A-5-111**, (Renumbered from 78-3-13.4, as last amended by Laws of Utah 1996,
581 Chapter 198)
582 **78A-5-201**, (Renumbered from 78-3-32, as enacted by Laws of Utah 2005, Chapter
583 159)
584 **78A-5-202**, (Renumbered from 78-3-33, as enacted by Laws of Utah 2005, Chapter
585 159)

586 **78A-6-101**, (Renumbered from 78-3a-101, as enacted by Laws of Utah 1996, Chapter
587 1)
588 **78A-6-102**, (Renumbered from 78-3a-102, as last amended by Laws of Utah 2006,
589 Chapter 281)
590 **78A-6-103**, (Renumbered from 78-3a-104, as last amended by Laws of Utah 2006,
591 Chapters 55, 132, and 281)
592 **78A-6-104**, (Renumbered from 78-3a-105, as last amended by Laws of Utah 2006,
593 Chapters 55, and 281)
594 **78A-6-105**, (Renumbered from 78-3a-103, as last amended by Laws of Utah 2006,
595 Chapters 75, 97, and 281)
596 **78A-6-106**, (Renumbered from 78-3a-106, as last amended by Laws of Utah 2006,
597 Chapters 13, and 281)
598 **78A-6-107**, (Renumbered from 78-3a-106.5, as enacted by Laws of Utah 2006, Chapter
599 13)
600 **78A-6-108**, (Renumbered from 78-3a-109, as last amended by Laws of Utah 2006,
601 Chapters 75, and 281)
602 **78A-6-109**, (Renumbered from 78-3a-110, as last amended by Laws of Utah 2006,
603 Chapters 75, and 281)
604 **78A-6-110**, (Renumbered from 78-3a-111, as enacted by Laws of Utah 1997, Chapter
605 365)
606 **78A-6-111**, (Renumbered from 78-3a-112, as last amended by Laws of Utah 2006,
607 Chapter 281)
608 **78A-6-112**, (Renumbered from 78-3a-113, as last amended by Laws of Utah 2006,
609 Chapter 281)
610 **78A-6-113**, (Renumbered from 78-3a-114, as last amended by Laws of Utah 2006,
611 Chapter 281)
612 **78A-6-114**, (Renumbered from 78-3a-115, as last amended by Laws of Utah 2006,
613 Chapter 281)
614 **78A-6-115**, (Renumbered from 78-3a-116, as last amended by Laws of Utah 2006,
615 Chapters 55, and 281)
616 **78A-6-116**, (Renumbered from 78-3a-117, as last amended by Laws of Utah 2006,

617 Chapter 281)
618 **78A-6-117**, (Renumbered from 78-3a-118, as last amended by Laws of Utah 2006,
619 Chapters 75, and 281)
620 **78A-6-118**, (Renumbered from 78-3a-119, as last amended by Laws of Utah 2006,
621 Chapter 132)
622 **78A-6-119**, (Renumbered from 78-3a-120, as last amended by Laws of Utah 2006,
623 Chapter 281)
624 **78A-6-120**, (Renumbered from 78-3a-121, as last amended by Laws of Utah 2007,
625 Chapter 304)
626 **78A-6-121**, (Renumbered from 78-3a-122, as enacted by Laws of Utah 2007, Chapter
627 304)
628 **78A-6-201**, (Renumbered from 78-3a-107, as enacted by Laws of Utah 1996, Chapter
629 1)
630 **78A-6-202**, (Renumbered from 78-3a-108, as enacted by Laws of Utah 1996, Chapter
631 1)
632 **78A-6-203**, (Renumbered from 78-3a-201, as last amended by Laws of Utah 1998,
633 Chapter 171)
634 **78A-6-204**, (Renumbered from 78-3a-202, as enacted by Laws of Utah 1996, Chapter
635 1)
636 **78A-6-205**, (Renumbered from 78-3a-203, as enacted by Laws of Utah 1996, Chapter
637 1)
638 **78A-6-206**, (Renumbered from 78-3a-204, as enacted by Laws of Utah 1996, Chapter
639 1)
640 **78A-6-207**, (Renumbered from 78-3a-205, as enacted by Laws of Utah 1996, Chapter
641 1)
642 **78A-6-208**, (Renumbered from 78-3a-209, as last amended by Laws of Utah 2002,
643 Fifth Special Session, Chapter 8)
644 **78A-6-209**, (Renumbered from 78-3a-206, as last amended by Laws of Utah 2006,
645 Chapters 77, 103, and 281)
646 **78A-6-210**, (Renumbered from 78-3a-207, as last amended by Laws of Utah 1998,
647 Chapter 94)

648 **78A-6-211**, (Renumbered from 78-3a-208, as enacted by Laws of Utah 1996, Chapter
649 1)
650 **78A-6-302**, (Renumbered from 78-3a-301, as last amended by Laws of Utah 2007,
651 Chapter 111)
652 **78A-6-303**, (Renumbered from 78-3a-304.5, as last amended by Laws of Utah 2004,
653 Chapter 356)
654 **78A-6-304**, (Renumbered from 78-3a-305, as last amended by Laws of Utah 2006,
655 Chapters 13, and 281)
656 **78A-6-305**, (Renumbered from 78-3a-305.5, as enacted by Laws of Utah 2007, Chapter
657 169)
658 **78A-6-306**, (Renumbered from 78-3a-306, as last amended by Laws of Utah 2007,
659 Chapter 169)
660 **78A-6-307**, (Renumbered from 78-3a-307, as last amended by Laws of Utah 2007,
661 Chapters 169, and 255)
662 **78A-6-308**, (Renumbered from 78-3a-307.1, as last amended by Laws of Utah 2007,
663 Chapter 152)
664 **78A-6-309**, (Renumbered from 78-3a-308, as last amended by Laws of Utah 2006,
665 Chapter 13)
666 **78A-6-310**, (Renumbered from 78-3a-309, as last amended by Laws of Utah 2006,
667 Chapter 281)
668 **78A-6-311**, (Renumbered from 78-3a-310, as last amended by Laws of Utah 2001,
669 Chapter 21)
670 **78A-6-312**, (Renumbered from 78-3a-311, as last amended by Laws of Utah 2006,
671 Chapters 75, and 97)
672 **78A-6-313**, (Renumbered from 78-3a-311.5, as last amended by Laws of Utah 2005,
673 Chapter 286)
674 **78A-6-314**, (Renumbered from 78-3a-312, as last amended by Laws of Utah 2007,
675 Chapters 152, and 169)
676 **78A-6-315**, (Renumbered from 78-3a-313, as last amended by Laws of Utah 1998,
677 Chapters 68, and 171)
678 **78A-6-316**, (Renumbered from 78-3a-313.5, as last amended by Laws of Utah 2006,

679 Chapter 281)
680 **78A-6-317**, (Renumbered from 78-3a-314, as last amended by Laws of Utah 2007,
681 Chapter 152)
682 **78A-6-318**, (Renumbered from 78-3a-315, as last amended by Laws of Utah 2002,
683 Chapter 306)
684 **78A-6-319**, (Renumbered from 78-3a-316, as enacted by Laws of Utah 1995, Chapter
685 302)
686 **78A-6-320**, (Renumbered from 78-3a-316.1, as last amended by Laws of Utah 2006,
687 Chapter 281)
688 **78A-6-321**, (Renumbered from 78-3a-318, as enacted by Laws of Utah 1996, Chapter 1
689 and last amended by Laws of Utah 1996, Chapter 318)
690 **78A-6-322**, (Renumbered from 78-3a-319, as enacted by Laws of Utah 1996, Chapter 1
691 and last amended by Laws of Utah 1996, Chapter 318)
692 **78A-6-323**, (Renumbered from 78-3a-320, as last amended by Laws of Utah 2006,
693 Chapter 77)
694 **78A-6-324**, (Renumbered from 78-3a-321, as last amended by Laws of Utah 2006,
695 Chapter 281)
696 **78A-6-401**, (Renumbered from 78-3a-350, as last amended by Laws of Utah 2006,
697 Chapter 281)
698 **78A-6-501**, (Renumbered from 78-3a-401, as renumbered and amended by Laws of
699 Utah 1994, Chapter 260)
700 **78A-6-502**, (Renumbered from 78-3a-403, as last amended by Laws of Utah 1996,
701 Chapter 318)
702 **78A-6-503**, (Renumbered from 78-3a-402, as renumbered and amended by Laws of
703 Utah 1994, Chapter 260)
704 **78A-6-504**, (Renumbered from 78-3a-404, as last amended by Laws of Utah 1997,
705 Chapters 195, and 329)
706 **78A-6-505**, (Renumbered from 78-3a-405, as renumbered and amended by Laws of
707 Utah 1994, Chapter 260)
708 **78A-6-506**, (Renumbered from 78-3a-406, as last amended by Laws of Utah 2003,
709 Chapter 332)

710 **78A-6-507**, (Renumbered from 78-3a-407, as last amended by Laws of Utah 2006,
711 Chapter 281)
712 **78A-6-508**, (Renumbered from 78-3a-408, as last amended by Laws of Utah 2005,
713 Chapter 95)
714 **78A-6-509**, (Renumbered from 78-3a-409, as last amended by Laws of Utah 2001,
715 Chapter 255)
716 **78A-6-510**, (Renumbered from 78-3a-410, as renumbered and amended by Laws of
717 Utah 1994, Chapter 260)
718 **78A-6-511**, (Renumbered from 78-3a-411, as last amended by Laws of Utah 1997,
719 Chapter 365)
720 **78A-6-512**, (Renumbered from 78-3a-412, as renumbered and amended by Laws of
721 Utah 1994, Chapter 260)
722 **78A-6-513**, (Renumbered from 78-3a-413, as renumbered and amended by Laws of
723 Utah 1994, Chapter 260)
724 **78A-6-514**, (Renumbered from 78-3a-414, as last amended by Laws of Utah 2001,
725 Chapter 101)
726 **78A-6-515**, (Renumbered from 78-3a-415, as last amended by Laws of Utah 2006,
727 Chapter 281)
728 **78A-6-601**, (Renumbered from 78-3a-501, as enacted by Laws of Utah 1996, Chapter
729 1)
730 **78A-6-602**, (Renumbered from 78-3a-502, as last amended by Laws of Utah 2006,
731 Chapters 55, and 281)
732 **78A-6-603**, (Renumbered from 78-3a-503, as last amended by Laws of Utah 2006,
733 Chapter 281)
734 **78A-6-604**, (Renumbered from 78-3a-504, as last amended by Laws of Utah 2005,
735 Chapter 156)
736 **78A-6-605**, (Renumbered from 78-3a-505, as repealed and reenacted by Laws of Utah
737 1997, Chapter 365)
738 **78A-6-606**, (Renumbered from 78-3a-506, as last amended by Laws of Utah 2007,
739 Chapter 284)
740 **78A-6-701**, (Renumbered from 78-3a-601, as last amended by Laws of Utah 2003,

741 Chapter 171)
742 **78A-6-702**, (Renumbered from 78-3a-602, as last amended by Laws of Utah 2006,
743 Chapter 281)
744 **78A-6-703**, (Renumbered from 78-3a-603, as last amended by Laws of Utah 2003,
745 Chapter 171)
746 **78A-6-704**, (Renumbered from 78-3a-604, as enacted by Laws of Utah 2005, Chapter
747 106)
748 **78A-6-801**, (Renumbered from 78-3a-1001, as enacted by Laws of Utah 2006, Chapter
749 132)
750 **78A-6-802**, (Renumbered from 78-3a-1002, as enacted by Laws of Utah 2006, Chapter
751 132)
752 **78A-6-803**, (Renumbered from 78-3a-1003, as enacted by Laws of Utah 2006, Chapter
753 132)
754 **78A-6-804**, (Renumbered from 78-3a-1004, as enacted by Laws of Utah 2006, Chapter
755 132)
756 **78A-6-805**, (Renumbered from 78-3a-1005, as enacted by Laws of Utah 2006, Chapter
757 132)
758 **78A-6-901**, (Renumbered from 78-3a-911, as last amended by Laws of Utah 2006,
759 Chapter 281)
760 **78A-6-902**, (Renumbered from 78-3a-912, as last amended by Laws of Utah 2006,
761 Chapter 281)
762 **78A-6-1001**, (Renumbered from 78-3a-801, as last amended by Laws of Utah 2007,
763 Chapter 81)
764 **78A-6-1002**, (Renumbered from 78-3a-802, as repealed and reenacted by Laws of Utah
765 1999, Chapter 249)
766 **78A-6-1003**, (Renumbered from 78-3a-804, as enacted by Laws of Utah 1996, Chapter
767 1)
768 **78A-6-1101**, (Renumbered from 78-3a-901, as last amended by Laws of Utah 1997,
769 Chapter 358)
770 **78A-6-1102**, (Renumbered from 78-3a-902, as enacted by Laws of Utah 1996, Chapter
771 1)

772 **78A-6-1103**, (Renumbered from 78-3a-903, as last amended by Laws of Utah 2006,
773 Chapter 281)
774 **78A-6-1104**, (Renumbered from 78-3a-904, as last amended by Laws of Utah 2006,
775 Chapter 281)
776 **78A-6-1105**, (Renumbered from 78-3a-905, as last amended by Laws of Utah 2007,
777 Chapter 304)
778 **78A-6-1106**, (Renumbered from 78-3a-906, as last amended by Laws of Utah 2006,
779 Chapter 281)
780 **78A-6-1107**, (Renumbered from 78-3a-907, as enacted by Laws of Utah 1996, Chapter
781 1)
782 **78A-6-1108**, (Renumbered from 78-3a-908, as last amended by Laws of Utah 2006,
783 Chapter 281)
784 **78A-6-1109**, (Renumbered from 78-3a-909, as last amended by Laws of Utah 2006,
785 Chapter 281)
786 **78A-6-1110**, (Renumbered from 78-3a-910, as last amended by Laws of Utah 2002,
787 Fifth Special Session, Chapter 8)
788 **78A-6-1111**, (Renumbered from 78-3a-913, as last amended by Laws of Utah 2006,
789 Chapter 281)
790 **78A-6-1112**, (Renumbered from 78-3a-914, as last amended by Laws of Utah 2003,
791 Chapter 171)
792 **78A-6-1113**, (Renumbered from 78-11-20, as last amended by Laws of Utah 1997,
793 Chapter 365)
794 **78A-6-1201**, (Renumbered from 78-57-101, as enacted by Laws of Utah 1999, Chapter
795 94)
796 **78A-6-1202**, (Renumbered from 78-57-102, as last amended by Laws of Utah 2005,
797 Chapter 2)
798 **78A-6-1203**, (Renumbered from 78-57-103, as last amended by Laws of Utah 2002,
799 Chapter 188)
800 **78A-6-1204**, (Renumbered from 78-57-104, as enacted by Laws of Utah 1999, Chapter
801 94)
802 **78A-6-1205**, (Renumbered from 78-57-105, as enacted by Laws of Utah 1999, Chapter

803 94)
804 **78A-6-1206**, (Renumbered from 78-57-106, as enacted by Laws of Utah 1999, Chapter
805 94)
806 **78A-6-1207**, (Renumbered from 78-57-107, as enacted by Laws of Utah 1999, Chapter
807 94)
808 **78A-6-1208**, (Renumbered from 78-57-108, as enacted by Laws of Utah 1999, Chapter
809 94)
810 **78A-6-1209**, (Renumbered from 78-57-109, as enacted by Laws of Utah 1999, Chapter
811 94)
812 **78A-7-101**, (Renumbered from 78-5-101, as last amended by Laws of Utah 1999,
813 Chapter 21)
814 **78A-7-102**, (Renumbered from 78-5-101.5, as last amended by Laws of Utah 1999,
815 Chapter 166)
816 **78A-7-103**, (Renumbered from 78-5-139, as last amended by Laws of Utah 1998,
817 Chapter 313)
818 **78A-7-104**, (Renumbered from 78-5-106, as enacted by Laws of Utah 1989, Chapter
819 157)
820 **78A-7-105**, (Renumbered from 78-5-103, as last amended by Laws of Utah 1999,
821 Chapter 21)
822 **78A-7-106**, (Renumbered from 78-5-104, as last amended by Laws of Utah 1997,
823 Chapter 215)
824 **78A-7-107**, (Renumbered from 78-5-105, as last amended by Laws of Utah 1997,
825 Chapter 365)
826 **78A-7-108**, (Renumbered from 78-5-135.5, as renumbered and amended by Laws of
827 Utah 2001, Chapter 46)
828 **78A-7-109**, (Renumbered from 78-5-113, as enacted by Laws of Utah 1989, Chapter
829 157)
830 **78A-7-110**, (Renumbered from 78-5-121, as enacted by Laws of Utah 1989, Chapter
831 157)
832 **78A-7-111**, (Renumbered from 78-5-122, as enacted by Laws of Utah 1989, Chapter
833 157)

834 **78A-7-112**, (Renumbered from 78-5-123, as enacted by Laws of Utah 1989, Chapter
835 157)
836 **78A-7-113**, (Renumbered from 78-5-124, as enacted by Laws of Utah 1989, Chapter
837 157)
838 **78A-7-114**, (Renumbered from 78-5-117, as enacted by Laws of Utah 1989, Chapter
839 157)
840 **78A-7-115**, (Renumbered from 78-5-125, as enacted by Laws of Utah 1989, Chapter
841 157)
842 **78A-7-116**, (Renumbered from 78-5-118, as enacted by Laws of Utah 1989, Chapter
843 157)
844 **78A-7-117**, (Renumbered from 78-5-119, as last amended by Laws of Utah 2001,
845 Chapter 370)
846 **78A-7-118**, (Renumbered from 78-5-120, as last amended by Laws of Utah 2001, First
847 Special Session, Chapter 4)
848 **78A-7-119**, (Renumbered from 78-5-126, as enacted by Laws of Utah 1989, Chapter
849 157)
850 **78A-7-120**, (Renumbered from 78-5-116, as last amended by Laws of Utah 2004,
851 Chapters 273, and 349)
852 **78A-7-121**, (Renumbered from 78-5-135, as last amended by Laws of Utah 2001,
853 Chapter 308)
854 **78A-7-122**, (Renumbered from 78-5-116.5, as enacted by Laws of Utah 2004, Chapter
855 301)
856 **78A-7-123**, (Renumbered from 78-5-140, as enacted by Laws of Utah 1998, Chapter
857 313)
858 **78A-7-201**, (Renumbered from 78-5-137, as last amended by Laws of Utah 1996,
859 Chapter 84)
860 **78A-7-202**, (Renumbered from 78-5-134, as last amended by Laws of Utah 2006,
861 Chapter 16)
862 **78A-7-203**, (Renumbered from 78-5-132, as last amended by Laws of Utah 1993,
863 Chapter 1)
864 **78A-7-204**, (Renumbered from 78-5-102, as last amended by Laws of Utah 1999,

865 Chapter 21)
866 **78A-7-205**, (Renumbered from 78-5-127, as last amended by Laws of Utah 1997,
867 Chapter 215)
868 **78A-7-206**, (Renumbered from 78-5-128, as last amended by Laws of Utah 2001,
869 Chapter 71)
870 **78A-7-207**, (Renumbered from 78-5-129, as enacted by Laws of Utah 1989, Chapter
871 157)
872 **78A-7-208**, (Renumbered from 78-5-138, as last amended by Laws of Utah 1999,
873 Chapter 166)
874 **78A-7-209**, (Renumbered from 78-5-111, as last amended by Laws of Utah 1998,
875 Chapter 282)
876 **78A-7-210**, (Renumbered from 78-5-106.5, as enacted by Laws of Utah 2003, Chapter
877 51)
878 **78A-7-211**, (Renumbered from 78-5-110, as last amended by Laws of Utah 2003,
879 Chapter 51)
880 **78A-7-212**, (Renumbered from 78-5-107, as last amended by Laws of Utah 1993,
881 Chapters 5, and 227)
882 **78A-7-213**, (Renumbered from 78-5-108, as last amended by Laws of Utah 2004,
883 Chapter 245)
884 **78A-7-214**, (Renumbered from 78-5-109, as enacted by Laws of Utah 1989, Chapter
885 157)
886 **78A-7-215**, (Renumbered from 78-5-130, as enacted by Laws of Utah 1989, Chapter
887 157)
888 **78A-7-301**, (Renumbered from 78-5-116.7, as enacted by Laws of Utah 2004, Chapter
889 301)
890 **78A-8-102**, (Renumbered from 78-6-1, as last amended by Laws of Utah 2004, Chapter
891 204)
892 **78A-8-103**, (Renumbered from 78-6-6, Utah Code Annotated 1953)
893 **78A-8-104**, (Renumbered from 78-6-8, as last amended by Laws of Utah 1997, Chapter
894 215)
895 **78A-8-105**, (Renumbered from 78-6-14, as last amended by Laws of Utah 2001,

896 Chapter 46)
897 **78A-8-106**, (Renumbered from 78-6-10, as last amended by Laws of Utah 2004,
898 Chapter 150)
899 **78A-8-107**, (Renumbered from 78-6-15, as last amended by Laws of Utah 1997,
900 Chapter 215)
901 **78A-8-108**, (Renumbered from 78-6-1.5, as last amended by Laws of Utah 1996,
902 Chapter 198)
903 **78A-9-101**, (Renumbered from 78-2-4.5, as renumbered and amended by Laws of Utah
904 2001, Chapter 4)
905 **78A-9-102**, (Renumbered from 78-7-35.1, as renumbered and amended by Laws of
906 Utah 2001, Chapter 46)
907 **78A-9-103**, (Renumbered from 78-9-101, as enacted by Laws of Utah 2001, Second
908 Special Session, Chapter 3)
909 **78A-10-102**, (Renumbered from 20A-12-101, as enacted by Laws of Utah 1995,
910 Chapter 1)
911 **78A-10-103**, (Renumbered from 20A-12-104, as last amended by Laws of Utah 2006,
912 Chapter 14)
913 **78A-10-104**, (Renumbered from 20A-12-105, as last amended by Laws of Utah 1996,
914 Chapter 198)
915 **78A-11-102**, (Renumbered from 78-8-101, as last amended by Laws of Utah 2006,
916 Chapter 34)
917 **78A-11-103**, (Renumbered from 78-8-102, as last amended by Laws of Utah 2006,
918 Chapter 34)
919 **78A-11-105**, (Renumbered from 78-8-103, as last amended by Laws of Utah 2003,
920 Chapter 281)
921 **78A-11-106**, (Renumbered from 78-8-104, as last amended by Laws of Utah 2006,
922 Chapter 34)
923 **78A-11-107**, (Renumbered from 78-8-105, as last amended by Laws of Utah 2006,
924 Chapter 34)
925 **78A-11-108**, (Renumbered from 78-8-106, as renumbered and amended by Laws of
926 Utah 2000, Chapter 148)

927 **78A-11-113**, (Renumbered from 78-8-108, as renumbered and amended by Laws of
928 Utah 2000, Chapter 148)
929 **78B-1-101**, (Renumbered from 78-46-1, as last amended by Laws of Utah 2001,
930 Chapter 46)
931 **78B-1-102**, (Renumbered from 78-46-4, as last amended by Laws of Utah 2003,
932 Chapter 194)
933 **78B-1-103**, (Renumbered from 78-46-2, as last amended by Laws of Utah 2003,
934 Chapter 194)
935 **78B-1-104**, (Renumbered from 78-46-5, as last amended by Laws of Utah 2007,
936 Chapter 275)
937 **78B-1-105**, (Renumbered from 78-46-7, as last amended by Laws of Utah 2002,
938 Chapter 22)
939 **78B-1-106**, (Renumbered from 78-46-10, as last amended by Laws of Utah 1992,
940 Chapter 219)
941 **78B-1-107**, (Renumbered from 78-46-12, as last amended by Laws of Utah 2003,
942 Chapter 194)
943 **78B-1-108**, (Renumbered from 78-46-14, as enacted by Laws of Utah 1979, Chapter
944 130)
945 **78B-1-109**, (Renumbered from 78-46-15, as last amended by Laws of Utah 2003,
946 Chapter 194)
947 **78B-1-110**, (Renumbered from 78-46-19, as last amended by Laws of Utah 2001,
948 Chapter 308)
949 **78B-1-111**, (Renumbered from 78-46-29, as renumbered and amended by Laws of Utah
950 2001, Chapter 46)
951 **78B-1-112**, (Renumbered from 78-46-17, as last amended by Laws of Utah 1992,
952 Chapter 219)
953 **78B-1-113**, (Renumbered from 78-46-16, as last amended by Laws of Utah 1989,
954 Chapter 153)
955 **78B-1-114**, (Renumbered from 78-46-37, as renumbered and amended by Laws of Utah
956 2001, Chapter 46)
957 **78B-1-115**, (Renumbered from 78-46-20, as last amended by Laws of Utah 2003,

958 Chapter 194)
959 **78B-1-116**, (Renumbered from 78-46-21, as last amended by Laws of Utah 2003,
960 Chapter 194)
961 **78B-1-117**, (Renumbered from 78-46-25, as renumbered and amended by Laws of Utah
962 2001, Chapter 46)
963 **78B-1-118**, (Renumbered from 78-46-24, as renumbered and amended by Laws of Utah
964 2001, Chapter 46)
965 **78B-1-119**, (Renumbered from 78-46-28, as renumbered and amended by Laws of Utah
966 2001, Chapter 46)
967 **78B-1-120**, (Renumbered from 78-46-26, as renumbered and amended by Laws of Utah
968 2001, Chapter 46)
969 **78B-1-121**, (Renumbered from 78-46-27, as renumbered and amended by Laws of Utah
970 2001, Chapter 46)
971 **78B-1-122**, (Renumbered from 78-46-31, as renumbered and amended by Laws of Utah
972 2001, Chapter 46)
973 **78B-1-123**, (Renumbered from 78-46-41, as renumbered and amended by Laws of Utah
974 2001, Chapter 46)
975 **78B-1-124**, (Renumbered from 78-46-38, as renumbered and amended by Laws of Utah
976 2001, Chapter 46)
977 **78B-1-125**, (Renumbered from 78-46-39, as renumbered and amended by Laws of Utah
978 2001, Chapter 46)
979 **78B-1-126**, (Renumbered from 78-46-40, as renumbered and amended by Laws of Utah
980 2001, Chapter 46)
981 **78B-1-127**, (Renumbered from 78-24-2, as enacted by Laws of Utah 1984, Chapter 35)
982 **78B-1-128**, (Renumbered from 78-24-1, Utah Code Annotated 1953)
983 **78B-1-129**, (Renumbered from 78-24-5, Utah Code Annotated 1953)
984 **78B-1-130**, (Renumbered from 78-24-6, Utah Code Annotated 1953)
985 **78B-1-131**, (Renumbered from 78-24-7, Utah Code Annotated 1953)
986 **78B-1-132**, (Renumbered from 78-11-26, as repealed and reenacted by Laws of Utah
987 1997, Chapter 215)
988 **78B-1-133**, (Renumbered from 78-24-3, Utah Code Annotated 1953)

989 **78B-1-134**, (Renumbered from 78-24-9, Utah Code Annotated 1953)
990 **78B-1-135**, (Renumbered from 78-24-10, as last amended by Laws of Utah 1995,
991 Chapter 20)
992 **78B-1-136**, (Renumbered from 78-24-11, Utah Code Annotated 1953)
993 **78B-1-137**, (Renumbered from 78-24-8, as last amended by Laws of Utah 1990,
994 Chapter 45)
995 **78B-1-138**, (Renumbered from 78-24-12, Utah Code Annotated 1953)
996 **78B-1-139**, (Renumbered from 78-24-13, as last amended by Laws of Utah 1995,
997 Chapter 20)
998 **78B-1-140**, (Renumbered from 78-24-14, as last amended by Laws of Utah 2007,
999 Chapter 306)
1000 **78B-1-141**, (Renumbered from 78-24-15, Utah Code Annotated 1953)
1001 **78B-1-142**, (Renumbered from 78-24-16, Utah Code Annotated 1953)
1002 **78B-1-143**, (Renumbered from 78-24-17, Utah Code Annotated 1953)
1003 **78B-1-144**, (Renumbered from 78-24-18, as last amended by Laws of Utah 1995,
1004 Chapter 20)
1005 **78B-1-145**, (Renumbered from 78-24-19, Utah Code Annotated 1953)
1006 **78B-1-146**, (Renumbered from 78-24-4, as last amended by Laws of Utah 1997,
1007 Chapter 215)
1008 **78B-1-147**, (Renumbered from 78-46-30, as renumbered and amended by Laws of Utah
1009 2001, Chapter 46)
1010 **78B-1-148**, (Renumbered from 78-46-35, as renumbered and amended by Laws of Utah
1011 2001, Chapter 46)
1012 **78B-1-149**, (Renumbered from 78-46-34, as renumbered and amended by Laws of Utah
1013 2001, Chapter 46)
1014 **78B-1-150**, (Renumbered from 78-46-32, as renumbered and amended by Laws of Utah
1015 2001, Chapter 46)
1016 **78B-1-151**, (Renumbered from 78-46-33, as renumbered and amended by Laws of Utah
1017 2001, Chapter 46)
1018 **78B-1-152**, (Renumbered from 78-24-20, as enacted by Laws of Utah 2006, Chapter
1019 41)

1020 **78B-1-201**, (Renumbered from 78-24a-1, as last amended by Laws of Utah 1995,
1021 Chapter 118)
1022 **78B-1-202**, (Renumbered from 78-24a-2, as last amended by Laws of Utah 1995,
1023 Chapter 118)
1024 **78B-1-203**, (Renumbered from 78-24a-3, as enacted by Laws of Utah 1983, Chapter
1025 288)
1026 **78B-1-204**, (Renumbered from 78-24a-4, as enacted by Laws of Utah 1983, Chapter
1027 288)
1028 **78B-1-205**, (Renumbered from 78-24a-5, as enacted by Laws of Utah 1983, Chapter
1029 288)
1030 **78B-1-206**, (Renumbered from 78-24a-6, as enacted by Laws of Utah 1983, Chapter
1031 288)
1032 **78B-1-207**, (Renumbered from 78-24a-7, as enacted by Laws of Utah 1983, Chapter
1033 288)
1034 **78B-1-208**, (Renumbered from 78-24a-8, as enacted by Laws of Utah 1983, Chapter
1035 288)
1036 **78B-1-209**, (Renumbered from 78-24a-9, as enacted by Laws of Utah 1983, Chapter
1037 288)
1038 **78B-1-210**, (Renumbered from 78-24a-10, as enacted by Laws of Utah 1983, Chapter
1039 288)
1040 **78B-1-211**, (Renumbered from 78-24a-11, as enacted by Laws of Utah 1983, Chapter
1041 288)
1042 **78B-2-101**, (Renumbered from 78-12-5.3, as last amended by Laws of Utah 1987,
1043 Chapter 4)
1044 **78B-2-102**, (Renumbered from 78-12-1, as last amended by Laws of Utah 1987,
1045 Chapter 19)
1046 **78B-2-103**, (Renumbered from 78-12-45, Utah Code Annotated 1953)
1047 **78B-2-104**, (Renumbered from 78-12-35, as last amended by Laws of Utah 1987,
1048 Chapter 19)
1049 **78B-2-105**, (Renumbered from 78-12-37, Utah Code Annotated 1953)
1050 **78B-2-106**, (Renumbered from 78-12-38, Utah Code Annotated 1953)

1051 **78B-2-107**, (Renumbered from 78-12-39, Utah Code Annotated 1953)
1052 **78B-2-108**, (Renumbered from 78-12-36, as last amended by Laws of Utah 1987,
1053 Chapter 19)
1054 **78B-2-109**, (Renumbered from 78-12-42, Utah Code Annotated 1953)
1055 **78B-2-110**, (Renumbered from 78-12-43, Utah Code Annotated 1953)
1056 **78B-2-111**, (Renumbered from 78-12-40, as last amended by Laws of Utah 2007,
1057 Chapter 127)
1058 **78B-2-112**, (Renumbered from 78-12-41, Utah Code Annotated 1953)
1059 **78B-2-113**, (Renumbered from 78-12-44, Utah Code Annotated 1953)
1060 **78B-2-114**, (Renumbered from 78-12-47, as enacted by Laws of Utah 1971, Chapter
1061 212)
1062 **78B-2-115**, (Renumbered from 78-12-33, as last amended by Laws of Utah 1988,
1063 Chapter 208)
1064 **78B-2-116**, (Renumbered from 78-12-33.5, as last amended by Laws of Utah 2005,
1065 Chapter 71)
1066 **78B-2-117**, (Renumbered from 78-12-48, as enacted by Laws of Utah 1988, Chapter
1067 208)
1068 **78B-2-201**, (Renumbered from 78-12-2, Utah Code Annotated 1953)
1069 **78B-2-202**, (Renumbered from 78-12-3, Utah Code Annotated 1953)
1070 **78B-2-203**, (Renumbered from 78-12-4, Utah Code Annotated 1953)
1071 **78B-2-204**, (Renumbered from 78-12-5, Utah Code Annotated 1953)
1072 **78B-2-205**, (Renumbered from 78-12-5.1, Utah Code Annotated 1953)
1073 **78B-2-206**, (Renumbered from 78-12-5.2, Utah Code Annotated 1953)
1074 **78B-2-207**, (Renumbered from 78-12-6, Utah Code Annotated 1953)
1075 **78B-2-208**, (Renumbered from 78-12-7, Utah Code Annotated 1953)
1076 **78B-2-209**, (Renumbered from 78-12-7.1, Utah Code Annotated 1953)
1077 **78B-2-210**, (Renumbered from 78-12-8, Utah Code Annotated 1953)
1078 **78B-2-211**, (Renumbered from 78-12-9, Utah Code Annotated 1953)
1079 **78B-2-212**, (Renumbered from 78-12-10, Utah Code Annotated 1953)
1080 **78B-2-213**, (Renumbered from 78-12-11, Utah Code Annotated 1953)
1081 **78B-2-214**, (Renumbered from 78-12-12, Utah Code Annotated 1953)

1082 **78B-2-215**, (Renumbered from 78-12-12.1, Utah Code Annotated 1953)
1083 **78B-2-216**, (Renumbered from 78-12-13, Utah Code Annotated 1953)
1084 **78B-2-217**, (Renumbered from 78-12-14, Utah Code Annotated 1953)
1085 **78B-2-218**, (Renumbered from 78-12-15, Utah Code Annotated 1953)
1086 **78B-2-219**, (Renumbered from 78-12-16, Utah Code Annotated 1953)
1087 **78B-2-220**, (Renumbered from 78-12-17, Utah Code Annotated 1953)
1088 **78B-2-221**, (Renumbered from 78-12-18, Utah Code Annotated 1953)
1089 **78B-2-222**, (Renumbered from 78-12-19, Utah Code Annotated 1953)
1090 **78B-2-223**, (Renumbered from 78-12-20, as last amended by Laws of Utah 1995,
1091 Chapter 20)
1092 **78B-2-224**, (Renumbered from 78-12-21, as last amended by Laws of Utah 1987,
1093 Chapter 19)
1094 **78B-2-225**, (Renumbered from 78-12-21.5, as last amended by Laws of Utah 2004,
1095 Chapter 327)
1096 **78B-2-226**, (Renumbered from 78-12-21.7, as enacted by Laws of Utah 1999, Chapter
1097 123)
1098 **78B-2-301**, (Renumbered from 78-12-31, as last amended by Laws of Utah 1996,
1099 Chapter 79)
1100 **78B-2-302**, (Renumbered from 78-12-29, as last amended by Laws of Utah 2006,
1101 Chapter 274)
1102 **78B-2-303**, (Renumbered from 78-12-30, as last amended by Laws of Utah 1993,
1103 Chapter 227)
1104 **78B-2-304**, (Renumbered from 78-12-28, as last amended by Laws of Utah 2000,
1105 Chapter 157)
1106 **78B-2-305**, (Renumbered from 78-12-26, as last amended by Laws of Utah 1996,
1107 Chapter 79)
1108 **78B-2-306**, (Renumbered from 78-12-27, Utah Code Annotated 1953)
1109 **78B-2-307**, (Renumbered from 78-12-25, as last amended by Laws of Utah 1996,
1110 Chapter 79)
1111 **78B-2-308**, (Renumbered from 78-12-25.1, as enacted by Laws of Utah 1992, Chapter
1112 185)

1113 **78B-2-309**, (Renumbered from 78-12-23, as last amended by Laws of Utah 2007,
1114 Chapter 136)
1115 **78B-2-310**, (Renumbered from 78-12-24, Utah Code Annotated 1953)
1116 **78B-2-311**, (Renumbered from 78-12-22, as last amended by Laws of Utah 2000,
1117 Chapter 161)
1118 **78B-2-312**, (Renumbered from 78-12-32, Utah Code Annotated 1953)
1119 **78B-3-102**, (Renumbered from 78-11-6, as last amended by Laws of Utah 2003,
1120 Chapter 131)
1121 **78B-3-103**, (Renumbered from 78-11-8, Utah Code Annotated 1953)
1122 **78B-3-105**, (Renumbered from 78-11-6.5, as last amended by Laws of Utah 1998,
1123 Chapter 39)
1124 **78B-3-106**, (Renumbered from 78-11-7, as last amended by Laws of Utah 2003,
1125 Chapter 131)
1126 **78B-3-107**, (Renumbered from 78-11-12, as last amended by Laws of Utah 2001,
1127 Chapter 135)
1128 **78B-3-110**, (Renumbered from 78-11-27, as last amended by Laws of Utah 2002,
1129 Chapter 180)
1130 **78B-3-201**, (Renumbered from 78-27-22, as enacted by Laws of Utah 1969, Chapter
1131 246)
1132 **78B-3-202**, (Renumbered from 78-27-23, as enacted by Laws of Utah 1969, Chapter
1133 246)
1134 **78B-3-203**, (Renumbered from 78-27-20, as last amended by Laws of Utah 1984,
1135 Chapter 66)
1136 **78B-3-204**, (Renumbered from 78-27-21, as last amended by Laws of Utah 1995,
1137 Chapter 20)
1138 **78B-3-205**, (Renumbered from 78-27-24, as last amended by Laws of Utah 1998,
1139 Chapter 120)
1140 **78B-3-206**, (Renumbered from 78-27-25, as enacted by Laws of Utah 1969, Chapter
1141 246)
1142 **78B-3-207**, (Renumbered from 78-27-26, as enacted by Laws of Utah 1969, Chapter
1143 246)

1144 **78B-3-208**, (Renumbered from 78-27-27, as enacted by Laws of Utah 1969, Chapter
1145 246)
1146 **78B-3-209**, (Renumbered from 78-27-28, as enacted by Laws of Utah 1969, Chapter
1147 246)
1148 **78B-3-301**, (Renumbered from 78-13-1, as last amended by Laws of Utah 2007,
1149 Chapter 306)
1150 **78B-3-302**, (Renumbered from 78-13-2, Utah Code Annotated 1953)
1151 **78B-3-303**, (Renumbered from 78-13-3, Utah Code Annotated 1953)
1152 **78B-3-304**, (Renumbered from 78-13-4, as repealed and reenacted by Laws of Utah
1153 2002, Chapter 94)
1154 **78B-3-305**, (Renumbered from 78-13-5, as last amended by Laws of Utah 1995,
1155 Chapter 20)
1156 **78B-3-306**, (Renumbered from 78-13-6, Utah Code Annotated 1953)
1157 **78B-3-307**, (Renumbered from 78-13-7, Utah Code Annotated 1953)
1158 **78B-3-308**, (Renumbered from 78-13-8, Utah Code Annotated 1953)
1159 **78B-3-309**, (Renumbered from 78-13-9, as last amended by Laws of Utah 2004,
1160 Chapter 150)
1161 **78B-3-310**, (Renumbered from 78-13-10, Utah Code Annotated 1953)
1162 **78B-3-311**, (Renumbered from 78-13-11, Utah Code Annotated 1953)
1163 **78B-3-401**, (Renumbered from 78-14-1, as enacted by Laws of Utah 1976, Chapter 23)
1164 **78B-3-402**, (Renumbered from 78-14-2, as enacted by Laws of Utah 1976, Chapter 23)
1165 **78B-3-403**, (Renumbered from 78-14-3, as last amended by Laws of Utah 2006,
1166 Chapter 225)
1167 **78B-3-404**, (Renumbered from 78-14-4, as last amended by Laws of Utah 1979,
1168 Chapter 128)
1169 **78B-3-405**, (Renumbered from 78-14-4.5, as last amended by Laws of Utah 2001,
1170 Chapter 116)
1171 **78B-3-406**, (Renumbered from 78-14-5, as last amended by Laws of Utah 2006,
1172 Chapter 207)
1173 **78B-3-407**, (Renumbered from 78-14-5.5, as last amended by Laws of Utah 2006,
1174 Chapter 46)

1175 **78B-3-408**, (Renumbered from 78-14-6, as enacted by Laws of Utah 1976, Chapter 23)
1176 **78B-3-409**, (Renumbered from 78-14-7, as enacted by Laws of Utah 1976, Chapter 23)
1177 **78B-3-410**, (Renumbered from 78-14-7.1, as last amended by Laws of Utah 2001,
1178 Chapter 246)
1179 **78B-3-411**, (Renumbered from 78-14-7.5, as enacted by Laws of Utah 1985, Chapter
1180 67)
1181 **78B-3-412**, (Renumbered from 78-14-8, as last amended by Laws of Utah 1979,
1182 Chapter 128)
1183 **78B-3-413**, (Renumbered from 78-14-9, as enacted by Laws of Utah 1976, Chapter 23)
1184 **78B-3-414**, (Renumbered from 78-14-9.5, as last amended by Laws of Utah 2007,
1185 Chapter 306)
1186 **78B-3-415**, (Renumbered from 78-14-10, as enacted by Laws of Utah 1976, Chapter
1187 23)
1188 **78B-3-416**, (Renumbered from 78-14-12, as last amended by Laws of Utah 2002,
1189 Chapter 256)
1190 **78B-3-417**, (Renumbered from 78-14-13, as last amended by Laws of Utah 1994,
1191 Chapter 171)
1192 **78B-3-418**, (Renumbered from 78-14-14, as enacted by Laws of Utah 1985, Chapter
1193 238)
1194 **78B-3-419**, (Renumbered from 78-14-15, as last amended by Laws of Utah 1994,
1195 Chapter 171)
1196 **78B-3-420**, (Renumbered from 78-14-16, as enacted by Laws of Utah 1985, Chapter
1197 238)
1198 **78B-3-421**, (Renumbered from 78-14-17, as last amended by Laws of Utah 2004,
1199 Chapter 83)
1200 **78B-3-422**, (Renumbered from 78-14-18, as enacted by Laws of Utah 2006, Chapter
1201 225)
1202 **78B-3-501**, (Renumbered from 78-14a-101, as last amended by Laws of Utah 2001,
1203 Chapter 40)
1204 **78B-3-502**, (Renumbered from 78-14a-102, as last amended by Laws of Utah 1994,
1205 Chapter 260)

1206 **78B-3-601**, (Renumbered from 78-17-1, as enacted by Laws of Utah 1986, Chapter
1207 143)
1208 **78B-3-602**, (Renumbered from 78-17-2, as enacted by Laws of Utah 1986, Chapter
1209 143)
1210 **78B-3-603**, (Renumbered from 78-17-3, as last amended by Laws of Utah 2004,
1211 Chapter 267)
1212 **78B-3-604**, (Renumbered from 78-17-4, as enacted by Laws of Utah 1986, Chapter
1213 143)
1214 **78B-3-701**, (Renumbered from 78-20-101, as last amended by Laws of Utah 2007,
1215 Chapter 22)
1216 **78B-3-702**, (Renumbered from 78-20-102, as last amended by Laws of Utah 2007,
1217 Chapter 22)
1218 **78B-3-703**, (Renumbered from 78-20-103, as last amended by Laws of Utah 2007,
1219 Chapter 22)
1220 **78B-4-101**, (Renumbered from 78-19-1, as last amended by Laws of Utah 2004,
1221 Chapter 267)
1222 **78B-4-102**, (Renumbered from 78-19-2, as enacted by Laws of Utah 1990, Chapter 4)
1223 **78B-4-103**, (Renumbered from 78-19-3, as enacted by Laws of Utah 1990, Chapter 4)
1224 **78B-4-201**, (Renumbered from 78-27b-101, as last amended by Laws of Utah 2003,
1225 Chapter 175)
1226 **78B-4-202**, (Renumbered from 78-27b-102, as last amended by Laws of Utah 2003,
1227 Chapter 175)
1228 **78B-4-203**, (Renumbered from 78-27b-103, as enacted by Laws of Utah 2003, Chapter
1229 175)
1230 **78B-4-301**, (Renumbered from 78-27d-101, as enacted by Laws of Utah 2004, Chapter
1231 194)
1232 **78B-4-302**, (Renumbered from 78-27d-102, as enacted by Laws of Utah 2004, Chapter
1233 194)
1234 **78B-4-303**, (Renumbered from 78-27d-103, as enacted by Laws of Utah 2004, Chapter
1235 194)
1236 **78B-4-304**, (Renumbered from 78-27d-104, as enacted by Laws of Utah 2004, Chapter

1237 194)
1238 **78B-4-305**, (Renumbered from 78-27d-105, as enacted by Laws of Utah 2004, Chapter
1239 194)
1240 **78B-4-306**, (Renumbered from 78-27d-106, as enacted by Laws of Utah 2004, Chapter
1241 194)
1242 **78B-4-401**, (Renumbered from 78-27-51, as enacted by Laws of Utah 1979, Chapter
1243 166)
1244 **78B-4-402**, (Renumbered from 78-27-52, as last amended by Laws of Utah 2006,
1245 Chapter 126)
1246 **78B-4-403**, (Renumbered from 78-27-53, as last amended by Laws of Utah 1986,
1247 Chapter 199)
1248 **78B-4-404**, (Renumbered from 78-27-54, as enacted by Laws of Utah 1979, Chapter
1249 166)
1250 **78B-4-501**, (Renumbered from 78-11-22, as last amended by Laws of Utah 2004,
1251 Chapter 90)
1252 **78B-4-502**, (Renumbered from 78-11-22.1, as enacted by Laws of Utah 1989, Chapter
1253 106)
1254 **78B-4-503**, (Renumbered from 78-27-59, as enacted by Laws of Utah 1986, Chapter
1255 179)
1256 **78B-4-504**, (Renumbered from 78-11-22.2, as last amended by Laws of Utah 2004,
1257 Chapter 280)
1258 **78B-4-505**, (Renumbered from 78-11-28, as enacted by Laws of Utah 2005, Chapter
1259 308)
1260 **78B-4-506**, (Renumbered from 78-27-60, as last amended by Laws of Utah 1997,
1261 Chapter 10)
1262 **78B-4-507**, (Renumbered from 78-27-61, as enacted by Laws of Utah 1998, Chapter
1263 148)
1264 **78B-4-508**, (Renumbered from 78-27-62, as enacted by Laws of Utah 1998, Chapter
1265 200)
1266 **78B-4-509**, (Renumbered from 78-27-63, as last amended by Laws of Utah 2007,
1267 Chapters 280, 329, and 357)

1268 **78B-4-510**, (Renumbered from 78-27-65, as enacted by Laws of Utah 2005, Chapter
1269 85)
1270 **78B-4-511**, (Renumbered from 78-27-64, as enacted by Laws of Utah 2000, Chapter
1271 93)
1272 **78B-5-101**, (Renumbered from 78-21-1, Utah Code Annotated 1953)
1273 **78B-5-102**, (Renumbered from 78-21-2, as last amended by Laws of Utah 1995,
1274 Chapter 20)
1275 **78B-5-103**, (Renumbered from 78-21-3, Utah Code Annotated 1953)
1276 **78B-5-201**, (Renumbered from 78-22-1.5, as last amended by Laws of Utah 2001,
1277 Chapters 306 and 370)
1278 **78B-5-202**, (Renumbered from 78-22-1, as last amended by Laws of Utah 2003,
1279 Chapter 176)
1280 **78B-5-203**, (Renumbered from 78-22-1.1, Utah Code Annotated 1953)
1281 **78B-5-204**, (Renumbered from 78-22-2, Utah Code Annotated 1953)
1282 **78B-5-205**, (Renumbered from 78-22-3, Utah Code Annotated 1953)
1283 **78B-5-206**, (Renumbered from 78-22-4, as last amended by Laws of Utah 1996,
1284 Chapter 198)
1285 **78B-5-301**, (Renumbered from 78-22a-1, as enacted by Laws of Utah 1983, Chapter
1286 169)
1287 **78B-5-302**, (Renumbered from 78-22a-2, as last amended by Laws of Utah 1991,
1288 Chapter 169)
1289 **78B-5-303**, (Renumbered from 78-22a-3, as last amended by Laws of Utah 1986,
1290 Chapter 172)
1291 **78B-5-304**, (Renumbered from 78-22a-4, as enacted by Laws of Utah 1983, Chapter
1292 169)
1293 **78B-5-305**, (Renumbered from 78-22a-5, as last amended by Laws of Utah 2006,
1294 Chapter 43)
1295 **78B-5-306**, (Renumbered from 78-22a-6, as enacted by Laws of Utah 1983, Chapter
1296 169)
1297 **78B-5-307**, (Renumbered from 78-22a-8, as enacted by Laws of Utah 1983, Chapter
1298 169)

1299 **78B-5-401**, (Renumbered from 78-22b-101, as enacted by Laws of Utah 1990, Chapter
1300 200)
1301 **78B-5-402**, (Renumbered from 78-22b-102, as enacted by Laws of Utah 1990, Chapter
1302 200)
1303 **78B-5-403**, (Renumbered from 78-22b-103, as enacted by Laws of Utah 1990, Chapter
1304 200)
1305 **78B-5-404**, (Renumbered from 78-22b-104, as enacted by Laws of Utah 1990, Chapter
1306 200)
1307 **78B-5-405**, (Renumbered from 78-22b-105, as enacted by Laws of Utah 1990, Chapter
1308 200)
1309 **78B-5-406**, (Renumbered from 78-22b-106, as enacted by Laws of Utah 1990, Chapter
1310 200)
1311 **78B-5-407**, (Renumbered from 78-22b-107, as enacted by Laws of Utah 1990, Chapter
1312 200)
1313 **78B-5-408**, (Renumbered from 78-22b-108, as enacted by Laws of Utah 1990, Chapter
1314 200)
1315 **78B-5-409**, (Renumbered from 78-22b-109, as enacted by Laws of Utah 1990, Chapter
1316 200)
1317 **78B-5-410**, (Renumbered from 78-22b-110, as enacted by Laws of Utah 1990, Chapter
1318 200)
1319 **78B-5-411**, (Renumbered from 78-22b-111, as enacted by Laws of Utah 1990, Chapter
1320 200)
1321 **78B-5-412**, (Renumbered from 78-22b-112, as enacted by Laws of Utah 1990, Chapter
1322 200)
1323 **78B-5-413**, (Renumbered from 78-22b-113, as enacted by Laws of Utah 1990, Chapter
1324 200)
1325 **78B-5-414**, (Renumbered from 78-22b-114, as enacted by Laws of Utah 1990, Chapter
1326 200)
1327 **78B-5-415**, (Renumbered from 78-22b-115, as enacted by Laws of Utah 1990, Chapter
1328 200)
1329 **78B-5-416**, (Renumbered from 78-22b-116, as enacted by Laws of Utah 1990, Chapter

1330 200)
1331 **78B-5-501**, (Renumbered from 78-23-1, as enacted by Laws of Utah 1981, Chapter
1332 111)
1333 **78B-5-502**, (Renumbered from 78-23-2, as enacted by Laws of Utah 1981, Chapter
1334 111)
1335 **78B-5-503**, (Renumbered from 78-23-3, as last amended by Laws of Utah 2004,
1336 Chapter 135)
1337 **78B-5-504**, (Renumbered from 78-23-4, as enacted by Laws of Utah 1981, Chapter
1338 111)
1339 **78B-5-505**, (Renumbered from 78-23-5, as last amended by Laws of Utah 2007,
1340 Chapter 323)
1341 **78B-5-506**, (Renumbered from 78-23-8, as last amended by Laws of Utah 2002,
1342 Chapter 72)
1343 **78B-5-507**, (Renumbered from 78-23-9, as last amended by Laws of Utah 2005,
1344 Chapter 234)
1345 **78B-5-508**, (Renumbered from 78-23-10, as last amended by Laws of Utah 2004,
1346 Chapter 7)
1347 **78B-5-509**, (Renumbered from 78-23-11, as enacted by Laws of Utah 1981, Chapter
1348 111)
1349 **78B-5-510**, (Renumbered from 78-23-12, as enacted by Laws of Utah 1981, Chapter
1350 111)
1351 **78B-5-511**, (Renumbered from 78-23-13, as enacted by Laws of Utah 1981, Chapter
1352 111)
1353 **78B-5-512**, (Renumbered from 78-23-14, as enacted by Laws of Utah 1981, Chapter
1354 111)
1355 **78B-5-513**, (Renumbered from 78-23-15, as enacted by Laws of Utah 1981, Chapter
1356 111)
1357 **78B-5-601**, (Renumbered from 78-25-2, Utah Code Annotated 1953)
1358 **78B-5-602**, (Renumbered from 78-25-3, Utah Code Annotated 1953)
1359 **78B-5-603**, (Renumbered from 78-25-4, Utah Code Annotated 1953)
1360 **78B-5-604**, (Renumbered from 78-25-5, Utah Code Annotated 1953)

1361 **78B-5-605**, (Renumbered from 78-25-6, Utah Code Annotated 1953)
1362 **78B-5-606**, (Renumbered from 78-25-7, Utah Code Annotated 1953)
1363 **78B-5-607**, (Renumbered from 78-25-8, Utah Code Annotated 1953)
1364 **78B-5-608**, (Renumbered from 78-25-9, Utah Code Annotated 1953)
1365 **78B-5-609**, (Renumbered from 78-25-10, Utah Code Annotated 1953)
1366 **78B-5-610**, (Renumbered from 78-25-11, Utah Code Annotated 1953)
1367 **78B-5-611**, (Renumbered from 78-25-12, Utah Code Annotated 1953)
1368 **78B-5-612**, (Renumbered from 78-25-13, Utah Code Annotated 1953)
1369 **78B-5-614**, (Renumbered from 78-25-15, Utah Code Annotated 1953)
1370 **78B-5-615**, (Renumbered from 78-25-16, as last amended by Laws of Utah 2007,
1371 Chapter 306)
1372 **78B-5-616**, (Renumbered from 78-25-16.5, as enacted by Laws of Utah 1983, Chapter
1373 165)
1374 **78B-5-617**, (Renumbered from 78-25-17, Utah Code Annotated 1953)
1375 **78B-5-618**, (Renumbered from 78-25-25, as repealed and reenacted by Laws of Utah
1376 2003, Chapter 64)
1377 **78B-5-619**, (Renumbered from 78-25-26, as enacted by Laws of Utah 2006, Chapter
1378 238)
1379 **78B-5-701**, (Renumbered from 78-26-5, as last amended by Laws of Utah 1990,
1380 Chapter 59)
1381 **78B-5-702**, (Renumbered from 78-26-6, Utah Code Annotated 1953)
1382 **78B-5-703**, (Renumbered from 78-26-7, Utah Code Annotated 1953)
1383 **78B-5-704**, (Renumbered from 78-26-8, Utah Code Annotated 1953)
1384 **78B-5-801**, (Renumbered from 78-26-4, Utah Code Annotated 1953)
1385 **78B-5-802**, (Renumbered from 78-27-1, Utah Code Annotated 1953)
1386 **78B-5-803**, (Renumbered from 78-27-2, Utah Code Annotated 1953)
1387 **78B-5-804**, (Renumbered from 78-27-4, as last amended by Laws of Utah 2002,
1388 Chapter 22)
1389 **78B-5-805**, (Renumbered from 78-27-12, Utah Code Annotated 1953)
1390 **78B-5-806**, (Renumbered from 78-27-13, Utah Code Annotated 1953)
1391 **78B-5-807**, (Renumbered from 78-27-14, Utah Code Annotated 1953)

1392 **78B-5-808**, (Renumbered from 78-27-15, as last amended by Laws of Utah 1995,
1393 Chapter 20)
1394 **78B-5-809**, (Renumbered from 78-27-16, Utah Code Annotated 1953)
1395 **78B-5-810**, (Renumbered from 78-27-17, Utah Code Annotated 1953)
1396 **78B-5-811**, (Renumbered from 78-27-18, Utah Code Annotated 1953)
1397 **78B-5-812**, (Renumbered from 78-27-32, as enacted by Laws of Utah 1973, Chapter
1398 208)
1399 **78B-5-813**, (Renumbered from 78-27-33, as last amended by Laws of Utah 1998,
1400 Chapter 282)
1401 **78B-5-814**, (Renumbered from 78-27-34, as last amended by Laws of Utah 1992,
1402 Chapter 30)
1403 **78B-5-815**, (Renumbered from 78-27-35, as enacted by Laws of Utah 1973, Chapter
1404 208)
1405 **78B-5-816**, (Renumbered from 78-27-36, as enacted by Laws of Utah 1973, Chapter
1406 208)
1407 **78B-5-817**, (Renumbered from 78-27-37, as last amended by Laws of Utah 2005,
1408 Chapter 102)
1409 **78B-5-818**, (Renumbered from 78-27-38, as last amended by Laws of Utah 2005,
1410 Chapter 79)
1411 **78B-5-819**, (Renumbered from 78-27-39, as last amended by Laws of Utah 2005,
1412 Chapter 79)
1413 **78B-5-820**, (Renumbered from 78-27-40, as last amended by Laws of Utah 1994,
1414 Chapter 221)
1415 **78B-5-821**, (Renumbered from 78-27-41, as last amended by Laws of Utah 2005,
1416 Chapter 79)
1417 **78B-5-822**, (Renumbered from 78-27-42, as enacted by Laws of Utah 1986, Chapter
1418 199)
1419 **78B-5-823**, (Renumbered from 78-27-43, as last amended by Laws of Utah 2005,
1420 Chapter 102)
1421 **78B-5-824**, (Renumbered from 78-27-44, as last amended by Laws of Utah 1991,
1422 Chapter 123)

1423 **78B-5-825**, (Renumbered from 78-27-56, as last amended by Laws of Utah 1988,
1424 Chapter 92)
1425 **78B-5-826**, (Renumbered from 78-27-56.5, as enacted by Laws of Utah 1986, Chapter
1426 79)
1427 **78B-5-827**, (Renumbered from 78-27-57, as enacted by Laws of Utah 1981, Chapter
1428 155)
1429 **78B-6-102**, (Renumbered from 78-30-1.5, as last amended by Laws of Utah 2000,
1430 Chapter 208)
1431 **78B-6-105**, (Renumbered from 78-30-7, as last amended by Laws of Utah 2006,
1432 Chapter 132)
1433 **78B-6-106**, (Renumbered from 78-30-4.15, as last amended by Laws of Utah 2006,
1434 Chapter 186)
1435 **78B-6-107**, (Renumbered from 78-30-15.1, as last amended by Laws of Utah 1997,
1436 Chapter 10)
1437 **78B-6-108**, (Renumbered from 78-30-8.5, as last amended by Laws of Utah 2004,
1438 Chapter 56)
1439 **78B-6-109**, (Renumbered from 78-30-4.24, as last amended by Laws of Utah 2004,
1440 Chapter 122)
1441 **78B-6-110**, (Renumbered from 78-30-4.13, as last amended by Laws of Utah 2007,
1442 Chapter 196)
1443 **78B-6-111**, (Renumbered from 78-30-4.23, as last amended by Laws of Utah 2004,
1444 Chapter 122)
1445 **78B-6-112**, (Renumbered from 78-30-7.1, as enacted by Laws of Utah 2007, Chapter
1446 196)
1447 **78B-6-113**, (Renumbered from 78-30-3.6, as last amended by Laws of Utah 2007,
1448 Chapters 152 and 196)
1449 **78B-6-114**, (Renumbered from 78-30-3, as last amended by Laws of Utah 1990,
1450 Chapter 65)
1451 **78B-6-115**, (Renumbered from 78-30-1, as last amended by Laws of Utah 2007,
1452 Chapters 255 and 298)
1453 **78B-6-116**, (Renumbered from 78-30-1.2, as enacted by Laws of Utah 2007, Chapter

1454 298)
1455 **78B-6-118**, (Renumbered from 78-30-2, as last amended by Laws of Utah 1985,
1456 Chapter 20)
1457 **78B-6-119**, (Renumbered from 78-30-3.3, as enacted by Laws of Utah 2005, Chapter
1458 137)
1459 **78B-6-123**, (Renumbered from 78-30-4.21, as last amended by Laws of Utah 2005,
1460 Chapter 137)
1461 **78B-6-124**, (Renumbered from 78-30-4.18, as last amended by Laws of Utah 2007,
1462 Chapter 196)
1463 **78B-6-125**, (Renumbered from 78-30-4.19, as last amended by Laws of Utah 2004,
1464 Chapter 122)
1465 **78B-6-126**, (Renumbered from 78-30-4.20, as renumbered and amended by Laws of
1466 Utah 1995, Chapter 168)
1467 **78B-6-127**, (Renumbered from 78-30-4.17, as enacted by Laws of Utah 1995, Chapter
1468 168)
1469 **78B-6-132**, (Renumbered from 78-30-1.6, as enacted by Laws of Utah 1997, Chapter
1470 195)
1471 **78B-6-133**, (Renumbered from 78-30-4.16, as last amended by Laws of Utah 2007,
1472 Chapter 196)
1473 **78B-6-134**, (Renumbered from 78-30-4.22, as renumbered and amended by Laws of
1474 Utah 1995, Chapter 168)
1475 **78B-6-135**, (Renumbered from 78-30-14, as last amended by Laws of Utah 2007,
1476 Chapter 196)
1477 **78B-6-136**, (Renumbered from 78-30-8, as last amended by Laws of Utah 2007,
1478 Chapter 196)
1479 **78B-6-137**, (Renumbered from 78-30-9, as last amended by Laws of Utah 2000,
1480 Chapter 208)
1481 **78B-6-138**, (Renumbered from 78-30-11, as last amended by Laws of Utah 2007,
1482 Chapter 196)
1483 **78B-6-139**, (Renumbered from 78-30-10, as last amended by Laws of Utah 1990,
1484 Chapters 65 and 245)

1485 **78B-6-140**, (Renumbered from 78-30-15.5, as last amended by Laws of Utah 2005,
1486 Chapter 133)
1487 **78B-6-141**, (Renumbered from 78-30-15, as last amended by Laws of Utah 2007,
1488 Chapter 298)
1489 **78B-6-142**, (Renumbered from 78-30-8.6, as enacted by Laws of Utah 2004, Chapter
1490 56)
1491 **78B-6-143**, (Renumbered from 78-30-17, as enacted by Laws of Utah 1987, Chapter
1492 39)
1493 **78B-6-144**, (Renumbered from 78-30-18, as last amended by Laws of Utah 1995,
1494 Chapter 20)
1495 **78B-6-145**, (Renumbered from 78-30-19, as enacted by Laws of Utah 1987, Chapter
1496 39)
1497 **78B-6-201**, (Renumbered from 78-31b-1, as repealed and reenacted by Laws of Utah
1498 1994, Chapter 228)
1499 **78B-6-202**, (Renumbered from 78-31b-2, as last amended by Laws of Utah 2000,
1500 Chapter 288)
1501 **78B-6-203**, (Renumbered from 78-31b-3, as last amended by Laws of Utah 2000,
1502 Chapter 288)
1503 **78B-6-204**, (Renumbered from 78-31b-4, as last amended by Laws of Utah 2000,
1504 Chapter 288)
1505 **78B-6-205**, (Renumbered from 78-31b-5, as last amended by Laws of Utah 2002,
1506 Chapter 326)
1507 **78B-6-206**, (Renumbered from 78-31b-6, as last amended by Laws of Utah 2004,
1508 Chapter 90)
1509 **78B-6-207**, (Renumbered from 78-31b-7, as last amended by Laws of Utah 2004,
1510 Chapter 150)
1511 **78B-6-208**, (Renumbered from 78-31b-8, as last amended by Laws of Utah 2004,
1512 Chapter 90)
1513 **78B-6-209**, (Renumbered from 78-31b-9, as last amended by Laws of Utah 2007,
1514 Chapter 326)
1515 **78B-6-301**, (Renumbered from 78-32-1, Utah Code Annotated 1953)

1516 **78B-6-302**, (Renumbered from 78-32-3, Utah Code Annotated 1953)
1517 **78B-6-303**, (Renumbered from 78-32-4, Utah Code Annotated 1953)
1518 **78B-6-304**, (Renumbered from 78-32-5, Utah Code Annotated 1953)
1519 **78B-6-305**, (Renumbered from 78-32-6, as last amended by Laws of Utah 1995,
1520 Chapter 20)
1521 **78B-6-306**, (Renumbered from 78-32-7, Utah Code Annotated 1953)
1522 **78B-6-307**, (Renumbered from 78-32-8, Utah Code Annotated 1953)
1523 **78B-6-308**, (Renumbered from 78-32-13, Utah Code Annotated 1953)
1524 **78B-6-309**, (Renumbered from 78-32-9, Utah Code Annotated 1953)
1525 **78B-6-310**, (Renumbered from 78-32-10, as last amended by Laws of Utah 1993,
1526 Chapter 159)
1527 **78B-6-311**, (Renumbered from 78-32-11, Utah Code Annotated 1953)
1528 **78B-6-312**, (Renumbered from 78-32-12, Utah Code Annotated 1953)
1529 **78B-6-314**, (Renumbered from 78-32-2, Utah Code Annotated 1953)
1530 **78B-6-315**, (Renumbered from 78-32-17, as last amended by Laws of Utah 2001,
1531 Chapter 255)
1532 **78B-6-316**, (Renumbered from 78-32-12.1, as last amended by Laws of Utah 2005,
1533 Chapter 129)
1534 **78B-6-401**, (Renumbered from 78-33-1, Utah Code Annotated 1953)
1535 **78B-6-402**, (Renumbered from 78-33-5, Utah Code Annotated 1953)
1536 **78B-6-403**, (Renumbered from 78-33-11, Utah Code Annotated 1953)
1537 **78B-6-404**, (Renumbered from 78-33-6, Utah Code Annotated 1953)
1538 **78B-6-405**, (Renumbered from 78-33-7, Utah Code Annotated 1953)
1539 **78B-6-406**, (Renumbered from 78-33-8, Utah Code Annotated 1953)
1540 **78B-6-407**, (Renumbered from 78-33-9, Utah Code Annotated 1953)
1541 **78B-6-408**, (Renumbered from 78-33-2, Utah Code Annotated 1953)
1542 **78B-6-409**, (Renumbered from 78-33-3, Utah Code Annotated 1953)
1543 **78B-6-410**, (Renumbered from 78-33-4, Utah Code Annotated 1953)
1544 **78B-6-411**, (Renumbered from 78-33-10, Utah Code Annotated 1953)
1545 **78B-6-412**, (Renumbered from 78-33-12, Utah Code Annotated 1953)
1546 **78B-6-501**, (Renumbered from 78-34-1, as last amended by Laws of Utah 2006,

1547 Chapter 358)
1548 **78B-6-502**, (Renumbered from 78-34-2, as last amended by Laws of Utah 1989,
1549 Chapter 76)
1550 **78B-6-503**, (Renumbered from 78-34-3, Utah Code Annotated 1953)
1551 **78B-6-504**, (Renumbered from 78-34-4, as last amended by Laws of Utah 2006,
1552 Chapter 358)
1553 **78B-6-505**, (Renumbered from 78-34-4.5, as last amended by Laws of Utah 2007,
1554 Chapter 306)
1555 **78B-6-506**, (Renumbered from 78-34-5, as last amended by Laws of Utah 2004,
1556 Chapter 223)
1557 **78B-6-507**, (Renumbered from 78-34-6, as last amended by Laws of Utah 1999,
1558 Chapter 190)
1559 **78B-6-508**, (Renumbered from 78-34-7, as last amended by Laws of Utah 2004,
1560 Chapter 101)
1561 **78B-6-509**, (Renumbered from 78-34-8, as last amended by Laws of Utah 1981,
1562 Chapter 161)
1563 **78B-6-510**, (Renumbered from 78-34-9, as last amended by Laws of Utah 2007,
1564 Chapter 306)
1565 **78B-6-511**, (Renumbered from 78-34-10, as last amended by Laws of Utah 2004,
1566 Chapter 101)
1567 **78B-6-512**, (Renumbered from 78-34-11, as last amended by Laws of Utah 2002,
1568 Chapter 156)
1569 **78B-6-513**, (Renumbered from 78-34-12, Utah Code Annotated 1953)
1570 **78B-6-514**, (Renumbered from 78-34-13, Utah Code Annotated 1953)
1571 **78B-6-515**, (Renumbered from 78-34-14, Utah Code Annotated 1953)
1572 **78B-6-516**, (Renumbered from 78-34-15, as last amended by Laws of Utah 1995,
1573 Chapter 20)
1574 **78B-6-517**, (Renumbered from 78-34-16, as last amended by Laws of Utah 1967,
1575 Chapter 220)
1576 **78B-6-518**, (Renumbered from 78-34-17, Utah Code Annotated 1953)
1577 **78B-6-519**, (Renumbered from 78-34-18, Utah Code Annotated 1953)

1578 **78B-6-520**, (Renumbered from 78-34-19, as enacted by Laws of Utah 1981, Chapter
1579 161)
1580 **78B-6-521**, (Renumbered from 78-34-20, as last amended by Laws of Utah 2003,
1581 Chapter 300)
1582 **78B-6-522**, (Renumbered from 78-34-21, as last amended by Laws of Utah 2007,
1583 Chapter 306)
1584 **78B-6-601**, (Renumbered from 78-35-1, Utah Code Annotated 1953)
1585 **78B-6-602**, (Renumbered from 78-35-2, Utah Code Annotated 1953)
1586 **78B-6-603**, (Renumbered from 78-35-3, Utah Code Annotated 1953)
1587 **78B-6-604**, (Renumbered from 78-35-4, Utah Code Annotated 1953)
1588 **78B-6-606**, (Renumbered from 78-35-6, Utah Code Annotated 1953)
1589 **78B-6-607**, (Renumbered from 78-35-7, Utah Code Annotated 1953)
1590 **78B-6-608**, (Renumbered from 78-35-8, Utah Code Annotated 1953)
1591 **78B-6-609**, (Renumbered from 78-35-9, Utah Code Annotated 1953)
1592 **78B-6-610**, (Renumbered from 78-35-10, Utah Code Annotated 1953)
1593 **78B-6-701**, (Renumbered from 78-15-1, as enacted by Laws of Utah 1977, Chapter
1594 149)
1595 **78B-6-703**, (Renumbered from 78-15-6, as enacted by Laws of Utah 1977, Chapter
1596 149)
1597 **78B-6-704**, (Renumbered from 78-15-4, as enacted by Laws of Utah 1977, Chapter
1598 149)
1599 **78B-6-705**, (Renumbered from 78-15-5, as last amended by Laws of Utah 1989,
1600 Chapter 119)
1601 **78B-6-706**, (Renumbered from 78-15-3, as repealed and reenacted by Laws of Utah
1602 1989, Chapter 119)
1603 **78B-6-707**, (Renumbered from 78-15-7, as enacted by Laws of Utah 2000, Chapter
1604 109)
1605 **78B-6-802**, (Renumbered from 78-36-3, as last amended by Laws of Utah 2007,
1606 Chapter 360)
1607 **78B-6-803**, (Renumbered from 78-36-4, as last amended by Laws of Utah 1981,
1608 Chapter 160)

1609 **78B-6-804**, (Renumbered from 78-36-5, Utah Code Annotated 1953)
1610 **78B-6-805**, (Renumbered from 78-36-6, as last amended by Laws of Utah 1997,
1611 Chapter 203)
1612 **78B-6-806**, (Renumbered from 78-36-7, as last amended by Laws of Utah 2007,
1613 Chapter 360)
1614 **78B-6-807**, (Renumbered from 78-36-8, as last amended by Laws of Utah 2007,
1615 Chapter 360)
1616 **78B-6-808**, (Renumbered from 78-36-8.5, as last amended by Laws of Utah 2007,
1617 Chapters 326 and 360)
1618 **78B-6-809**, (Renumbered from 78-36-9, Utah Code Annotated 1953)
1619 **78B-6-810**, (Renumbered from 78-36-9.5, as enacted by Laws of Utah 2007, Chapter
1620 360)
1621 **78B-6-811**, (Renumbered from 78-36-10, as last amended by Laws of Utah 2007,
1622 Chapter 360)
1623 **78B-6-812**, (Renumbered from 78-36-10.5, as last amended by Laws of Utah 2007,
1624 Chapter 360)
1625 **78B-6-813**, (Renumbered from 78-36-11, as last amended by Laws of Utah 1992,
1626 Chapter 141)
1627 **78B-6-814**, (Renumbered from 78-36-12, as enacted by Laws of Utah 1981, Chapter
1628 160)
1629 **78B-6-815**, (Renumbered from 78-36-12.3, as enacted by Laws of Utah 1981, Chapter
1630 160)
1631 **78B-6-816**, (Renumbered from 78-36-12.6, as last amended by Laws of Utah 1997,
1632 Chapter 352)
1633 **78B-6-901**, (Renumbered from 78-37-1, as last amended by Laws of Utah 1965,
1634 Chapter 172)
1635 **78B-6-902**, (Renumbered from 78-37-2, Utah Code Annotated 1953)
1636 **78B-6-903**, (Renumbered from 78-37-3, Utah Code Annotated 1953)
1637 **78B-6-904**, (Renumbered from 78-37-4, Utah Code Annotated 1953)
1638 **78B-6-905**, (Renumbered from 78-37-5, Utah Code Annotated 1953)
1639 **78B-6-906**, (Renumbered from 78-37-6, Utah Code Annotated 1953)

1640 **78B-6-907**, (Renumbered from 78-37-8, Utah Code Annotated 1953)
1641 **78B-6-908**, (Renumbered from 78-37-9, Utah Code Annotated 1953)
1642 **78B-6-909**, (Renumbered from 78-37-1.5, as enacted by Laws of Utah 1993, Chapter
1643 240)
1644 **78B-6-1001**, (Renumbered from 78-38-2, Utah Code Annotated 1953)
1645 **78B-6-1002**, (Renumbered from 78-38-3, Utah Code Annotated 1953)
1646 **78B-6-1003**, (Renumbered from 78-38-4, as last amended by Laws of Utah 1995,
1647 Chapter 20)
1648 **78B-6-1101**, (Renumbered from 78-38-1, as last amended by Laws of Utah 1997,
1649 Chapter 230)
1650 **78B-6-1103**, (Renumbered from 78-38-5, as enacted by Laws of Utah 1981, Chapter
1651 190)
1652 **78B-6-1104**, (Renumbered from 78-38-7, as repealed and reenacted by Laws of Utah
1653 1995, Chapter 73)
1654 **78B-6-1105**, (Renumbered from 78-38-.5, as enacted by Laws of Utah 1997, Chapter
1655 230)
1656 **78B-6-1107**, (Renumbered from 78-38-9, as last amended by Laws of Utah 1999,
1657 Chapter 136)
1658 **78B-6-1108**, (Renumbered from 78-38-10, as enacted by Laws of Utah 1992, Chapter
1659 141)
1660 **78B-6-1109**, (Renumbered from 78-38-11, as enacted by Laws of Utah 1992, Chapter
1661 141)
1662 **78B-6-1110**, (Renumbered from 78-38-12, as enacted by Laws of Utah 1992, Chapter
1663 141)
1664 **78B-6-1111**, (Renumbered from 78-38-13, as enacted by Laws of Utah 1992, Chapter
1665 141)
1666 **78B-6-1112**, (Renumbered from 78-38-14, as enacted by Laws of Utah 1992, Chapter
1667 141)
1668 **78B-6-1113**, (Renumbered from 78-38-15, as enacted by Laws of Utah 1992, Chapter
1669 141)
1670 **78B-6-1114**, (Renumbered from 78-38-16, as last amended by Laws of Utah 1996,

1671 Chapter 69)
1672 **78B-6-1202**, (Renumbered from 78-39-2, Utah Code Annotated 1953)
1673 **78B-6-1203**, (Renumbered from 78-39-3, Utah Code Annotated 1953)
1674 **78B-6-1204**, (Renumbered from 78-39-4, Utah Code Annotated 1953)
1675 **78B-6-1205**, (Renumbered from 78-39-5, Utah Code Annotated 1953)
1676 **78B-6-1206**, (Renumbered from 78-39-6, Utah Code Annotated 1953)
1677 **78B-6-1207**, (Renumbered from 78-39-7, Utah Code Annotated 1953)
1678 **78B-6-1208**, (Renumbered from 78-39-8, Utah Code Annotated 1953)
1679 **78B-6-1209**, (Renumbered from 78-39-9, Utah Code Annotated 1953)
1680 **78B-6-1210**, (Renumbered from 78-39-10, Utah Code Annotated 1953)
1681 **78B-6-1212**, (Renumbered from 78-39-12, Utah Code Annotated 1953)
1682 **78B-6-1213**, (Renumbered from 78-39-13, Utah Code Annotated 1953)
1683 **78B-6-1214**, (Renumbered from 78-39-14, Utah Code Annotated 1953)
1684 **78B-6-1215**, (Renumbered from 78-39-15, as last amended by Laws of Utah 2007,
1685 Chapter 306)
1686 **78B-6-1216**, (Renumbered from 78-39-16, Utah Code Annotated 1953)
1687 **78B-6-1217**, (Renumbered from 78-39-17, Utah Code Annotated 1953)
1688 **78B-6-1218**, (Renumbered from 78-39-18, Utah Code Annotated 1953)
1689 **78B-6-1219**, (Renumbered from 78-39-19, Utah Code Annotated 1953)
1690 **78B-6-1220**, (Renumbered from 78-39-20, Utah Code Annotated 1953)
1691 **78B-6-1221**, (Renumbered from 78-39-21, Utah Code Annotated 1953)
1692 **78B-6-1222**, (Renumbered from 78-39-22, Utah Code Annotated 1953)
1693 **78B-6-1223**, (Renumbered from 78-39-23, Utah Code Annotated 1953)
1694 **78B-6-1224**, (Renumbered from 78-39-24, Utah Code Annotated 1953)
1695 **78B-6-1225**, (Renumbered from 78-39-25, Utah Code Annotated 1953)
1696 **78B-6-1226**, (Renumbered from 78-39-26, Utah Code Annotated 1953)
1697 **78B-6-1227**, (Renumbered from 78-39-27, Utah Code Annotated 1953)
1698 **78B-6-1228**, (Renumbered from 78-39-28, as last amended by Laws of Utah 1995,
1699 Chapter 20)
1700 **78B-6-1229**, (Renumbered from 78-39-29, Utah Code Annotated 1953)
1701 **78B-6-1230**, (Renumbered from 78-39-30, Utah Code Annotated 1953)

1702 **78B-6-1231**, (Renumbered from 78-39-31, Utah Code Annotated 1953)
1703 **78B-6-1232**, (Renumbered from 78-39-32, Utah Code Annotated 1953)
1704 **78B-6-1233**, (Renumbered from 78-39-33, Utah Code Annotated 1953)
1705 **78B-6-1234**, (Renumbered from 78-39-34, Utah Code Annotated 1953)
1706 **78B-6-1235**, (Renumbered from 78-39-35, Utah Code Annotated 1953)
1707 **78B-6-1236**, (Renumbered from 78-39-36, Utah Code Annotated 1953)
1708 **78B-6-1237**, (Renumbered from 78-39-37, Utah Code Annotated 1953)
1709 **78B-6-1238**, (Renumbered from 78-39-38, Utah Code Annotated 1953)
1710 **78B-6-1239**, (Renumbered from 78-39-39, Utah Code Annotated 1953)
1711 **78B-6-1240**, (Renumbered from 78-39-40, Utah Code Annotated 1953)
1712 **78B-6-1241**, (Renumbered from 78-39-41, Utah Code Annotated 1953)
1713 **78B-6-1242**, (Renumbered from 78-39-42, Utah Code Annotated 1953)
1714 **78B-6-1243**, (Renumbered from 78-39-45, Utah Code Annotated 1953)
1715 **78B-6-1244**, (Renumbered from 78-39-46, Utah Code Annotated 1953)
1716 **78B-6-1245**, (Renumbered from 78-39-47, Utah Code Annotated 1953)
1717 **78B-6-1246**, (Renumbered from 78-39-48, Utah Code Annotated 1953)
1718 **78B-6-1247**, (Renumbered from 78-39-49, Utah Code Annotated 1953)
1719 **78B-6-1305**, (Renumbered from 78-40-3, Utah Code Annotated 1953)
1720 **78B-6-1306**, (Renumbered from 78-40-4, Utah Code Annotated 1953)
1721 **78B-6-1307**, (Renumbered from 78-40-5, Utah Code Annotated 1953)
1722 **78B-6-1308**, (Renumbered from 78-40-6, Utah Code Annotated 1953)
1723 **78B-6-1309**, (Renumbered from 78-40-7, Utah Code Annotated 1953)
1724 **78B-6-1310**, (Renumbered from 78-40-8, Utah Code Annotated 1953)
1725 **78B-6-1311**, (Renumbered from 78-40-9, Utah Code Annotated 1953)
1726 **78B-6-1312**, (Renumbered from 78-40-10, Utah Code Annotated 1953)
1727 **78B-6-1314**, (Renumbered from 78-40-12, Utah Code Annotated 1953)
1728 **78B-6-1315**, (Renumbered from 78-40-13, Utah Code Annotated 1953)
1729 **78B-6-1401**, (Renumbered from 78-58-101, as enacted by Laws of Utah 2001, Chapter
1730 163)
1731 **78B-6-1402**, (Renumbered from 78-58-102, as enacted by Laws of Utah 2001, Chapter
1732 163)

1733 **78B-6-1403**, (Renumbered from 78-58-103, as enacted by Laws of Utah 2001, Chapter
1734 163)
1735 **78B-6-1404**, (Renumbered from 78-58-104, as enacted by Laws of Utah 2001, Chapter
1736 163)
1737 **78B-6-1405**, (Renumbered from 78-58-105, as enacted by Laws of Utah 2001, Chapter
1738 163)
1739 **78B-6-1501**, (Renumbered from 78-59-101, as enacted by Laws of Utah 2002, Chapter
1740 99)
1741 **78B-6-1502**, (Renumbered from 78-59-102, as last amended by Laws of Utah 2007,
1742 Chapter 63)
1743 **78B-6-1503**, (Renumbered from 78-59-103, as enacted by Laws of Utah 2002, Chapter
1744 99)
1745 **78B-6-1504**, (Renumbered from 78-59-104, as enacted by Laws of Utah 2002, Chapter
1746 99)
1747 **78B-6-1505**, (Renumbered from 78-59-105, as enacted by Laws of Utah 2002, Chapter
1748 99)
1749 **78B-6-1506**, (Renumbered from 78-59-106, as enacted by Laws of Utah 2002, Chapter
1750 99)
1751 **78B-6-1507**, (Renumbered from 78-59-107, as last amended by Laws of Utah 2007,
1752 Chapter 63)
1753 **78B-6-1508**, (Renumbered from 78-59-108, as enacted by Laws of Utah 2002, Chapter
1754 99)
1755 **78B-7-102**, (Renumbered from 30-6-1, as last amended by Laws of Utah 2006, Chapter
1756 157)
1757 **78B-7-103**, (Renumbered from 30-6-2, as last amended by Laws of Utah 2003, Chapter
1758 68)
1759 **78B-7-104**, (Renumbered from 30-6-3, as last amended by Laws of Utah 2003, Chapter
1760 68)
1761 **78B-7-105**, (Renumbered from 30-6-4, as last amended by Laws of Utah 2006, Chapter
1762 157)
1763 **78B-7-106**, (Renumbered from 30-6-4.2, as last amended by Laws of Utah 2005,

1764 Chapter 156)
1765 **78B-7-107**, (Renumbered from 30-6-4.3, as last amended by Laws of Utah 2001,
1766 Chapter 247)
1767 **78B-7-108**, (Renumbered from 30-6-4.5, as last amended by Laws of Utah 1996,
1768 Chapter 244)
1769 **78B-7-109**, (Renumbered from 30-6-4.1, as last amended by Laws of Utah 1998,
1770 Chapter 282)
1771 **78B-7-110**, (Renumbered from 30-6-4.4, as enacted by Laws of Utah 1995, Chapter
1772 300)
1773 **78B-7-111**, (Renumbered from 30-6-4.6, as enacted by Laws of Utah 1995, Chapter
1774 300)
1775 **78B-7-112**, (Renumbered from 30-6-11, as last amended by Laws of Utah 1996,
1776 Chapter 318)
1777 **78B-7-113**, (Renumbered from 30-6-8, as last amended by Laws of Utah 1998, Chapter
1778 263)
1779 **78B-7-114**, (Renumbered from 30-6-14, as enacted by Laws of Utah 1996, Chapter
1780 244)
1781 **78B-7-115**, (Renumbered from 30-6-15, as enacted by Laws of Utah 2003, Chapter 68)
1782 **78B-7-116**, (Renumbered from 30-6-12, as last amended by Laws of Utah 2006,
1783 Chapter 157)
1784 **78B-7-201**, (Renumbered from 78-3h-101, as last amended by Laws of Utah 2004,
1785 Chapter 201)
1786 **78B-7-202**, (Renumbered from 78-3h-102, as last amended by Laws of Utah 2004,
1787 Chapter 201)
1788 **78B-7-203**, (Renumbered from 78-3h-103, as last amended by Laws of Utah 2004,
1789 Chapter 201)
1790 **78B-7-204**, (Renumbered from 78-3h-104, as last amended by Laws of Utah 2006,
1791 Chapter 157)
1792 **78B-7-205**, (Renumbered from 78-3h-105, as last amended by Laws of Utah 2007,
1793 Chapter 326)
1794 **78B-7-206**, (Renumbered from 78-3h-106, as enacted by Laws of Utah 2003, Chapter

1795 68)
1796 **78B-7-207**, (Renumbered from 78-3h-107, as enacted by Laws of Utah 2003, Chapter
1797 68)
1798 **78B-7-301**, (Renumbered from 30-6a-101, as enacted by Laws of Utah 2006, Chapter
1799 157)
1800 **78B-7-302**, (Renumbered from 30-6a-102, as enacted by Laws of Utah 2006, Chapter
1801 157)
1802 **78B-7-303**, (Renumbered from 30-6a-103, as enacted by Laws of Utah 2006, Chapter
1803 157)
1804 **78B-7-304**, (Renumbered from 30-6a-104, as enacted by Laws of Utah 2006, Chapter
1805 157)
1806 **78B-7-305**, (Renumbered from 30-6a-105, as enacted by Laws of Utah 2006, Chapter
1807 157)
1808 **78B-7-306**, (Renumbered from 30-6a-106, as enacted by Laws of Utah 2006, Chapter
1809 157)
1810 **78B-7-307**, (Renumbered from 30-6a-107, as enacted by Laws of Utah 2006, Chapter
1811 157)
1812 **78B-7-308**, (Renumbered from 30-6a-108, as enacted by Laws of Utah 2006, Chapter
1813 157)
1814 **78B-7-309**, (Renumbered from 30-6a-109, as enacted by Laws of Utah 2006, Chapter
1815 157)
1816 **78B-7-310**, (Renumbered from 30-6a-111, as last amended by Laws of Utah 2006,
1817 Third Special Session, Chapter 3)
1818 **78B-8-102**, (Renumbered from 78-3g-101, as last amended by Laws of Utah 1997,
1819 Chapter 133)
1820 **78B-8-103**, (Renumbered from 78-3g-102, as last amended by Laws of Utah 2003,
1821 Chapter 94)
1822 **78B-8-201**, (Renumbered from 78-18-1, as last amended by Laws of Utah 2006,
1823 Chapter 48)
1824 **78B-8-202**, (Renumbered from 78-18-1.5, as enacted by Laws of Utah 2002, Chapter
1825 314)

1826 **78B-8-203**, (Renumbered from 78-18-2, as enacted by Laws of Utah 1989, Chapter
1827 237)
1828 **78B-8-301**, (Renumbered from 78-12a-1, as enacted by Laws of Utah 1990, Chapter
1829 20)
1830 **78B-8-302**, (Renumbered from 78-12a-2, as last amended by Laws of Utah 2003,
1831 Chapter 204)
1832 **78B-8-303**, (Renumbered from 78-12a-3, as enacted by Laws of Utah 1990, Chapter
1833 20)
1834 **78B-8-304**, (Renumbered from 78-12a-4, as enacted by Laws of Utah 1990, Chapter
1835 20)
1836 **78B-8-401**, (Renumbered from 78-29-101, as last amended by Laws of Utah 2005,
1837 Chapter 243)
1838 **78B-8-402**, (Renumbered from 78-29-102, as last amended by Laws of Utah 2005,
1839 Chapter 243)
1840 **78B-8-403**, (Renumbered from 78-29-103, as last amended by Laws of Utah 2005,
1841 Chapter 243)
1842 **78B-8-404**, (Renumbered from 78-29-104, as enacted by Laws of Utah 2005, Chapter
1843 243)
1844 **78B-8-405**, (Renumbered from 78-29-105, as enacted by Laws of Utah 2005, Chapter
1845 243)
1846 **78B-8-501**, (Renumbered from 78-27a-1, as enacted by Laws of Utah 1983, Chapter
1847 298)
1848 **78B-8-502**, (Renumbered from 78-27a-2, as enacted by Laws of Utah 1983, Chapter
1849 298)
1850 **78B-8-503**, (Renumbered from 78-27a-3, as enacted by Laws of Utah 1983, Chapter
1851 298)
1852 **78B-8-504**, (Renumbered from 78-27a-4, as enacted by Laws of Utah 1983, Chapter
1853 298)
1854 **78B-8-505**, (Renumbered from 78-27a-5, as enacted by Laws of Utah 1983, Chapter
1855 298)
1856 **78B-8-506**, (Renumbered from 78-27a-6, as enacted by Laws of Utah 1983, Chapter

1857 298)
1858 **78B-8-603**, (Renumbered from 78-38-4.7, as enacted by Laws of Utah 1987, Chapter
1859 212)
1860 **78B-8-604**, (Renumbered from 78-38-4.6, as last amended by Laws of Utah 1998,
1861 Chapter 282)
1862 **78B-8-605**, (Renumbered from 78-38-4.8, as enacted by Laws of Utah 1987, Chapter
1863 212)
1864 **78B-8-606**, (Renumbered from 78-38-4.9, as last amended by Laws of Utah 1992,
1865 Chapter 30)
1866 **78B-9-101**, (Renumbered from 78-35a-101, as enacted by Laws of Utah 1996, Chapter
1867 235)
1868 **78B-9-102**, (Renumbered from 78-35a-102, as enacted by Laws of Utah 1996, Chapter
1869 235)
1870 **78B-9-103**, (Renumbered from 78-35a-103, as enacted by Laws of Utah 1996, Chapter
1871 235)
1872 **78B-9-104**, (Renumbered from 78-35a-104, as enacted by Laws of Utah 1996, Chapter
1873 235)
1874 **78B-9-105**, (Renumbered from 78-35a-105, as enacted by Laws of Utah 1996, Chapter
1875 235)
1876 **78B-9-106**, (Renumbered from 78-35a-106, as enacted by Laws of Utah 1996, Chapter
1877 235)
1878 **78B-9-107**, (Renumbered from 78-35a-107, as last amended by Laws of Utah 2004,
1879 Chapter 139)
1880 **78B-9-108**, (Renumbered from 78-35a-108, as enacted by Laws of Utah 1996, Chapter
1881 235)
1882 **78B-9-109**, (Renumbered from 78-35a-109, as enacted by Laws of Utah 1996, Chapter
1883 235)
1884 **78B-9-110**, (Renumbered from 78-35a-110, as enacted by Laws of Utah 1996, Chapter
1885 235)
1886 **78B-9-201**, (Renumbered from 78-35a-201, as renumbered and amended by Laws of
1887 Utah 1997, Chapter 76)

1888 **78B-9-202**, (Renumbered from 78-35a-202, as enacted by Laws of Utah 1997, Chapter
1889 76)
1890 **78B-9-301**, (Renumbered from 78-35a-301, as last amended by Laws of Utah 2007,
1891 Chapter 125)
1892 **78B-9-302**, (Renumbered from 78-35a-302, as enacted by Laws of Utah 2001, Chapter
1893 261)
1894 **78B-9-303**, (Renumbered from 78-35a-303, as enacted by Laws of Utah 2001, Chapter
1895 261)
1896 **78B-9-304**, (Renumbered from 78-35a-304, as enacted by Laws of Utah 2001, Chapter
1897 261)
1898 **78B-10-101**, (Renumbered from 78-31c-101, as enacted by Laws of Utah 2006, Chapter
1899 33)
1900 **78B-10-102**, (Renumbered from 78-31c-102, as enacted by Laws of Utah 2006, Chapter
1901 33)
1902 **78B-10-103**, (Renumbered from 78-31c-103, as enacted by Laws of Utah 2006, Chapter
1903 33)
1904 **78B-10-104**, (Renumbered from 78-31c-104, as enacted by Laws of Utah 2006, Chapter
1905 33)
1906 **78B-10-105**, (Renumbered from 78-31c-105, as enacted by Laws of Utah 2006, Chapter
1907 33)
1908 **78B-10-106**, (Renumbered from 78-31c-106, as enacted by Laws of Utah 2006, Chapter
1909 33)
1910 **78B-10-107**, (Renumbered from 78-31c-107, as enacted by Laws of Utah 2006, Chapter
1911 33)
1912 **78B-10-108**, (Renumbered from 78-31c-108, as enacted by Laws of Utah 2006, Chapter
1913 33)
1914 **78B-10-109**, (Renumbered from 78-31c-109, as enacted by Laws of Utah 2006, Chapter
1915 33)
1916 **78B-10-110**, (Renumbered from 78-31c-110, as enacted by Laws of Utah 2006, Chapter
1917 33)
1918 **78B-10-111**, (Renumbered from 78-31c-111, as enacted by Laws of Utah 2006, Chapter

1919 33)
1920 **78B-10-112**, (Renumbered from 78-31c-112, as enacted by Laws of Utah 2006, Chapter
1921 33)
1922 **78B-10-113**, (Renumbered from 78-31c-113, as enacted by Laws of Utah 2006, Chapter
1923 33)
1924 **78B-10-114**, (Renumbered from 78-31c-114, as enacted by Laws of Utah 2006, Chapter
1925 33)
1926 **78B-11-101**, (Renumbered from 78-31a-101, as enacted by Laws of Utah 2002, Chapter
1927 326)
1928 **78B-11-102**, (Renumbered from 78-31a-102, as enacted by Laws of Utah 2002, Chapter
1929 326)
1930 **78B-11-103**, (Renumbered from 78-31a-103, as enacted by Laws of Utah 2002, Chapter
1931 326)
1932 **78B-11-104**, (Renumbered from 78-31a-104, as enacted by Laws of Utah 2002, Chapter
1933 326)
1934 **78B-11-105**, (Renumbered from 78-31a-105, as enacted by Laws of Utah 2002, Chapter
1935 326)
1936 **78B-11-106**, (Renumbered from 78-31a-106, as enacted by Laws of Utah 2002, Chapter
1937 326)
1938 **78B-11-107**, (Renumbered from 78-31a-107, as enacted by Laws of Utah 2002, Chapter
1939 326)
1940 **78B-11-108**, (Renumbered from 78-31a-108, as enacted by Laws of Utah 2002, Chapter
1941 326)
1942 **78B-11-109**, (Renumbered from 78-31a-109, as enacted by Laws of Utah 2002, Chapter
1943 326)
1944 **78B-11-110**, (Renumbered from 78-31a-110, as enacted by Laws of Utah 2002, Chapter
1945 326)
1946 **78B-11-111**, (Renumbered from 78-31a-111, as enacted by Laws of Utah 2002, Chapter
1947 326)
1948 **78B-11-112**, (Renumbered from 78-31a-112, as enacted by Laws of Utah 2002, Chapter
1949 326)

1950 **78B-11-113**, (Renumbered from 78-31a-113, as enacted by Laws of Utah 2002, Chapter
1951 326)
1952 **78B-11-114**, (Renumbered from 78-31a-114, as enacted by Laws of Utah 2002, Chapter
1953 326)
1954 **78B-11-115**, (Renumbered from 78-31a-115, as enacted by Laws of Utah 2002, Chapter
1955 326)
1956 **78B-11-116**, (Renumbered from 78-31a-116, as enacted by Laws of Utah 2002, Chapter
1957 326)
1958 **78B-11-117**, (Renumbered from 78-31a-117, as enacted by Laws of Utah 2002, Chapter
1959 326)
1960 **78B-11-118**, (Renumbered from 78-31a-118, as last amended by Laws of Utah 2005,
1961 Chapter 100)
1962 **78B-11-119**, (Renumbered from 78-31a-119, as enacted by Laws of Utah 2002, Chapter
1963 326)
1964 **78B-11-120**, (Renumbered from 78-31a-120, as enacted by Laws of Utah 2002, Chapter
1965 326)
1966 **78B-11-121**, (Renumbered from 78-31a-121, as last amended by Laws of Utah 2007,
1967 Chapter 306)
1968 **78B-11-122**, (Renumbered from 78-31a-122, as enacted by Laws of Utah 2002, Chapter
1969 326)
1970 **78B-11-123**, (Renumbered from 78-31a-123, as last amended by Laws of Utah 2005,
1971 Chapter 156)
1972 **78B-11-124**, (Renumbered from 78-31a-124, as enacted by Laws of Utah 2002, Chapter
1973 326)
1974 **78B-11-125**, (Renumbered from 78-31a-125, as enacted by Laws of Utah 2002, Chapter
1975 326)
1976 **78B-11-126**, (Renumbered from 78-31a-126, as enacted by Laws of Utah 2002, Chapter
1977 326)
1978 **78B-11-127**, (Renumbered from 78-31a-127, as enacted by Laws of Utah 2002, Chapter
1979 326)
1980 **78B-11-128**, (Renumbered from 78-31a-128, as enacted by Laws of Utah 2002, Chapter

1981 326)
1982 **78B-11-129**, (Renumbered from 78-31a-129, as enacted by Laws of Utah 2002, Chapter
1983 326)
1984 **78B-11-130**, (Renumbered from 78-31a-130, as enacted by Laws of Utah 2002, Chapter
1985 326)
1986 **78B-11-131**, (Renumbered from 78-31a-131, as enacted by Laws of Utah 2002, Chapter
1987 326)
1988 **78B-12-101**, (Renumbered from 78-45-1, as enacted by Laws of Utah 1957, Chapter
1989 110)
1990 **78B-12-102**, (Renumbered from 78-45-2, as last amended by Laws of Utah 2007,
1991 Chapter 354)
1992 **78B-12-103**, (Renumbered from 78-45-6, as enacted by Laws of Utah 1957, Chapter
1993 110)
1994 **78B-12-104**, (Renumbered from 78-45-8, as enacted by Laws of Utah 1957, Chapter
1995 110)
1996 **78B-12-105**, (Renumbered from 78-45-3, as last amended by Laws of Utah 2000,
1997 Chapter 161)
1998 **78B-12-106**, (Renumbered from 78-45-4.3, as last amended by Laws of Utah 2000,
1999 Chapter 161)
2000 **78B-12-107**, (Renumbered from 78-45-5, as enacted by Laws of Utah 1957, Chapter
2001 110)
2002 **78B-12-108**, (Renumbered from 78-45-4.4, as enacted by Laws of Utah 2000, Chapter
2003 161)
2004 **78B-12-109**, (Renumbered from 78-45-4.5, as enacted by Laws of Utah 2000, Chapter
2005 161)
2006 **78B-12-110**, (Renumbered from 78-45-10, as enacted by Laws of Utah 1957, Chapter
2007 110)
2008 **78B-12-111**, (Renumbered from 78-45-7.1, as last amended by Laws of Utah 1998,
2009 Chapter 188)
2010 **78B-12-112**, (Renumbered from 78-45-9.3, as last amended by Laws of Utah 2003,
2011 Chapter 176)

2012 **78B-12-113**, (Renumbered from 78-45-9, as last amended by Laws of Utah 2003,
2013 Chapter 176)
2014 **78B-12-114**, (Renumbered from 78-45-9.2, as enacted by Laws of Utah 1983, Chapter
2015 119)
2016 **78B-12-115**, (Renumbered from 78-45-11, as enacted by Laws of Utah 1957, Chapter
2017 110)
2018 **78B-12-116**, (Renumbered from 78-45-7.22, as enacted by Laws of Utah 1997, Chapter
2019 232)
2020 **78B-12-117**, (Renumbered from 78-45-12, as enacted by Laws of Utah 1957, Chapter
2021 110)
2022 **78B-12-201**, (Renumbered from 78-45-7.3, as last amended by Laws of Utah 2000,
2023 Chapter 161)
2024 **78B-12-202**, (Renumbered from 78-45-7, as last amended by Laws of Utah 1998,
2025 Chapter 53)
2026 **78B-12-203**, (Renumbered from 78-45-7.5, as last amended by Laws of Utah 2007,
2027 Chapters 306 and 354)
2028 **78B-12-204**, (Renumbered from 78-45-7.6, as enacted by Laws of Utah 1989, Chapter
2029 214)
2030 **78B-12-205**, (Renumbered from 78-45-7.7, as last amended by Laws of Utah 2007,
2031 Chapter 354)
2032 **78B-12-206**, (Renumbered from 78-45-7.12, as last amended by Laws of Utah 1994,
2033 Chapter 118)
2034 **78B-12-207**, (Renumbered from 78-45-7.4, as last amended by Laws of Utah 1994,
2035 Chapter 118)
2036 **78B-12-208**, (Renumbered from 78-45-7.9, as last amended by Laws of Utah 2000,
2037 Chapter 186)
2038 **78B-12-209**, (Renumbered from 78-45-7.8, as last amended by Laws of Utah 1994,
2039 Chapter 118)
2040 **78B-12-210**, (Renumbered from 78-45-7.2, as last amended by Laws of Utah 2007,
2041 Chapters 282 and 354)
2042 **78B-12-211**, (Renumbered from 78-45-7.18, as last amended by Laws of Utah 1994,

2043 Chapter 118)
2044 **78B-12-212**, (Renumbered from 78-45-7.15, as last amended by Laws of Utah 2007,
2045 Chapter 354)
2046 **78B-12-213**, (Renumbered from 78-45-7.19, as last amended by Laws of Utah 1994,
2047 Chapter 118)
2048 **78B-12-214**, (Renumbered from 78-45-7.16, as last amended by Laws of Utah 1994,
2049 Chapter 118)
2050 **78B-12-215**, (Renumbered from 78-45-7.17, as last amended by Laws of Utah 2001,
2051 Chapter 255)
2052 **78B-12-216**, (Renumbered from 78-45-7.11, as last amended by Laws of Utah 2003,
2053 Chapter 176)
2054 **78B-12-217**, (Renumbered from 78-45-7.21, as enacted by Laws of Utah 1994, Chapter
2055 118)
2056 **78B-12-218**, (Renumbered from 78-45-7.20, as enacted by Laws of Utah 1994, Chapter
2057 118)
2058 **78B-12-219**, (Renumbered from 78-45-7.10, as last amended by Laws of Utah 2007,
2059 Chapter 354)
2060 **78B-12-301**, (Renumbered from 78-45-7.14, as last amended by Laws of Utah 2007,
2061 Chapter 354)
2062 **78B-12-401**, (Renumbered from 78-45-7.13, as last amended by Laws of Utah 2003,
2063 Chapter 246)
2064 **78B-13-101**, (Renumbered from 78-45c-101, as enacted by Laws of Utah 2000, Chapter
2065 247)
2066 **78B-13-102**, (Renumbered from 78-45c-102, as last amended by Laws of Utah 2001,
2067 Chapter 255)
2068 **78B-13-103**, (Renumbered from 78-45c-103, as last amended by Laws of Utah 2007,
2069 Chapter 196)
2070 **78B-13-104**, (Renumbered from 78-45c-104, as enacted by Laws of Utah 2000, Chapter
2071 247)
2072 **78B-13-105**, (Renumbered from 78-45c-105, as enacted by Laws of Utah 2000, Chapter
2073 247)

2074 **78B-13-106**, (Renumbered from 78-45c-106, as enacted by Laws of Utah 2000, Chapter
2075 247)
2076 **78B-13-107**, (Renumbered from 78-45c-107, as enacted by Laws of Utah 2000, Chapter
2077 247)
2078 **78B-13-108**, (Renumbered from 78-45c-108, as enacted by Laws of Utah 2000, Chapter
2079 247)
2080 **78B-13-109**, (Renumbered from 78-45c-109, as enacted by Laws of Utah 2000, Chapter
2081 247)
2082 **78B-13-110**, (Renumbered from 78-45c-110, as enacted by Laws of Utah 2000, Chapter
2083 247)
2084 **78B-13-111**, (Renumbered from 78-45c-111, as enacted by Laws of Utah 2000, Chapter
2085 247)
2086 **78B-13-112**, (Renumbered from 78-45c-112, as enacted by Laws of Utah 2000, Chapter
2087 247)
2088 **78B-13-201**, (Renumbered from 78-45c-201, as enacted by Laws of Utah 2000, Chapter
2089 247)
2090 **78B-13-202**, (Renumbered from 78-45c-202, as enacted by Laws of Utah 2000, Chapter
2091 247)
2092 **78B-13-203**, (Renumbered from 78-45c-203, as enacted by Laws of Utah 2000, Chapter
2093 247)
2094 **78B-13-204**, (Renumbered from 78-45c-204, as enacted by Laws of Utah 2000, Chapter
2095 247)
2096 **78B-13-205**, (Renumbered from 78-45c-205, as enacted by Laws of Utah 2000, Chapter
2097 247)
2098 **78B-13-206**, (Renumbered from 78-45c-206, as enacted by Laws of Utah 2000, Chapter
2099 247)
2100 **78B-13-207**, (Renumbered from 78-45c-207, as enacted by Laws of Utah 2000, Chapter
2101 247)
2102 **78B-13-208**, (Renumbered from 78-45c-208, as enacted by Laws of Utah 2000, Chapter
2103 247)
2104 **78B-13-209**, (Renumbered from 78-45c-209, as last amended by Laws of Utah 2001,

2105 Chapter 255)
2106 **78B-13-210**, (Renumbered from 78-45c-210, as enacted by Laws of Utah 2000, Chapter
2107 247)
2108 **78B-13-301**, (Renumbered from 78-45c-301, as enacted by Laws of Utah 2000, Chapter
2109 247)
2110 **78B-13-302**, (Renumbered from 78-45c-302, as enacted by Laws of Utah 2000, Chapter
2111 247)
2112 **78B-13-303**, (Renumbered from 78-45c-303, as enacted by Laws of Utah 2000, Chapter
2113 247)
2114 **78B-13-304**, (Renumbered from 78-45c-304, as last amended by Laws of Utah 2001,
2115 Chapter 255)
2116 **78B-13-305**, (Renumbered from 78-45c-305, as last amended by Laws of Utah 2001,
2117 Chapter 255)
2118 **78B-13-306**, (Renumbered from 78-45c-306, as enacted by Laws of Utah 2000, Chapter
2119 247)
2120 **78B-13-307**, (Renumbered from 78-45c-307, as enacted by Laws of Utah 2000, Chapter
2121 247)
2122 **78B-13-308**, (Renumbered from 78-45c-308, as enacted by Laws of Utah 2000, Chapter
2123 247)
2124 **78B-13-309**, (Renumbered from 78-45c-309, as enacted by Laws of Utah 2000, Chapter
2125 247)
2126 **78B-13-310**, (Renumbered from 78-45c-310, as enacted by Laws of Utah 2000, Chapter
2127 247)
2128 **78B-13-311**, (Renumbered from 78-45c-311, as enacted by Laws of Utah 2000, Chapter
2129 247)
2130 **78B-13-312**, (Renumbered from 78-45c-312, as enacted by Laws of Utah 2000, Chapter
2131 247)
2132 **78B-13-313**, (Renumbered from 78-45c-313, as enacted by Laws of Utah 2000, Chapter
2133 247)
2134 **78B-13-314**, (Renumbered from 78-45c-314, as last amended by Laws of Utah 2004,
2135 Chapter 93)

2136 **78B-13-315**, (Renumbered from 78-45c-315, as enacted by Laws of Utah 2000, Chapter
2137 247)
2138 **78B-13-316**, (Renumbered from 78-45c-316, as enacted by Laws of Utah 2000, Chapter
2139 247)
2140 **78B-13-317**, (Renumbered from 78-45c-317, as enacted by Laws of Utah 2000, Chapter
2141 247)
2142 **78B-13-318**, (Renumbered from 78-45c-318, as enacted by Laws of Utah 2000, Chapter
2143 247)
2144 **78B-14-101**, (Renumbered from 78-45f-100, as renumbered and amended by Laws of
2145 Utah 1997, Chapter 232)
2146 **78B-14-102**, (Renumbered from 78-45f-101, as last amended by Laws of Utah 2004,
2147 Chapter 78)
2148 **78B-14-103**, (Renumbered from 78-45f-102, as renumbered and amended by Laws of
2149 Utah 1997, Chapter 232)
2150 **78B-14-104**, (Renumbered from 78-45f-103, as last amended by Laws of Utah 2004,
2151 Chapter 78)
2152 **78B-14-201**, (Renumbered from 78-45f-201, as last amended by Laws of Utah 2004,
2153 Chapter 78)
2154 **78B-14-202**, (Renumbered from 78-45f-202, as repealed and reenacted by Laws of
2155 Utah 2004, Chapter 78)
2156 **78B-14-203**, (Renumbered from 78-45f-203, as renumbered and amended by Laws of
2157 Utah 1997, Chapter 232)
2158 **78B-14-204**, (Renumbered from 78-45f-204, as renumbered and amended by Laws of
2159 Utah 1997, Chapter 232)
2160 **78B-14-205**, (Renumbered from 78-45f-205, as last amended by Laws of Utah 2004,
2161 Chapter 78)
2162 **78B-14-206**, (Renumbered from 78-45f-206, as last amended by Laws of Utah 2004,
2163 Chapter 78)
2164 **78B-14-207**, (Renumbered from 78-45f-207, as last amended by Laws of Utah 2004,
2165 Chapter 78)
2166 **78B-14-208**, (Renumbered from 78-45f-208, as last amended by Laws of Utah 2004,

2167 Chapter 78)
2168 **78B-14-209**, (Renumbered from 78-45f-209, as last amended by Laws of Utah 2004,
2169 Chapter 78)
2170 **78B-14-210**, (Renumbered from 78-45f-210, as enacted by Laws of Utah 2004, Chapter
2171 78)
2172 **78B-14-211**, (Renumbered from 78-45f-211, as enacted by Laws of Utah 2004, Chapter
2173 78)
2174 **78B-14-301**, (Renumbered from 78-45f-301, as last amended by Laws of Utah 2004,
2175 Chapter 78)
2176 **78B-14-302**, (Renumbered from 78-45f-302, as renumbered and amended by Laws of
2177 Utah 1997, Chapter 232)
2178 **78B-14-303**, (Renumbered from 78-45f-303, as last amended by Laws of Utah 2004,
2179 Chapter 78)
2180 **78B-14-304**, (Renumbered from 78-45f-304, as last amended by Laws of Utah 2004,
2181 Chapter 78)
2182 **78B-14-305**, (Renumbered from 78-45f-305, as last amended by Laws of Utah 2004,
2183 Chapter 78)
2184 **78B-14-306**, (Renumbered from 78-45f-306, as last amended by Laws of Utah 2004,
2185 Chapter 78)
2186 **78B-14-307**, (Renumbered from 78-45f-307, as last amended by Laws of Utah 2004,
2187 Chapter 78)
2188 **78B-14-308**, (Renumbered from 78-45f-308, as last amended by Laws of Utah 2004,
2189 Chapter 78)
2190 **78B-14-309**, (Renumbered from 78-45f-309, as renumbered and amended by Laws of
2191 Utah 1997, Chapter 232)
2192 **78B-14-310**, (Renumbered from 78-45f-310, as last amended by Laws of Utah 2004,
2193 Chapter 78)
2194 **78B-14-311**, (Renumbered from 78-45f-311, as last amended by Laws of Utah 2004,
2195 Chapter 78)
2196 **78B-14-312**, (Renumbered from 78-45f-312, as repealed and reenacted by Laws of
2197 Utah 2004, Chapter 78)

2198 **78B-14-313**, (Renumbered from 78-45f-313, as renumbered and amended by Laws of
2199 Utah 1997, Chapter 232)
2200 **78B-14-314**, (Renumbered from 78-45f-314, as last amended by Laws of Utah 2004,
2201 Chapter 78)
2202 **78B-14-315**, (Renumbered from 78-45f-315, as renumbered and amended by Laws of
2203 Utah 1997, Chapter 232)
2204 **78B-14-316**, (Renumbered from 78-45f-316, as last amended by Laws of Utah 2004,
2205 Chapter 78)
2206 **78B-14-317**, (Renumbered from 78-45f-317, as last amended by Laws of Utah 2004,
2207 Chapter 78)
2208 **78B-14-318**, (Renumbered from 78-45f-318, as renumbered and amended by Laws of
2209 Utah 1997, Chapter 232)
2210 **78B-14-319**, (Renumbered from 78-45f-319, as last amended by Laws of Utah 2004,
2211 Chapter 78)
2212 **78B-14-401**, (Renumbered from 78-45f-401, as last amended by Laws of Utah 2004,
2213 Chapter 78)
2214 **78B-14-501**, (Renumbered from 78-45f-501, as last amended by Laws of Utah 2004,
2215 Chapter 78)
2216 **78B-14-502**, (Renumbered from 78-45f-502, as last amended by Laws of Utah 2004,
2217 Chapter 78)
2218 **78B-14-503**, (Renumbered from 78-45f-503, as last amended by Laws of Utah 2004,
2219 Chapter 78)
2220 **78B-14-504**, (Renumbered from 78-45f-504, as enacted by Laws of Utah 1997, Chapter
2221 232)
2222 **78B-14-505**, (Renumbered from 78-45f-505, as enacted by Laws of Utah 1997, Chapter
2223 232)
2224 **78B-14-506**, (Renumbered from 78-45f-506, as last amended by Laws of Utah 2004,
2225 Chapter 78)
2226 **78B-14-507**, (Renumbered from 78-45f-507, as last amended by Laws of Utah 2004,
2227 Chapter 78)
2228 **78B-14-601**, (Renumbered from 78-45f-601, as last amended by Laws of Utah 2004,

2229 Chapter 78)
2230 **78B-14-602**, (Renumbered from 78-45f-602, as last amended by Laws of Utah 2004,
2231 Chapter 78)
2232 **78B-14-603**, (Renumbered from 78-45f-603, as renumbered and amended by Laws of
2233 Utah 1997, Chapter 232)
2234 **78B-14-604**, (Renumbered from 78-45f-604, as last amended by Laws of Utah 2004,
2235 Chapter 78)
2236 **78B-14-605**, (Renumbered from 78-45f-605, as last amended by Laws of Utah 2004,
2237 Chapter 78)
2238 **78B-14-606**, (Renumbered from 78-45f-606, as last amended by Laws of Utah 2000,
2239 Chapter 161)
2240 **78B-14-607**, (Renumbered from 78-45f-607, as last amended by Laws of Utah 2004,
2241 Chapter 78)
2242 **78B-14-608**, (Renumbered from 78-45f-608, as renumbered and amended by Laws of
2243 Utah 1997, Chapter 232)
2244 **78B-14-609**, (Renumbered from 78-45f-609, as renumbered and amended by Laws of
2245 Utah 1997, Chapter 232)
2246 **78B-14-610**, (Renumbered from 78-45f-610, as last amended by Laws of Utah 2004,
2247 Chapter 78)
2248 **78B-14-611**, (Renumbered from 78-45f-611, as last amended by Laws of Utah 2004,
2249 Chapter 78)
2250 **78B-14-612**, (Renumbered from 78-45f-612, as last amended by Laws of Utah 2004,
2251 Chapter 78)
2252 **78B-14-613**, (Renumbered from 78-45f-613, as enacted by Laws of Utah 1997, Chapter
2253 232)
2254 **78B-14-614**, (Renumbered from 78-45f-614, as enacted by Laws of Utah 1997, Chapter
2255 232)
2256 **78B-14-615**, (Renumbered from 78-45f-615, as enacted by Laws of Utah 2004, Chapter
2257 78)
2258 **78B-14-701**, (Renumbered from 78-45f-701, as last amended by Laws of Utah 2004,
2259 Chapter 78)

2260 **78B-14-801**, (Renumbered from 78-45f-801, as last amended by Laws of Utah 2004,
2261 Chapter 78)
2262 **78B-14-802**, (Renumbered from 78-45f-802, as last amended by Laws of Utah 2004,
2263 Chapter 78)
2264 **78B-14-901**, (Renumbered from 78-45f-901, as last amended by Laws of Utah 2004,
2265 Chapter 78)
2266 **78B-15-101**, (Renumbered from 78-45g-101, as enacted by Laws of Utah 2005,
2267 Chapter 150)
2268 **78B-15-102**, (Renumbered from 78-45g-102, as enacted by Laws of Utah 2005,
2269 Chapter 150)
2270 **78B-15-103**, (Renumbered from 78-45g-103, as enacted by Laws of Utah 2005,
2271 Chapter 150)
2272 **78B-15-104**, (Renumbered from 78-45g-104, as enacted by Laws of Utah 2005,
2273 Chapter 150)
2274 **78B-15-105**, (Renumbered from 78-45g-105, as enacted by Laws of Utah 2005,
2275 Chapter 150)
2276 **78B-15-106**, (Renumbered from 78-45g-106, as enacted by Laws of Utah 2005,
2277 Chapter 150)
2278 **78B-15-107**, (Renumbered from 78-45g-107, as enacted by Laws of Utah 2005,
2279 Chapter 150)
2280 **78B-15-108**, (Renumbered from 78-45g-108, as enacted by Laws of Utah 2005,
2281 Chapter 150)
2282 **78B-15-109**, (Renumbered from 78-45g-109, as enacted by Laws of Utah 2005,
2283 Chapter 150)
2284 **78B-15-110**, (Renumbered from 78-45g-110, as enacted by Laws of Utah 2005,
2285 Chapter 150)
2286 **78B-15-111**, (Renumbered from 78-45g-111, as enacted by Laws of Utah 2005,
2287 Chapter 150)
2288 **78B-15-112**, (Renumbered from 78-45g-112, as enacted by Laws of Utah 2005,
2289 Chapter 150)
2290 **78B-15-113**, (Renumbered from 78-45g-113, as enacted by Laws of Utah 2005,

2291 Chapter 150)
2292 **78B-15-114**, (Renumbered from 78-45g-114, as enacted by Laws of Utah 2005,
2293 Chapter 150)
2294 **78B-15-115**, (Renumbered from 78-45g-115, as enacted by Laws of Utah 2005,
2295 Chapter 150)
2296 **78B-15-201**, (Renumbered from 78-45g-201, as enacted by Laws of Utah 2005,
2297 Chapter 150)
2298 **78B-15-202**, (Renumbered from 78-45g-202, as enacted by Laws of Utah 2005,
2299 Chapter 150)
2300 **78B-15-203**, (Renumbered from 78-45g-203, as enacted by Laws of Utah 2005,
2301 Chapter 150)
2302 **78B-15-204**, (Renumbered from 78-45g-204, as enacted by Laws of Utah 2005,
2303 Chapter 150)
2304 **78B-15-301**, (Renumbered from 78-45g-301, as enacted by Laws of Utah 2005,
2305 Chapter 150)
2306 **78B-15-302**, (Renumbered from 78-45g-302, as enacted by Laws of Utah 2005,
2307 Chapter 150)
2308 **78B-15-303**, (Renumbered from 78-45g-303, as enacted by Laws of Utah 2005,
2309 Chapter 150)
2310 **78B-15-304**, (Renumbered from 78-45g-304, as enacted by Laws of Utah 2005,
2311 Chapter 150)
2312 **78B-15-305**, (Renumbered from 78-45g-305, as enacted by Laws of Utah 2005,
2313 Chapter 150)
2314 **78B-15-306**, (Renumbered from 78-45g-306, as last amended by Laws of Utah 2006,
2315 Chapter 186)
2316 **78B-15-307**, (Renumbered from 78-45g-307, as enacted by Laws of Utah 2005,
2317 Chapter 150)
2318 **78B-15-308**, (Renumbered from 78-45g-308, as enacted by Laws of Utah 2005,
2319 Chapter 150)
2320 **78B-15-309**, (Renumbered from 78-45g-309, as enacted by Laws of Utah 2005,
2321 Chapter 150)

2322 **78B-15-310**, (Renumbered from 78-45g-310, as enacted by Laws of Utah 2005,
2323 Chapter 150)
2324 **78B-15-311**, (Renumbered from 78-45g-311, as enacted by Laws of Utah 2005,
2325 Chapter 150)
2326 **78B-15-312**, (Renumbered from 78-45g-312, as enacted by Laws of Utah 2005,
2327 Chapter 150)
2328 **78B-15-313**, (Renumbered from 78-45g-313, as enacted by Laws of Utah 2005,
2329 Chapter 150)
2330 **78B-15-401**, (Renumbered from 78-45g-401, as enacted by Laws of Utah 2005,
2331 Chapter 150)
2332 **78B-15-402**, (Renumbered from 78-45g-402, as enacted by Laws of Utah 2005,
2333 Chapter 150)
2334 **78B-15-403**, (Renumbered from 78-45g-403, as enacted by Laws of Utah 2005,
2335 Chapter 150)
2336 **78B-15-404**, (Renumbered from 78-45g-404, as enacted by Laws of Utah 2005,
2337 Chapter 150)
2338 **78B-15-405**, (Renumbered from 78-45g-405, as enacted by Laws of Utah 2005,
2339 Chapter 150)
2340 **78B-15-406**, (Renumbered from 78-45g-406, as last amended by Laws of Utah 2007,
2341 Chapter 229)
2342 **78B-15-407**, (Renumbered from 78-45g-407, as enacted by Laws of Utah 2005,
2343 Chapter 150)
2344 **78B-15-408**, (Renumbered from 78-45g-408, as enacted by Laws of Utah 2005,
2345 Chapter 150)
2346 **78B-15-409**, (Renumbered from 78-45g-409, as enacted by Laws of Utah 2005,
2347 Chapter 150)
2348 **78B-15-410**, (Renumbered from 78-45g-410, as enacted by Laws of Utah 2005,
2349 Chapter 150)
2350 **78B-15-501**, (Renumbered from 78-45g-501, as enacted by Laws of Utah 2005,
2351 Chapter 150)
2352 **78B-15-502**, (Renumbered from 78-45g-502, as enacted by Laws of Utah 2005,

2353 Chapter 150)
2354 **78B-15-503**, (Renumbered from 78-45g-503, as enacted by Laws of Utah 2005,
2355 Chapter 150)
2356 **78B-15-504**, (Renumbered from 78-45g-504, as enacted by Laws of Utah 2005,
2357 Chapter 150)
2358 **78B-15-505**, (Renumbered from 78-45g-505, as enacted by Laws of Utah 2005,
2359 Chapter 150)
2360 **78B-15-506**, (Renumbered from 78-45g-506, as enacted by Laws of Utah 2005,
2361 Chapter 150)
2362 **78B-15-507**, (Renumbered from 78-45g-507, as enacted by Laws of Utah 2005,
2363 Chapter 150)
2364 **78B-15-508**, (Renumbered from 78-45g-508, as enacted by Laws of Utah 2005,
2365 Chapter 150)
2366 **78B-15-509**, (Renumbered from 78-45g-509, as enacted by Laws of Utah 2005,
2367 Chapter 150)
2368 **78B-15-510**, (Renumbered from 78-45g-510, as enacted by Laws of Utah 2005,
2369 Chapter 150)
2370 **78B-15-511**, (Renumbered from 78-45g-511, as enacted by Laws of Utah 2005,
2371 Chapter 150)
2372 **78B-15-601**, (Renumbered from 78-45g-601, as enacted by Laws of Utah 2005,
2373 Chapter 150)
2374 **78B-15-602**, (Renumbered from 78-45g-602, as enacted by Laws of Utah 2005,
2375 Chapter 150)
2376 **78B-15-603**, (Renumbered from 78-45g-603, as enacted by Laws of Utah 2005,
2377 Chapter 150)
2378 **78B-15-604**, (Renumbered from 78-45g-604, as enacted by Laws of Utah 2005,
2379 Chapter 150)
2380 **78B-15-605**, (Renumbered from 78-45g-605, as enacted by Laws of Utah 2005,
2381 Chapter 150)
2382 **78B-15-606**, (Renumbered from 78-45g-606, as enacted by Laws of Utah 2005,
2383 Chapter 150)

2384 **78B-15-607**, (Renumbered from 78-45g-607, as enacted by Laws of Utah 2005,
2385 Chapter 150)
2386 **78B-15-608**, (Renumbered from 78-45g-608, as enacted by Laws of Utah 2005,
2387 Chapter 150)
2388 **78B-15-609**, (Renumbered from 78-45g-609, as enacted by Laws of Utah 2005,
2389 Chapter 150)
2390 **78B-15-610**, (Renumbered from 78-45g-610, as enacted by Laws of Utah 2005,
2391 Chapter 150)
2392 **78B-15-611**, (Renumbered from 78-45g-611, as enacted by Laws of Utah 2005,
2393 Chapter 150)
2394 **78B-15-612**, (Renumbered from 78-45g-612, as enacted by Laws of Utah 2005,
2395 Chapter 150)
2396 **78B-15-613**, (Renumbered from 78-45g-613, as enacted by Laws of Utah 2005,
2397 Chapter 150)
2398 **78B-15-614**, (Renumbered from 78-45g-614, as enacted by Laws of Utah 2005,
2399 Chapter 150)
2400 **78B-15-615**, (Renumbered from 78-45g-615, as enacted by Laws of Utah 2005,
2401 Chapter 150)
2402 **78B-15-616**, (Renumbered from 78-45g-616, as enacted by Laws of Utah 2005,
2403 Chapter 150)
2404 **78B-15-617**, (Renumbered from 78-45g-617, as enacted by Laws of Utah 2005,
2405 Chapter 150)
2406 **78B-15-618**, (Renumbered from 78-45g-618, as enacted by Laws of Utah 2005,
2407 Chapter 150)
2408 **78B-15-619**, (Renumbered from 78-45g-619, as enacted by Laws of Utah 2005,
2409 Chapter 150)
2410 **78B-15-620**, (Renumbered from 78-45g-620, as enacted by Laws of Utah 2005,
2411 Chapter 150)
2412 **78B-15-621**, (Renumbered from 78-45g-621, as enacted by Laws of Utah 2005,
2413 Chapter 150)
2414 **78B-15-622**, (Renumbered from 78-45g-622, as enacted by Laws of Utah 2005,

2415 Chapter 150)
2416 **78B-15-623**, (Renumbered from 78-45g-623, as enacted by Laws of Utah 2005,
2417 Chapter 150)
2418 **78B-15-701**, (Renumbered from 78-45g-701, as enacted by Laws of Utah 2005,
2419 Chapter 150)
2420 **78B-15-702**, (Renumbered from 78-45g-702, as enacted by Laws of Utah 2005,
2421 Chapter 150)
2422 **78B-15-703**, (Renumbered from 78-45g-703, as enacted by Laws of Utah 2005,
2423 Chapter 150)
2424 **78B-15-704**, (Renumbered from 78-45g-704, as enacted by Laws of Utah 2005,
2425 Chapter 150)
2426 **78B-15-705**, (Renumbered from 78-45g-705, as enacted by Laws of Utah 2005,
2427 Chapter 150)
2428 **78B-15-706**, (Renumbered from 78-45g-706, as enacted by Laws of Utah 2005,
2429 Chapter 150)
2430 **78B-15-707**, (Renumbered from 78-45g-707, as enacted by Laws of Utah 2005,
2431 Chapter 150)
2432 **78B-15-801**, (Renumbered from 78-45g-801, as enacted by Laws of Utah 2005,
2433 Chapter 150)
2434 **78B-15-802**, (Renumbered from 78-45g-802, as enacted by Laws of Utah 2005,
2435 Chapter 150)
2436 **78B-15-803**, (Renumbered from 78-45g-803, as enacted by Laws of Utah 2005,
2437 Chapter 150)
2438 **78B-15-804**, (Renumbered from 78-45g-804, as enacted by Laws of Utah 2005,
2439 Chapter 150)
2440 **78B-15-805**, (Renumbered from 78-45g-805, as enacted by Laws of Utah 2005,
2441 Chapter 150)
2442 **78B-15-806**, (Renumbered from 78-45g-806, as enacted by Laws of Utah 2005,
2443 Chapter 150)
2444 **78B-15-807**, (Renumbered from 78-45g-807, as enacted by Laws of Utah 2005,
2445 Chapter 150)

2446 **78B-15-808**, (Renumbered from 78-45g-808, as enacted by Laws of Utah 2005,
2447 Chapter 150)
2448 **78B-15-809**, (Renumbered from 78-45g-809, as enacted by Laws of Utah 2005,
2449 Chapter 150)
2450 **78B-15-901**, (Renumbered from 78-45g-901, as enacted by Laws of Utah 2005,
2451 Chapter 150)
2452 **78B-15-902**, (Renumbered from 78-45g-902, as enacted by Laws of Utah 2005,
2453 Chapter 150)
2454 **78B-16-101**, (Renumbered from 78-62-101, as enacted by Laws of Utah 2007, Chapter
2455 265)
2456 **78B-16-102**, (Renumbered from 78-62-102, as enacted by Laws of Utah 2007, Chapter
2457 265)
2458 **78B-16-103**, (Renumbered from 78-62-103, as enacted by Laws of Utah 2007, Chapter
2459 265)
2460 **78B-16-104**, (Renumbered from 78-62-104, as enacted by Laws of Utah 2007, Chapter
2461 265)
2462 **78B-16-105**, (Renumbered from 78-62-105, as enacted by Laws of Utah 2007, Chapter
2463 265)
2464 **78B-16-106**, (Renumbered from 78-62-106, as enacted by Laws of Utah 2007, Chapter
2465 265)
2466 **78B-16-107**, (Renumbered from 78-62-107, as enacted by Laws of Utah 2007, Chapter
2467 265)
2468 **78B-16-108**, (Renumbered from 78-62-108, as enacted by Laws of Utah 2007, Chapter
2469 265)
2470 **78B-16-109**, (Renumbered from 78-62-109, as enacted by Laws of Utah 2007, Chapter
2471 265)
2472 **78B-16-110**, (Renumbered from 78-62-110, as enacted by Laws of Utah 2007, Chapter
2473 265)
2474 **78B-16-111**, (Renumbered from 78-62-111, as enacted by Laws of Utah 2007, Chapter
2475 265)
2476 **78B-16-112**, (Renumbered from 78-62-112, as enacted by Laws of Utah 2007, Chapter

2477 265)
2478 REPEALS:
2479 **20A-12-102**, as last amended by Laws of Utah 1999, Chapter 270
2480 **20A-12-103**, as last amended by Laws of Utah 1999, Chapter 270
2481 **30-6a-110**, as enacted by Laws of Utah 2006, Chapter 157
2482 **78-3-17.5**, as enacted by Laws of Utah 1988, Chapter 152
2483 **78-3g-103**, as last amended by Laws of Utah 2005, Chapter 83
2484 **78-7-4**, Utah Code Annotated 1953
2485 **78-7-18**, as last amended by Laws of Utah 1995, Chapter 20
2486 **78-7-20**, as last amended by Laws of Utah 1995, Chapter 20
2487 **78-8-107**, as last amended by Laws of Utah 2006, Chapter 34
2488 **78-11-1**, Utah Code Annotated 1953
2489 **78-11-2**, Utah Code Annotated 1953
2490 **78-11-3**, Utah Code Annotated 1953
2491 **78-11-4**, as last amended by Laws of Utah 1977, Chapter 141
2492 **78-11-5**, as last amended by Laws of Utah 1977, Chapter 141
2493 **78-11-10**, Utah Code Annotated 1953
2494 **78-11-11**, Utah Code Annotated 1953
2495 **78-11-13**, as enacted by Laws of Utah 1953, Chapter 30
2496 **78-11-14**, as last amended by Laws of Utah 1981, Chapter 93
2497 **78-11-15**, as last amended by Laws of Utah 1992, Chapter 30
2498 **78-11-16**, as last amended by Laws of Utah 1991, Chapter 6
2499 **78-11-17**, as enacted by Laws of Utah 1975, Chapter 136
2500 **78-11-18**, as last amended by Laws of Utah 1981, Chapter 93
2501 **78-11-19**, as repealed and reenacted by Laws of Utah 1991, Chapter 6
2502 **78-11-23**, as last amended by Laws of Utah 2001, Chapter 73
2503 **78-11-24**, as enacted by Laws of Utah 1983, Chapter 167
2504 **78-11-25**, as enacted by Laws of Utah 1983, Chapter 167
2505 **78-12-46**, Utah Code Annotated 1953
2506 **78-14-11**, as enacted by Laws of Utah 1976, Chapter 23
2507 **78-25-14**, Utah Code Annotated 1953

2508 **78-27-3**, Utah Code Annotated 1953
2509 **78-30-1.1**, as last amended by Laws of Utah 2006, Chapter 186
2510 **78-30-3.5**, as last amended by Laws of Utah 2007, Chapter 152
2511 **78-30-4.12**, as last amended by Laws of Utah 2006, Chapter 186
2512 **78-30-4.14**, as last amended by Laws of Utah 2007, Chapter 196
2513 **78-30-6**, as last amended by Laws of Utah 1990, Chapter 65
2514 **78-30-14.5**, as enacted by Laws of Utah 1990, Chapter 245
2515 **78-30-16**, as last amended by Laws of Utah 1990, Chapter 65
2516 **78-32-14**, Utah Code Annotated 1953
2517 **78-32-15**, Utah Code Annotated 1953
2518 **78-32-16**, Utah Code Annotated 1953
2519 **78-33-13**, Utah Code Annotated 1953
2520 **78-36-1**, Utah Code Annotated 1953
2521 **78-36-2**, Utah Code Annotated 1953
2522 **78-38-4.5**, as last amended by Laws of Utah 1987, Chapter 212
2523 **78-38-6**, as enacted by Laws of Utah 1981, Chapter 190
2524 **78-38-8**, as enacted by Laws of Utah 1981, Chapter 154
2525 **78-39-1**, Utah Code Annotated 1953
2526 **78-39-11**, as last amended by Laws of Utah 1995, Chapter 20
2527 **78-40-1**, Utah Code Annotated 1953
2528 **78-40-2**, Utah Code Annotated 1953
2529 **78-40-2.5**, as enacted by Laws of Utah 2004, Chapter 366
2530 **78-40-11**, Utah Code Annotated 1953
2531 **78-43-7**, Utah Code Annotated 1953
2532 **78-43-8**, Utah Code Annotated 1953
2533 **78-45-4**, as last amended by Laws of Utah 2000, Chapter 161
2534 **78-45-4.2**, as last amended by Laws of Utah 2000, Chapter 161
2535 **78-45-13**, as enacted by Laws of Utah 1957, Chapter 110
2536 **78-46-3**, as last amended by Laws of Utah 1992, Chapter 219
2537 **78-46-8**, as last amended by Laws of Utah 1992, Chapter 219
2538 **78-46-36**, as renumbered and amended by Laws of Utah 2001, Chapter 46

2539

2540 *Be it enacted by the Legislature of the state of Utah:*

2541 Section 1. Section **7-1-301** is amended to read:

2542 **7-1-301. Powers and duties of commissioner -- Rulemaking.**

2543 Without limiting the other powers, duties, and responsibilities specified in this title, the
2544 commissioner has all the functions, powers, duties, and responsibilities with respect to
2545 institutions, persons, or businesses subject to the jurisdiction of the department contained in
2546 this title, including all of the functions, powers, duties, and responsibilities described in
2547 Subsections (1) through (15).

2548 (1) The commissioner may govern the administration and operation of the department.

2549 (2) The commissioner may supervise the conduct, operation, management,
2550 examination, and statements and reports of examinations of financial institutions and other
2551 persons subject to the jurisdiction of the department.

2552 (3) (a) The commissioner may authorize a state chartered depository institution to
2553 engage in any activity it could engage in, and to grant to that institution all additional rights,
2554 powers, privileges, benefits, or immunities it would possess, if it were chartered under the laws
2555 of the United States.

2556 (b) The commissioner may authorize a depository institution chartered by this state to
2557 engage in any activity that a Utah branch of an out-of-state depository institution of the same
2558 class can engage in, and to grant to the Utah institution all additional rights, powers, privileges,
2559 benefits, or immunities it needs to engage in the activity.

2560 (c) In granting authority under this Subsection (3), the commissioner shall consider:

2561 (i) the need for competitive equality between institutions chartered by this state and
2562 institutions operating in this state that are chartered by another state or by the federal
2563 government; and

2564 (ii) the adverse effect on shareholders, members, depositors, and other customers of
2565 financial institutions chartered by this state if equal power and protection of those institutions,
2566 compared with federally chartered or out-of-state institutions of the same class, are not
2567 promptly available.

2568 (4) The commissioner may safeguard the interest of shareholders, members, depositors,
2569 and other customers of institutions and other persons subject to the jurisdiction of the

2570 department.
2571 (5) (a) The commissioner may establish criteria consistent with this title to be applied
2572 in granting applications for approval of:
2573 (i) a new institution;
2574 (ii) a new branch;
2575 (iii) the relocation of an office or branch;
2576 (iv) a merger;
2577 (v) a consolidation;
2578 (vi) a change in control of an institution or other person subject to the jurisdiction of
2579 the department; and
2580 (vii) other applications specified in this title.
2581 (b) The criteria established under Subsection (5)(a) may not be applied to make it more
2582 difficult for a state chartered institution to obtain approval of an application than for a federally
2583 chartered institution in the same class to obtain approval from the appropriate federal
2584 regulatory agency or administrator.
2585 (6) (a) The commissioner may protect the privacy of the records of any institution
2586 subject to the jurisdiction of the department pertaining to a particular depositor or other
2587 customer of the institution. Rules adopted under this Subsection (6) shall be consistent with
2588 federal laws and regulations applicable to the institution.
2589 (b) Any institution that consents to produce records or that is required to produce
2590 records in compliance with a subpoena or other order of a court of competent jurisdiction or in
2591 compliance with an order obtained pursuant to Sections [~~78-27-45~~] 7-1-1001 through
2592 [~~78-27-50.5~~] 7-1-1007 shall be reimbursed for the cost of retrieval and reproduction of the
2593 records by the party seeking the information. The commissioner may by rule establish the rates
2594 and conditions under which reimbursement is made.
2595 (7) (a) The commissioner may classify all records kept by institutions subject to the
2596 jurisdiction of the department and to prescribe the period for which each class of records is
2597 retained.
2598 (b) Rules adopted under this Subsection (7) for any class of financial institution shall
2599 be consistent with federal laws and regulations applicable to the class.
2600 (c) Rules made under this Subsection (7) shall provide that:

2601 (i) An institution may dispose of any record after retaining it for the period prescribed
2602 by the commissioner for retention of records of its class. If an institution disposes of a record
2603 after the prescribed period, the institution has no duty to produce it in any action or proceeding
2604 and is not liable to any person by reason of that disposition.
2605 (ii) Any institution may keep records in its custody in the form of microfilm or
2606 equivalent reproduction. Any such reproduction shall have the same force and effect as the
2607 original and shall be admissible into evidence as if it were the original.
2608 (d) In adopting rules under this Subsection (7), the commissioner shall take into
2609 consideration:
2610 (i) actions at law and administrative proceedings in which the production of the records
2611 might be necessary or desirable;
2612 (ii) state and federal statutes of limitation applicable to the actions or proceedings;
2613 (iii) the availability from other sources of information contained in these records; and
2614 (iv) other matters the commissioner considers pertinent in formulating rules that
2615 require institutions to retain their records for as short a period as commensurate with the
2616 interest in having the records available of:
2617 (A) customers, members, depositors, and shareholders of the institutions; and
2618 (B) the people of this state.
2619 (8) (a) The commissioner may establish reasonable classes of depository and other
2620 financial institutions including separate classes for:
2621 (i) savings and loan associations and related institutions;
2622 (ii) banks and related institutions;
2623 (iii) credit unions; and
2624 (iv) industrial banks.
2625 (b) If the restrictions or requirements the commissioner imposes are not more stringent
2626 than those applicable under federal law or regulation to federally chartered institutions of the
2627 same class, the commissioner may establish the following for each class in a manner consistent
2628 with this title:
2629 (i) eligible classes and types of investments for the deposits and other funds of those
2630 financial institutions;
2631 (ii) minimum standards, in amounts sufficient to protect depositors and other creditors,

2632 for the amount and types of capital required to engage in the business conducted by each class
2633 or to obtain a license or to establish a branch or additional office of an institution of each class;
2634 (iii) eligible obligations, reserves, and other accounts to be included in the computation
2635 of capital;
2636 (iv) minimum liquidity requirements for financial institutions within each class in
2637 amounts sufficient to meet the demands of depositors and other creditors for liquid funds;
2638 (v) limitations on the amount and type of borrowings by each class of financial
2639 institution in relation to the amount of its capital and the character and condition of its assets
2640 and its deposits and other liabilities;
2641 (vi) limitations on the amount and nature of loans and extensions of credit to any
2642 person or related persons by each class of financial institution in relation to the amount of its
2643 capital; and
2644 (vii) limitations on the amount and nature of loans and extensions of credit by a
2645 financial institution or other person within each class to an executive officer, director, or
2646 principal shareholder of:
2647 (A) the institution or other person;
2648 (B) any company of which the institution or other person is a subsidiary;
2649 (C) any subsidiary of the institution or other person;
2650 (D) any affiliate of the institution; and
2651 (E) a company controlled by an executive officer, director, or principal shareholder of
2652 the institution.
2653 (9) The commissioner may define unfair trade practices of financial institutions and
2654 other persons subject to the jurisdiction of the department and to prohibit or restrict these
2655 practices.
2656 (10) The commissioner may establish reasonable standards to promote the fair and
2657 truthful advertising of:
2658 (a) services offered by a financial institution;
2659 (b) the charges for the services advertised under Subsection (10)(a);
2660 (c) the interest or other compensation to be paid on deposits or any debt instrument
2661 offered for sale by the institution;
2662 (d) the nature and extent of any:

2663 (i) insurance on deposits;
2664 (ii) savings accounts;
2665 (iii) share accounts;
2666 (iv) certificates of deposit;
2667 (v) time deposit accounts;
2668 (vi) NOW accounts;
2669 (vii) share draft accounts;
2670 (viii) transaction accounts; or
2671 (ix) any evidence of indebtedness issued, offered for sale, offered to sell or sold by any
2672 financial institution or other person subject to the jurisdiction of the department; and
2673 (e) the safety or financial soundness of any financial institution or other person subject
2674 to the jurisdiction of the department.
2675 (11) The commissioner may define what constitutes an impairment of capital for each
2676 class of financial institution or other person subject to the jurisdiction of the department.
2677 (12) The commissioner may designate days on which depository institutions are closed
2678 in accordance with Section 7-1-808.
2679 (13) The commissioner may regulate the issuance, advertising, offer for sale, and sale
2680 of a security to the extent authorized by Section 7-1-503.
2681 (14) The commissioner may require the officers of any institution or other person
2682 subject to the commissioner's jurisdiction to open and keep a standard set of books, computer
2683 records, or both for the purpose of keeping accurate and convenient records of the transactions
2684 and accounts of the institution in a manner to enable the commissioner, supervisors, and
2685 department examiners to readily ascertain the institution's true condition. These requirements
2686 shall be consistent with generally accepted accounting principles for financial institutions.
2687 (15) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
2688 the commissioner may adopt and issue rules consistent with the purposes and provisions of this
2689 title, and may revise, amend, or repeal the rules adopted.
2690 Section 2. Section **7-1-1001**, which is renumbered from Section 78-27-45 is
2691 renumbered and amended to read:
2692 **Part 10. Financial Information Privacy**
2693 **[~~78-27-45~~]. 7-1-1001. Written consent or court order for disclosure by financial**

2694 **institution -- Exception.**
2695 (1) As used in [~~Sections 78-27-45 through 78-27-50.5~~] this part:
2696 [~~(a) "Financial institution" means:~~]
2697 [~~(i) a financial institution as defined in Section 7-1-103; or~~]
2698 [~~(ii) a depository institution as defined in Section 7-1-103.~~]
2699 [~~(b)~~] (a) "Governmental entity" means:
2700 (i) the state, including all departments, institutions, boards, divisions, bureaus, offices,
2701 commissions, committees, and elected officials; and
2702 (ii) any political subdivision of the state, including any county, city, town, school
2703 district, public transit district, redevelopment agency, special improvement, or taxing district.
2704 [~~(c)~~] (b) "Nonprotected record" means a record maintained by the financial institution
2705 to facilitate the conduct of its business regarding a person or account, including:
2706 (i) the existence of an account;
2707 (ii) the opening and closing dates of an account;
2708 (iii) the name under which an account is held; and
2709 (iv) the name, address, and telephone number of an account holder.
2710 [~~(d)~~] (c) "Protected record" means a record not defined as a nonprotected record; and
2711 [~~(e)~~] (d) "Record" means information that is:
2712 (i) prepared, owned, received, or retained by a financial institution;
2713 (ii) (A) inscribed on a tangible medium; or
2714 (B) stored in an electronic or other medium; and
2715 (iii) retrievable in perceivable form.
2716 (2) Except as provided in Section [~~78-27-50~~] 7-1-1006, an individual acting in behalf
2717 of a governmental entity may not request, obtain by subpoena, or otherwise obtain information
2718 from a state or federally chartered financial institution that constitutes a record reflecting the
2719 financial condition of any person without first obtaining:
2720 (a) written permission from the person that is named or referenced in the record to be
2721 examined; or
2722 (b) an order from a court of competent jurisdiction permitting access to the record.
2723 (3) This section does not apply to:
2724 (a) a review made by the commissioner of financial institutions to determine whether a

2725 financial institution is operating in accordance with law; or
2726 (b) a report filed as required by Section 76-10-1906.
2727 Section 3. Section **7-1-1002**, which is renumbered from Section 78-27-46 is
2728 renumbered and amended to read:
2729 **[~~78-27-46~~]. 7-1-1002. Notice to person about whom information sought.**
2730 (1) (a) If a court order is obtained pursuant to Section [~~78-27-45~~] 7-1-1001, the
2731 governmental entity that obtained the order shall notify the person about whom information is
2732 sought that a court order has been obtained:
2733 (i) within three days of the day on which service of the order is made upon the financial
2734 institution; and
2735 (ii) no later than seven days before the day fixed in the order as the day upon which the
2736 records are to be produced or examined.
2737 (b) The notice required by Subsection (1)(a) shall be accompanied by:
2738 (i) a copy of the order that has been served upon the financial institution;
2739 (ii) a copy of the motion or application upon which the order is based; and
2740 (iii) a statement setting forth the rights of the person under Section [~~78-27-47~~]
2741 7-1-1003.
2742 (2) (a) The notice shall be sufficient if, on or before the third day after issuance of the
2743 order, notice is:
2744 (i) served in the manner provided in Rule 4[~~(c)~~] (d), Utah Rules of Civil Procedure,
2745 upon the person entitled to notice; or
2746 (ii) mailed by certified or registered mail to the last-known address of the person
2747 entitled to notice.
2748 (b) Notwithstanding Subsection (2)(a), if the person entitled to notice is deceased or
2749 under legal disability, notice shall be served upon or mailed to the last-known address of that
2750 person's executor, administrator, guardian, or other fiduciary.
2751 Section 4. Section **7-1-1003**, which is renumbered from Section 78-27-47 is
2752 renumbered and amended to read:
2753 **[~~78-27-47~~]. 7-1-1003. Intervention to challenge or stay order -- Burden on**
2754 **governmental entity.**
2755 (1) Notwithstanding any other law or rule of law, any person who is entitled to notice

2756 of a court order under Section [~~78-27-46~~] 7-1-1002 shall have the right to intervene in any
2757 proceeding with respect to enforcement of the order to:
2758 (a) challenge the issuance of the order; or
2759 (b) stay compliance with the order.
2760 (2) Upon intervention, the burden shall be on the governmental entity obtaining the
2761 order to show that there is reasonable cause for the issuance of the order.
2762 Section 5. Section **7-1-1004**, which is renumbered from Section 78-27-48 is
2763 renumbered and amended to read:
2764 **[~~78-27-48~~]. 7-1-1004. Reimbursement of financial institution for costs of**
2765 **obtaining information.**
2766 (1) A financial institution shall be entitled to reimbursement by the governmental entity
2767 seeking the information, for costs reasonably and directly incurred in searching for,
2768 reproducing, or transporting books, papers, records, or other data required to be produced if the
2769 financial institution produces the record:
2770 (a) pursuant to permission by the person named or referenced in the record in
2771 accordance with Section [~~78-27-45~~] 7-1-1001;
2772 (b) in compliance with an order obtained under [~~Section 78-27-45 through 78-27-50.5~~]
2773 this part; or
2774 (c) in compliance with an order of a court or administrative body of competent
2775 jurisdiction.
2776 (2) The commissioner of financial institutions shall by rule establish the rates and
2777 conditions under which reimbursement shall be made.
2778 Section 6. Section **7-1-1005**, which is renumbered from Section 78-27-49 is
2779 renumbered and amended to read:
2780 **[~~78-27-49~~]. 7-1-1005. Admissibility of information restricted.**
2781 (1) Information obtained directly or indirectly from a financial institution in violation
2782 of Sections [~~78-27-45~~] 7-1-1001 through [~~78-27-47~~] 7-1-1003 may not be admissible in any
2783 court of this state against the person entitled to notice.
2784 (2) This section does not apply in any action:
2785 (a) between the financial institution and the person otherwise entitled to notice; or
2786 (b) in which it is claimed that the financial institution has been the victim of fraud,

2787 embezzlement or any other criminal act committed by the person otherwise entitled to notice.
2788 Section 7. Section **7-1-1006**, which is renumbered from Section 78-27-50 is
2789 renumbered and amended to read:
2790 **[~~78-27-50~~]. 7-1-1006. Inapplicable to certain official investigations.**
2791 (1) Sections [~~78-27-45~~] 7-1-1001 through [~~78-27-47~~] 7-1-1003 do not apply when an
2792 examination of records is a part of an official investigation by:
2793 (a) local police;
2794 (b) a sheriff;
2795 (c) a peace officer;
2796 (d) a city attorney;
2797 (e) a county attorney;
2798 (f) a district attorney;
2799 (g) the attorney general;
2800 (h) the Department of Public Safety;
2801 (i) the Office of Recovery Services of the Department of Human Services;
2802 (j) the Insurance Department;
2803 (k) the Department of Commerce;
2804 (l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the
2805 Department of Workforce Services;
2806 (m) the state auditor; or
2807 (n) the State Tax Commission.
2808 (2) Except for the Office of Recovery Services, if a governmental entity listed in
2809 Subsection (1) seeks a record, the entity shall obtain the record as follows:
2810 (a) if the record is a nonprotected record, by request in writing that:
2811 (i) certifies that an official investigation is being conducted; and
2812 (ii) is signed by a representative of the governmental entity that is conducting the
2813 official investigation; or
2814 (b) if the record is a protected record, by obtaining:
2815 (i) a subpoena authorized by statute; or
2816 (ii) other legal process:
2817 (A) ordered by a court of competent jurisdiction; and

2818 (B) served upon the financial institution.
2819 (3) If the Office of Recovery Services seeks a record, it shall obtain the record pursuant
2820 to:
2821 (a) Subsection 62A-11-104(7);
2822 (b) Section 62A-11-304.1;
2823 (c) Section 62A-11-304.5; or
2824 (d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.
2825 (4) A financial institution may not give notice to any person named or referenced
2826 within the record disclosed pursuant to Subsection (2)(a).
2827 (5) In accordance with Section [~~78-27-48~~] 7-1-1004, the agency conducting the official
2828 investigation that obtains a record from a financial institution under this section shall reimburse
2829 the financial institution for costs reasonably and directly incurred by the financial institution.
2830 Section 8. Section **7-1-1007**, which is renumbered from Section 78-27-50.5 is
2831 renumbered and amended to read:
2832 **[~~78-27-50.5~~]. 7-1-1007. Liability of financial institutions.**
2833 A financial institution is not liable to any person named or referenced within a record:
2834 (1) for any disclosure that is the result of a subpoena, order, or request made pursuant
2835 to Sections [~~78-27-45~~] 7-1-1001 through [~~78-27-50~~] 7-1-1006 if the financial institution
2836 reasonably believes that the subpoena, order, or request is properly made under Sections
2837 [~~78-27-45~~] 7-1-1001 through [~~78-27-50~~] 7-1-1006; or
2838 (2) for any disclosure or action taken in good faith pursuant to a data match or
2839 administrative subpoena provided for by the statutes listed in Subsection [~~78-27-50~~]
2840 7-1-1006(3).
2841 Section 9. Section **10-8-2** is amended to read:
2842 **10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal**
2843 **authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.**
2844 (1) (a) A municipal legislative body may:
2845 (i) appropriate money for corporate purposes only;
2846 (ii) provide for payment of debts and expenses of the corporation;
2847 (iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and
2848 dispose of real and personal property for the benefit of the municipality, whether the property is

2849 within or without the municipality's corporate boundaries, if the action is in the public interest
2850 and complies with other law;
2851 (iv) improve, protect, and do any other thing in relation to this property that an
2852 individual could do; and
2853 (v) subject to Subsection (2) and after first holding a public hearing, authorize
2854 municipal services or other nonmonetary assistance to be provided to or waive fees required to
2855 be paid by a nonprofit entity, whether or not the municipality receives consideration in return.
2856 (b) A municipality may:
2857 (i) furnish all necessary local public services within the municipality;
2858 (ii) purchase, hire, construct, own, maintain and operate, or lease public utilities
2859 located and operating within and operated by the municipality; and
2860 (iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property
2861 located inside or outside the corporate limits of the municipality and necessary for any of the
2862 purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title [~~78~~]
2863 78B, Chapter [~~34~~] 6, Part 5, Eminent Domain, and general law for the protection of other
2864 communities.
2865 (c) Each municipality that intends to acquire property by eminent domain under
2866 Subsection (1)(b) shall, upon the first contact with the owner of the property sought to be
2867 acquired, deliver to the owner a copy of a booklet or other materials provided by the Office of
2868 the Property Rights Ombudsman, created under Section 13-43-201, dealing with the property
2869 owner's rights in an eminent domain proceeding.
2870 (d) Subsection (1)(b) may not be construed to diminish any other authority a
2871 municipality may claim to have under the law to acquire by eminent domain property located
2872 inside or outside the municipality.
2873 (2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to
2874 the provisions of Subsection (3).
2875 (b) The total amount of services or other nonmonetary assistance provided or fees
2876 waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the
2877 municipality's budget for that fiscal year.
2878 (3) It is considered a corporate purpose to appropriate money for any purpose that, in
2879 the judgment of the municipal legislative body, provides for the safety, health, prosperity,

2880 moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality
2881 subject to the following:
2882 (a) The net value received for any money appropriated shall be measured on a
2883 project-by-project basis over the life of the project.
2884 (b) The criteria for a determination under this Subsection (3) shall be established by the
2885 municipality's legislative body. A determination of value received, made by the municipality's
2886 legislative body, shall be presumed valid unless it can be shown that the determination was
2887 arbitrary, capricious, or illegal.
2888 (c) The municipality may consider intangible benefits received by the municipality in
2889 determining net value received.
2890 (d) Prior to the municipal legislative body making any decision to appropriate any
2891 funds for a corporate purpose under this section, a public hearing shall be held. Notice of the
2892 hearing shall be published in a newspaper of general circulation at least 14 days prior to the
2893 date of the hearing, or, if there is no newspaper of general circulation, by posting notice in at
2894 least three conspicuous places within the municipality for the same time period.
2895 (e) A study shall be performed before notice of the public hearing is given and shall be
2896 made available at the municipality for review by interested parties at least 14 days immediately
2897 prior to the public hearing, setting forth an analysis and demonstrating the purpose for the
2898 appropriation. In making the study, the following factors shall be considered:
2899 (i) what identified benefit the municipality will receive in return for any money or
2900 resources appropriated;
2901 (ii) the municipality's purpose for the appropriation, including an analysis of the way
2902 the appropriation will be used to enhance the safety, health, prosperity, moral well-being,
2903 peace, order, comfort, or convenience of the inhabitants of the municipality; and
2904 (iii) whether the appropriation is necessary and appropriate to accomplish the
2905 reasonable goals and objectives of the municipality in the area of economic development, job
2906 creation, affordable housing, blight elimination, job preservation, the preservation of historic
2907 structures and property, and any other public purpose.
2908 (f) (i) An appeal may be taken from a final decision of the municipal legislative body,
2909 to make an appropriation.
2910 (ii) The appeal shall be filed within 30 days after the date of that decision, to the

2911 district court.
2912 (iii) Any appeal shall be based on the record of the proceedings before the legislative
2913 body.
2914 (iv) A decision of the municipal legislative body shall be presumed to be valid unless
2915 the appealing party shows that the decision was arbitrary, capricious, or illegal.
2916 (g) The provisions of this Subsection (3) apply only to those appropriations made after
2917 May 6, 2002.
2918 (h) This section applies only to appropriations not otherwise approved pursuant to Title
2919 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform
2920 Fiscal Procedures Act for Utah Cities.
2921 (4) (a) Before a municipality may dispose of a significant parcel of real property, the
2922 municipality shall:
2923 (i) provide reasonable notice of the proposed disposition at least 14 days before the
2924 opportunity for public comment under Subsection (4)(a)(ii); and
2925 (ii) allow an opportunity for public comment on the proposed disposition.
2926 (b) Each municipality shall, by ordinance, define what constitutes:
2927 (i) a significant parcel of real property for purposes of Subsection (4)(a); and
2928 (ii) reasonable notice for purposes of Subsection (4)(a)(i).
2929 (5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire
2930 real property for the purpose of expanding the municipality's infrastructure or other facilities
2931 used for providing services that the municipality offers or intends to offer shall provide written
2932 notice, as provided in this Subsection (5), of its intent to acquire the property if:
2933 (i) the property is located:
2934 (A) outside the boundaries of the municipality; and
2935 (B) in a county of the first or second class; and
2936 (ii) the intended use of the property is contrary to:
2937 (A) the anticipated use of the property under the general plan of the county in whose
2938 unincorporated area or the municipality in whose boundaries the property is located; or
2939 (B) the property's current zoning designation.
2940 (b) Each notice under Subsection (5)(a) shall:
2941 (i) indicate that the municipality intends to acquire real property;

2942 (ii) identify the real property; and
2943 (iii) be sent to:
2944 (A) each county in whose unincorporated area and each municipality in whose
2945 boundaries the property is located; and
2946 (B) each affected entity.
2947 (c) A notice under this Subsection (5) is a protected record as provided in Subsection
2948 63-2-304(7).
2949 (d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality
2950 previously provided notice under Section 10-9a-203 identifying the general location within the
2951 municipality or unincorporated part of the county where the property to be acquired is located.
2952 (ii) If a municipality is not required to comply with the notice requirement of
2953 Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide
2954 the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real
2955 property.
2956 Section 10. Section **11-13-313** is amended to read:
2957 **11-13-313. Arbitration of disputes.**
2958 Any impact alleviation contract may provide that disputes between the parties will be
2959 submitted to arbitration pursuant to Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration
2960 Act.
2961 Section 11. Section **11-13-314** is amended to read:
2962 **11-13-314. Eminent domain authority of certain commercial project entities.**
2963 (1) (a) Subject to Subsection (2), a commercial project entity that existed as a project
2964 entity before January 1, 1980 may, with respect to a project or facilities providing additional
2965 project capacity in which the commercial project entity has an interest, acquire property within
2966 the state through eminent domain, subject to restrictions imposed by Title [~~78~~] 78B, Chapter
2967 [~~34~~] 6, Part 5, Eminent Domain, and general law for the protection of other communities.
2968 (b) Subsection (1)(a) may not be construed to:
2969 (i) give a project entity the authority to acquire water rights by eminent domain; or
2970 (ii) diminish any other authority a project entity may claim to have under the law to
2971 acquire property by eminent domain.
2972 (2) Each project entity that intends to acquire property by eminent domain under

2973 Subsection (1)(a) shall, upon the first contact with the owner of the property sought to be
2974 acquired, deliver to the owner a copy of a booklet or other materials provided by the property
2975 rights ombudsman, created under Section 13-43-201, dealing with the property owner's rights
2976 in an eminent domain proceeding.
2977 Section 12. Section **11-36-402** is amended to read:
2978 **11-36-402. Challenging an impact fee by arbitration -- Procedure -- Appeal --**
2979 **Costs.**
2980 (1) Each person or entity intending to challenge an impact fee under Subsection
2981 11-36-401(4)(c)(ii) shall file a written request for arbitration with the local political subdivision
2982 within the time limitation provided in Subsection 11-36-401(4)(b) for the applicable type of
2983 challenge.
2984 (2) If a person or entity files a written request for arbitration under Subsection (1), an
2985 arbitrator or arbitration panel shall be selected as follows:
2986 (a) the local political subdivision and the person or entity filing the request may agree
2987 on a single arbitrator within ten days after the day the request for arbitration is filed; or
2988 (b) if a single arbitrator is not agreed to in accordance with Subsection (2)(a), an
2989 arbitration panel shall be created with the following members:
2990 (i) each party shall select an arbitrator within 20 days after the date the request is filed;
2991 and
2992 (ii) the arbitrators selected under Subsection (2)(b)(i) shall select a third arbitrator.
2993 (3) The arbitration panel shall hold a hearing on the challenge within 30 days after the
2994 date:
2995 (a) the single arbitrator is agreed on under Subsection (2)(a); or
2996 (b) the two arbitrators are selected under Subsection (2)(b)(i).
2997 (4) The arbitrator or arbitration panel shall issue a decision in writing within ten days
2998 from the date the hearing under Subsection (3) is completed.
2999 (5) Except as provided in this section, each arbitration shall be governed by Title [~~78~~]
3000 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act.
3001 (6) The parties may agree to:
3002 (a) binding arbitration;
3003 (b) formal, nonbinding arbitration; or

3004 (c) informal, nonbinding arbitration.
3005 (7) If the parties agree in writing to binding arbitration:
3006 (a) the arbitration shall be binding;
3007 (b) the decision of the arbitration panel shall be final;
3008 (c) neither party may appeal the decision of the arbitration panel; and
3009 (d) notwithstanding Subsection (10), the person or entity challenging the impact fee
3010 may not also challenge the impact fee under Subsection 11-36-401(1), (4)(c)(i), or (4)(c)(iii).
3011 (8) (a) Except as provided in Subsection (8)(b), if the parties agree to formal,
3012 nonbinding arbitration, the arbitration shall be governed by the provisions of Title 63, Chapter
3013 46b, Administrative Procedures Act.
3014 (b) For purposes of applying Title 63, Chapter 46b, Administrative Procedures Act, to
3015 a formal, nonbinding arbitration under this section, notwithstanding Section 63-46b-20,
3016 "agency" means a local political subdivision.
3017 (9) (a) An appeal from a decision in an informal, nonbinding arbitration may be filed
3018 with the district court in which the local political subdivision is located.
3019 (b) Each appeal under Subsection (9)(a) shall be filed within 30 days after the date the
3020 arbitration panel issues a decision under Subsection (4).
3021 (c) The district court shall consider de novo each appeal filed under this Subsection (9).
3022 (d) Notwithstanding Subsection (10), a person or entity that files an appeal under this
3023 Subsection (9) may not also challenge the impact fee under Subsection 11-36-401(1), (4)(c)(i),
3024 or (4)(c)(iii).
3025 (10) (a) Except as provided in Subsections (7)(d) and (9)(d), this section may not be
3026 construed to prohibit a person or entity from challenging an impact fee as provided in
3027 Subsection 11-36-401(1), (4)(c)(i), or (4)(c)(iii).
3028 (b) The filing of a written request for arbitration within the required time in accordance
3029 with Subsection (1) tolls all time limitations under Section 11-36-401 until the date the
3030 arbitration panel issues a decision.
3031 (11) The person or entity filing a request for arbitration and the local political
3032 subdivision shall equally share all costs of an arbitration proceeding under this section.
3033 Section 13. Section **13-42-119** is amended to read:
3034 **13-42-119. Form and contents of agreement.**

3035 (1) An agreement must:
3036 (a) be in a record;
3037 (b) be dated and signed by the provider and the individual;
3038 (c) include the name of the individual and the address where the individual resides;
3039 (d) include the name, business address, and telephone number of the provider;
3040 (e) be delivered to the individual immediately upon formation of the agreement; and
3041 (f) disclose:
3042 (i) the services to be provided;
3043 (ii) the amount, or method of determining the amount, of all fees, individually
3044 itemized, to be paid by the individual;
3045 (iii) the schedule of payments to be made by or on behalf of the individual, including
3046 the amount of each payment, the date on which each payment is due, and an estimate of the
3047 date of the final payment;
3048 (iv) if a plan provides for regular periodic payments to creditors:
3049 (A) each creditor of the individual to which payment will be made, the amount owed to
3050 each creditor, and any concessions the provider reasonably believes each creditor will offer;
3051 and
3052 (B) the schedule of expected payments to each creditor, including the amount of each
3053 payment and the date on which it will be made;
3054 (v) each creditor that the provider believes will not participate in the plan and to which
3055 the provider will not direct payment;
3056 (vi) how the provider will comply with its obligations under Subsection 13-42-127(1);
3057 (vii) that the provider may terminate the agreement for good cause, upon return of
3058 unexpended money of the individual;
3059 (viii) that the individual may cancel the agreement as provided in Section 13-42-120;
3060 (ix) that the individual may contact the administrator with any questions or complaints
3061 regarding the provider; and
3062 (x) the address, telephone number, and Internet address or website of the administrator.
3063 (2) For purposes of Subsection (1)(e), delivery of an electronic record occurs when it is
3064 made available in a format in which the individual may retrieve, save, and print it and the
3065 individual is notified that it is available.

3066 (3) If the administrator supplies the provider with any information required under
3067 Subsection (1)(f)(x), the provider may comply with that requirement only by disclosing the
3068 information supplied by the administrator.
3069 (4) An agreement must provide that:
3070 (a) the individual has a right to terminate the agreement at any time, without penalty or
3071 obligation, by giving the provider written or electronic notice, in which event:
3072 (i) the provider will refund all unexpended money that the provider or its agent has
3073 received from or on behalf of the individual for the reduction or satisfaction of the individual's
3074 debt;
3075 (ii) with respect to an agreement that contemplates that creditors will settle debts for
3076 less than the principal amount of debt, the provider will refund 65% of any portion of the
3077 set-up fee that has not been credited against the settlement fee; and
3078 (iii) all powers of attorney granted by the individual to the provider are revoked and
3079 ineffective;
3080 (b) the individual authorizes any bank in which the provider or its agent has established
3081 a trust account to disclose to the administrator any financial records relating to the trust
3082 account; and
3083 (c) the provider will notify the individual within five days after learning of a creditor's
3084 decision to reject or withdraw from a plan and that this notice will include:
3085 (i) the identity of the creditor; and
3086 (ii) the right of the individual to modify or terminate the agreement.
3087 (5) An agreement may confer on a provider a power of attorney to settle the
3088 individual's debt for no more than 50% of the principal amount of the debt. An agreement may
3089 not confer a power of attorney to settle a debt for more than 50% of that amount, but may
3090 confer a power of attorney to negotiate with creditors of the individual on behalf of the
3091 individual. An agreement must provide that the provider will obtain the assent of the
3092 individual after a creditor has assented to a settlement for more than 50% of the principal
3093 amount of the debt.
3094 (6) An agreement may not:
3095 (a) provide for application of the law of any jurisdiction other than the United States
3096 and this state;

3097 (b) except as permitted by Section 2 of the Federal Arbitration Act, 9 U.S.C. Section 2,
3098 or Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act, contain a provision that
3099 modifies or limits otherwise available forums or procedural rights, including the right to trial
3100 by jury, that are generally available to the individual under law other than this chapter;
3101 (c) contain a provision that restricts the individual's remedies under this chapter or law
3102 other than this chapter; or
3103 (d) contain a provision that:
3104 (i) limits or releases the liability of any person for not performing the agreement or for
3105 violating this chapter; or
3106 (ii) indemnifies any person for liability arising under the agreement or this chapter.
3107 (7) All rights and obligations specified in Subsection (4) and Section 13-42-120 exist
3108 even if not provided in the agreement. A provision in an agreement which violates Subsection
3109 (4), (5), or (6) is void.
3110 Section 14. Section **13-43-203** is amended to read:
3111 **13-43-203. Office of the Property Rights Ombudsman -- Duties.**
3112 (1) The Office of the Property Rights Ombudsman shall:
3113 (a) develop and maintain expertise in and understanding of takings, eminent domain,
3114 and land use law;
3115 (b) assist state agencies and local governments in developing the guidelines required by
3116 Title 63, Chapter 90a, Constitutional Taking Issues;
3117 (c) at the request of a state agency or local government, assist the state agency or local
3118 government, in analyzing actions with potential takings implications or other land use issues;
3119 (d) advise real property owners who have a legitimate potential or actual takings claim
3120 against a state or local government entity or have questions about takings, eminent domain, and
3121 land use law;
3122 (e) identify state or local government actions that have potential takings implications
3123 and, if appropriate, advise those state or local government entities about those implications;
3124 and
3125 (f) provide information to private citizens, civic groups, government entities, and other
3126 interested parties about takings, eminent domain, and land use law and their rights and
3127 responsibilities under the takings, eminent domain, or land use laws through seminars and

3128 publications, and by other appropriate means.
3129 (2) The Office of the Property Rights Ombudsman may not represent private property
3130 owners, state agencies, or local governments in court or in adjudicative proceedings under Title
3131 63, Chapter 46b, Administrative Procedures Act.
3132 (3) No member of the Office of the Property Rights Ombudsman nor a neutral third
3133 party rendering an advisory opinion under Section 13-43-205 or 13-43-206, may be compelled
3134 to testify in a civil action filed concerning the subject matter of any review, mediation, or
3135 arbitration by, or arranged through, the office.
3136 (4) (a) Except as provided in Subsection (4)(b), evidence of a review by the Office of
3137 the Property Rights Ombudsman and the opinions, writings, findings, and determinations of the
3138 Office of the Property Rights Ombudsman are not admissible as evidence in a judicial action.
3139 (b) Subsection (4)(a) does not apply to:
3140 (i) actions brought under authority of Title [~~78~~] 78A, Chapter [~~6~~] 8, Small Claims
3141 Courts;
3142 (ii) a judicial confirmation or review of the arbitration itself as authorized in Title [~~78~~]
3143 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act;
3144 (iii) actions for de novo review of an arbitration award or issue brought under the
3145 authority of Subsection 13-43-204(3)(a)(i); or
3146 (iv) advisory opinions provided for in Sections 13-43-205 and 13-43-206.
3147 Section 15. Section **13-43-204** is amended to read:
3148 **13-43-204. Office of the Property Rights Ombudsman -- Arbitration or mediation**
3149 **of takings or eminent domain disputes.**
3150 (1) If requested by the private property owner and otherwise appropriate, the Office of
3151 the Property Rights Ombudsman shall mediate, or conduct or arrange arbitration for, disputes
3152 between private property owners and government entities that involve:
3153 (a) takings or eminent domain issues;
3154 (b) actions for eminent domain under Title [~~78~~] 78B, Chapter [~~34~~] 6, Part 5, Eminent
3155 Domain; or
3156 (c) disputes about relocation assistance under Title 57, Chapter 12, Utah Relocation
3157 Assistance Act.
3158 (2) If arbitration or mediation is requested by a private property owner under this

3159 section, Section 57-12-14 or [~~78-34-21~~] 78B-6-522, and arranged by the Office of the Property
3160 Rights Ombudsman, the government entity or condemning entity shall participate in the
3161 mediation or arbitration as if the matter were ordered to mediation or arbitration by a court.
3162 (3) (a) (i) In conducting or arranging for arbitration under Subsection (1), the Office of
3163 the Property Rights Ombudsman shall follow the procedures and requirements of Title [~~78~~]
3164 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act.
3165 (ii) In applying Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act, the
3166 arbitrator and parties shall treat the matter as if:
3167 (A) it were ordered to arbitration by a court; and
3168 (B) the Office of the Property Rights Ombudsman or other arbitrator chosen as
3169 provided for in this section was appointed as arbitrator by the court.
3170 (iii) For the purpose of an arbitration conducted under this section, if the dispute to be
3171 arbitrated is not already the subject of legal action, the district court having jurisdiction over
3172 the county where the private property involved in the dispute is located is the court referred to
3173 in Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act.
3174 (iv) An arbitration award under this chapter may not be vacated under the provisions of
3175 Subsection [~~78-31a-124~~] 78B-11-124(1)(e) because of the lack of an arbitration agreement
3176 between the parties.
3177 (b) The Office of the Property Rights Ombudsman shall issue a written statement
3178 declining to arbitrate or to appoint an arbitrator when, in the opinion of the Office of the
3179 Property Rights Ombudsman:
3180 (i) the issues are not ripe for review;
3181 (ii) assuming the alleged facts are true, no cause of action exists under United States or
3182 Utah law;
3183 (iii) all issues raised are beyond the scope of the Office of the Property Rights
3184 Ombudsman's statutory duty to review; or
3185 (iv) the arbitration is otherwise not appropriate.
3186 (c) (i) The Office of the Property Rights Ombudsman shall appoint another person to
3187 arbitrate a dispute when:
3188 (A) either party objects to the Office of the Property Rights Ombudsman serving as the
3189 arbitrator and agrees to pay for the services of another arbitrator;

3190 (B) the Office of the Property Rights Ombudsman declines to arbitrate the dispute for a
3191 reason other than those stated in Subsection (3)(b) and one or both parties are willing to pay for
3192 the services of another arbitrator; or
3193 (C) the Office of the Property Rights Ombudsman determines that it is appropriate to
3194 appoint another person to arbitrate the dispute with no charge to the parties for the services of
3195 the appointed arbitrator.
3196 (ii) In appointing another person to arbitrate a dispute, the Office of the Property Rights
3197 Ombudsman shall appoint an arbitrator who is agreeable to:
3198 (A) both parties; or
3199 (B) the Office of the Property Rights Ombudsman and the party paying for the
3200 arbitrator.
3201 (iii) The Office of the Property Rights Ombudsman may, on its own initiative or upon
3202 agreement of both parties, appoint a panel of arbitrators to conduct the arbitration.
3203 (iv) The Department of Commerce may pay an arbitrator per diem and reimburse
3204 expenses incurred in the performance of the arbitrator's duties at the rates established by the
3205 Division of Finance under Sections 63A-3-106 and 63A-3-107.
3206 (d) In arbitrating a dispute, the arbitrator shall apply the relevant statutes, case law,
3207 regulations, and rules of Utah and the United States in conducting the arbitration and in
3208 determining the award.
3209 (e) The property owner and government entity may agree in advance of arbitration that
3210 the arbitration is binding and that no de novo review may occur.
3211 (f) Arbitration by or through the Office of the Property Rights Ombudsman is not
3212 necessary before bringing legal action to adjudicate any claim.
3213 (g) The lack of arbitration by or through the Office of the Property Rights Ombudsman
3214 does not constitute, and may not be interpreted as constituting, a failure to exhaust available
3215 administrative remedies or as a bar to bringing legal action.
3216 (h) Arbitration under this section is not subject to Title 63, Chapter 46b,
3217 Administrative Procedures Act, or Title [~~78~~] 78B, Chapter [~~31b~~] 6, Part 2, Alternative Dispute
3218 Resolution Act.
3219 (i) Within 30 days after an arbitrator issues a final award, and except as provided in
3220 Subsection (3)(e), any party may submit the award, or any issue upon which the award is based,

3221 to the district court for de novo review.
3222 (4) The filing with the Office of the Property Rights Ombudsman of a request for
3223 mediation or arbitration of a constitutional taking issue does not stay any county or municipal
3224 land use decision, including the decision of a board of adjustment.
3225 (5) Members of the Office of the Property Rights Ombudsman may not be compelled
3226 to testify in a civil action filed concerning the subject matter of any review, mediation, or
3227 arbitration by the Office of the Property Rights Ombudsman.
3228 Section 16. Section **13-43-206** is amended to read:
3229 **13-43-206. Advisory opinion -- Process.**
3230 (1) A request for an advisory opinion under Section 13-43-205 shall be:
3231 (a) filed with the Office of the Property Rights Ombudsman; and
3232 (b) accompanied by a filing fee of $150.
3233 (2) The Office of the Property Rights Ombudsman may establish policies providing for
3234 partial fee waivers for a person who is financially unable to pay the entire fee.
3235 (3) A person requesting an advisory opinion need not exhaust administrative remedies,
3236 including remedies described under Section 10-9a-801 or 17-27a-801, before requesting an
3237 advisory opinion.
3238 (4) The Office of the Property Rights Ombudsman shall:
3239 (a) deliver notice of the request to opposing parties indicated in the request;
3240 (b) inquire of all parties if there are other necessary parties to the dispute; and
3241 (c) deliver notice to all necessary parties.
3242 (5) If a governmental entity is an opposing party, the Office of the Property Rights
3243 Ombudsman shall deliver the request in the manner provided for in Section 63-30d-301.
3244 (6) (a) The Office of the Property Rights Ombudsman shall promptly determine if the
3245 parties can agree to a neutral third party to issue an advisory opinion.
3246 (b) If no agreement can be reached within four business days after notice is delivered
3247 pursuant to Subsections (4) and (5), the Office of the Property Rights Ombudsman shall
3248 appoint a neutral third party to issue an advisory opinion.
3249 (7) All parties that are the subject of the request for advisory opinion shall:
3250 (a) share equally in the cost of the advisory opinion; and
3251 (b) provide financial assurance for payment that the neutral third party requires.

3252 (8) The neutral third party shall comply with the provisions of Section [~~78-31a-109~~]
3253 78B-11-109, and shall promptly:
3254 (a) seek a response from all necessary parties to the issues raised in the request for
3255 advisory opinion;
3256 (b) investigate and consider all responses; and
3257 (c) issue a written advisory opinion within 15 business days after the appointment of
3258 the neutral third party under Subsection (6)(b), unless:
3259 (i) the parties agree to extend the deadline; or
3260 (ii) the neutral third party determines that the matter is complex and requires additional
3261 time to render an opinion, which may not exceed 30 calendar days.
3262 (9) An advisory opinion shall include a statement of the facts and law supporting the
3263 opinion's conclusions.
3264 (10) (a) Copies of any advisory opinion issued by the Office of the Property Rights
3265 Ombudsman shall be delivered as soon as practicable to all necessary parties.
3266 (b) A copy of the advisory opinion shall be delivered to the government entity in the
3267 manner provided for in Section 63-30d-401.
3268 (11) An advisory opinion issued by the Office of the Property Rights Ombudsman is
3269 not binding on any party to, nor admissible as evidence in, a dispute involving land use law
3270 except as provided in Subsection (12).
3271 (12) (a) If the same issue that is the subject of an advisory opinion is listed as a cause
3272 of action in litigation, and that cause of action is litigated on the same facts and circumstances
3273 and is resolved consistent with the advisory opinion, the substantially prevailing party on that
3274 cause of action may collect reasonable attorney fees and court costs pertaining to the
3275 development of that cause of action from the date of the delivery of the advisory opinion to the
3276 date of the court's resolution.
3277 (b) Nothing in this Subsection (12) is intended to create any new cause of action under
3278 land use law.
3279 (13) Unless filed by the local government, a request for an advisory opinion under
3280 Section 13-43-205 does not stay the progress of a land use application, or the effect of a land
3281 use decision.
3282 Section 17. Section **15-4-6.7** is amended to read:

3283 **15-4-6.7. Medical expenses of minor children -- Collection pursuant to court or**
3284 **administrative order of child support.**
3285 (1) When a court order has been entered providing for the payment of medical
3286 expenses of a minor child pursuant to Section 30-3-5, 30-4-3, or [~~78-45-7.15~~] 78B-12-212, or
3287 an administrative order under Section 62A-11-326, a creditor who has been provided a copy of
3288 the order may not make a claim for unpaid medical expenses against a parent who has paid in
3289 full that share of the medical and dental expenses required to be paid by that parent under the
3290 order.
3291 (2) When a court order has been entered providing for the payment of medical and
3292 dental expenses of a minor child pursuant to Section 30-3-5, 30-4-3, or [~~78-45-7.15~~]
3293 78B-12-212, or an administrative order under Section 62A-11-326 and the creditor receives a
3294 copy of the order, the creditor may not make a negative credit report under Section 70C-7-107,
3295 or report of the debtor's repayment practices or credit history under Title 7, Chapter 14, Credit
3296 Information Exchange, regarding a parent who has paid in full that share of the medical and
3297 dental expenses required to be paid by that parent under the order.
3298 Section 18. Section **17-20-1** is amended to read:
3299 **17-20-1. County clerk -- District court clerk duties.**
3300 The county clerk is the clerk of the legislative body of the county. The clerk shall act as
3301 clerk of the district court in secondary counties of the state district court administrative system
3302 and those counties not in the system, and shall perform the duties listed in Section [~~78-3-30~~]
3303 78A-5-108.
3304 Section 19. Section **17-50-302** is amended to read:
3305 **17-50-302. General county powers.**
3306 (1) A county may:
3307 (a) as prescribed by statute, levy, assess, and collect taxes, borrow money, and levy and
3308 collect special assessments for benefits conferred; and
3309 (b) provide services, exercise powers, and perform functions that are reasonably related
3310 to the safety, health, morals, and welfare of their inhabitants, except as limited or prohibited by
3311 statute.
3312 (2) (a) A county may:
3313 (i) sue and be sued;

3314 (ii) subject to Subsection (2)(c), acquire real property by tax sale, purchase, lease,
3315 contract, or gift, and hold the real property as necessary and proper for county purposes;
3316 (iii) (A) subject to Subsection (2)(b), acquire real property by condemnation, as
3317 provided in Title [~~78~~] 78B, Chapter [~~34~~] 6, Part 5, Eminent Domain; and
3318 (B) hold the real property as necessary and proper for county purposes;
3319 (iv) as may be necessary to the exercise of its powers, acquire personal property by
3320 purchase, lease, contract, or gift, and hold such personal property; and
3321 (v) manage and dispose of its property as the interests of its inhabitants may require.
3322 (b) (i) For purposes of Subsection (2)(a)(iii), water rights that are not appurtenant to
3323 land do not constitute real property that may be acquired by the county through condemnation.
3324 (ii) Nothing in Subsection (2)(a)(iii) may be construed to authorize a county to acquire
3325 by condemnation the rights to water unless the land to which those water rights are appurtenant
3326 is acquired by condemnation.
3327 (c) (i) Except as provided in Subsection (2)(c)(iv), each county intending to acquire
3328 real property for the purpose of expanding the county's infrastructure or other facilities used for
3329 providing services that the county offers or intends to offer shall provide written notice, as
3330 provided in this Subsection (2)(c), of its intent to acquire the property if:
3331 (A) the property is located:
3332 (I) outside the boundaries of the unincorporated area of the county; and
3333 (II) in a county of the first or second class; and
3334 (B) the intended use of the property is contrary to:
3335 (I) the anticipated use of the property under the general plan of the county in whose
3336 unincorporated area or the municipality in whose boundaries the property is located; or
3337 (II) the property's current zoning designation.
3338 (ii) Each notice under Subsection (2)(c)(i) shall:
3339 (A) indicate that the county intends to acquire real property;
3340 (B) identify the real property; and
3341 (C) be sent to:
3342 (I) each county in whose unincorporated area and each municipality in whose
3343 boundaries the property is located; and
3344 (II) each affected entity.

3345 (iii) A notice under this Subsection (2)(c) is a protected record as provided in
3346 Subsection 63-2-304(7).
3347 (iv) (A) The notice requirement of Subsection (2)(c)(i) does not apply if the county
3348 previously provided notice under Section 17-27a-203 identifying the general location within
3349 the municipality or unincorporated part of the county where the property to be acquired is
3350 located.
3351 (B) If a county is not required to comply with the notice requirement of Subsection
3352 (2)(c)(i) because of application of Subsection (2)(c)(iv)(A), the county shall provide the notice
3353 specified in Subsection (2)(c)(i) as soon as practicable after its acquisition of the real property.
3354 Section 20. Section **17B-1-103** is amended to read:
3355 **17B-1-103. Local district status and powers.**
3356 (1) A local district:
3357 (a) is:
3358 (i) a body corporate and politic with perpetual succession;
3359 (ii) a quasi-municipal corporation; and
3360 (iii) a political subdivision of the state; and
3361 (b) may sue and be sued.
3362 (2) A local district may:
3363 (a) acquire, by any lawful means, or lease any real or personal property necessary or
3364 convenient to the full exercise of the district's powers;
3365 (b) acquire, by any lawful means, any interest in real or personal property necessary or
3366 convenient to the full exercise of the district's powers;
3367 (c) transfer an interest in or dispose of any property or interest described in Subsections
3368 (2)(a) and (b);
3369 (d) acquire or construct works, facilities, and improvements necessary or convenient to
3370 the full exercise of the district's powers, and operate, control, maintain, and use those works,
3371 facilities, and improvements;
3372 (e) borrow money and incur indebtedness for any lawful district purpose;
3373 (f) issue bonds, including refunding bonds:
3374 (i) for any lawful district purpose; and
3375 (ii) as provided in and subject to Part 10, Local District Bonds;

3376 (g) levy and collect property taxes:
3377 (i) for any lawful district purpose or expenditure, including to cover a deficit resulting
3378 from tax delinquencies in a preceding year; and
3379 (ii) as provided in and subject to Part 10, Local District Property Tax Levy;
3380 (h) as provided in Title [~~78~~] 78B, Chapter [~~34~~] 6, Part 5, Eminent Domain, acquire by
3381 eminent domain property necessary to the exercise of the district's powers;
3382 (i) invest money as provided in Title 51, Chapter 7, State Money Management Act;
3383 (j) (i) impose fees or other charges for commodities, services, or facilities provided by
3384 the district, to pay some or all of the district's costs of providing the commodities, services, and
3385 facilities, including the costs of:
3386 (A) maintaining and operating the district;
3387 (B) acquiring, purchasing, constructing, improving, or enlarging district facilities;
3388 (C) issuing bonds and paying debt service on district bonds; and
3389 (D) providing a reserve established by the board of trustees; and
3390 (ii) take action the board of trustees considers appropriate and adopt regulations to
3391 assure the collection of all fees and charges that the district imposes;
3392 (k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's
3393 property to district facilities in order for the district to provide service to the property;
3394 (l) enter into a contract that the local district board of trustees considers necessary,
3395 convenient, or desirable to carry out the district's purposes, including a contract:
3396 (i) with the United States or any department or agency of the United States;
3397 (ii) to indemnify and save harmless; or
3398 (iii) to do any act to exercise district powers;
3399 (m) purchase supplies, equipment, and materials;
3400 (n) encumber district property upon terms and conditions that the board of trustees
3401 considers appropriate;
3402 (o) exercise other powers and perform other functions that are provided by law;
3403 (p) construct and maintain works and establish and maintain facilities, including works
3404 or facilities:
3405 (i) across or along any public street or highway, subject to Subsection (3) and if the
3406 district:

3407 (A) promptly restores the street or highway, as much as practicable, to its former state
3408 of usefulness; and
3409 (B) does not use the street or highway in a manner that completely or unnecessarily
3410 impairs the usefulness of it;
3411 (ii) in, upon, or over any vacant public lands that are or become the property of the
3412 state, including school and institutional trust lands, as defined in Section 53C-1-103, if the
3413 director of the School and Institutional Trust Lands Administration, acting under Sections
3414 53C-1-102 and 53C-1-303, consents; or
3415 (iii) across any stream of water or watercourse, subject to Section 73-3-29;
3416 (q) perform any act or exercise any power reasonably necessary for the efficient
3417 operation of the local district in carrying out its purposes;
3418 (r) designate an assessment area and levy an assessment on land within the assessment
3419 area, as provided in Title 11, Chapter 42, Assessment Area Act;
3420 (s) contract with another political subdivision of the state to allow the other political
3421 subdivision to use the surplus capacity of or have an ownership interest in the district's works
3422 or facilities, upon the terms and for the consideration, whether monetary or nonmonetary
3423 consideration or no consideration, that the district's board of trustees considers to be in the best
3424 interests of the district and the public; and
3425 (t) contract with another political subdivision of the state or with a public or private
3426 owner of property on which the district has a right-of-way to allow the political subdivision or
3427 owner to use the surface of the land on which the district has a right-of-way, upon the terms
3428 and for the consideration, whether monetary or nonmonetary consideration or no consideration,
3429 that the district's board of trustees considers to be in the best interests of the district and the
3430 public.
3431 (3) With respect to a local district's use of a street or highway, as provided in
3432 Subsection (2)(p)(i):
3433 (a) the district shall comply with the reasonable rules and regulations of the
3434 governmental entity, whether state, county, or municipal, with jurisdiction over the street or
3435 highway, concerning:
3436 (i) an excavation and the refilling of an excavation;
3437 (ii) the relaying of pavement; and

3438 (iii) the protection of the public during a construction period; and
3439 (b) the governmental entity, whether state, county, or municipal, with jurisdiction over
3440 the street or highway:
3441 (i) may not require the district to pay a license or permit fee or file a bond; and
3442 (ii) may require the district to pay a reasonable inspection fee.
3443 (4) (a) A local district may:
3444 (i) acquire, lease, or construct and operate electrical generation, transmission, and
3445 distribution facilities, if:
3446 (A) the purpose of the facilities is to harness energy that results inherently from the
3447 district's:
3448 (I) operation of a project or facilities that the district is authorized to operate; or
3449 (II) providing a service that the district is authorized to provide;
3450 (B) the generation of electricity from the facilities is incidental to the primary
3451 operations of the district; and
3452 (C) operation of the facilities will not hinder or interfere with the primary operations of
3453 the district;
3454 (ii) (A) use electricity generated by the facilities; or
3455 (B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric
3456 utility or municipality with an existing system for distributing electricity.
3457 (b) A district may not act as a retail distributor or seller of electricity.
3458 (c) Revenue that a district receives from the sale of electricity from electrical
3459 generation facilities it owns or operates under this section may be used for any lawful district
3460 purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or
3461 constructing the facilities.
3462 (5) A local district may adopt and, after adoption, alter a corporate seal.
3463 Section 21. Section **17B-1-506** is amended to read:
3464 **17B-1-506. Withdrawal petition requirements.**
3465 (1) Each petition under Section 17B-1-504 shall:
3466 (a) indicate the typed or printed name and current address of each owner of acre-feet of
3467 water, property owner, registered voter, or authorized representative of the governing body
3468 signing the petition;

3469 (b) separately group signatures by municipality and, in the case of unincorporated
3470 areas, by county;
3471 (c) if it is a petition signed by the owners of land, the assessment of which is based on
3472 acre-feet of water, indicate the address of the property and the property tax identification parcel
3473 number of the property as to which the owner is signing the request;
3474 (d) designate up to three signers of the petition as sponsors, or in the case of a petition
3475 filed under Subsection 17B-1-504(1)(a)(iv), designate a governmental representative as a
3476 sponsor, and in each case, designate one sponsor as the contact sponsor with the mailing
3477 address and telephone number of each;
3478 (e) state the reasons for withdrawal; and
3479 (f) when the petition is filed with the local district board of trustees, be accompanied by
3480 a map generally depicting the boundaries of the area proposed to be withdrawn and a legal
3481 description of the area proposed to be withdrawn.
3482 (2) (a) The local district may prepare an itemized list of expenses, other than attorney
3483 expenses, that will necessarily be incurred by the local district in the withdrawal proceeding.
3484 The itemized list of expenses may be submitted to the contact sponsor. If the list of expenses is
3485 submitted to the contact sponsor within 21 days after receipt of the petition, the contact sponsor
3486 on behalf of the petitioners shall be required to pay the expenses to the local district within 90
3487 days of receipt. Until funds to cover the expenses are delivered to the local district, the district
3488 will have no obligation to proceed with the withdrawal and the time limits on the district stated
3489 in this part will be tolled. If the expenses are not paid within the 90 days, or within 90 days
3490 from the conclusion of any arbitration under Subsection (2)(b), the petition requesting the
3491 withdrawal shall be considered to have been withdrawn.
3492 (b) If there is no agreement between the board of trustees of the local district and the
3493 contact sponsor on the amount of expenses that will necessarily be incurred by the local district
3494 in the withdrawal proceeding, either the board of trustees or the contact sponsor may submit
3495 the matter to binding arbitration in accordance with Title [~~78~~] 78B, Chapter [~~31b~~] 6, Part 2,
3496 Alternative Dispute Resolution Act; provided that, if the parties cannot agree upon an arbitrator
3497 and the rules and procedures that will control the arbitration, either party may pursue
3498 arbitration under Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act.
3499 (3) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's

3500 signature at any time before the public hearing under Section 17B-1-508 by submitting a
3501 written withdrawal or reinstatement with the board of trustees of the local district in which the
3502 area proposed to be withdrawn is located.
3503 (4) If it reasonably appears that, if the withdrawal which is the subject of a petition
3504 filed under Subsection 17B-1-504(1)(a)(i) or (ii) is granted, it will be necessary for a
3505 municipality to provide to the withdrawn area the service previously supplied by the local
3506 district, the board of trustees of the local district may, within 21 days after receiving the
3507 petition, notify the contact sponsor in writing that, before it will be considered by the board of
3508 trustees, the petition must be presented to and approved by the governing body of the
3509 municipality as provided in Subsection 17B-1-504(1)(a)(iv) before it will be considered by the
3510 local district board of trustees. If the notice is timely given to the contact sponsor, the petition
3511 shall be considered to have been withdrawn until the municipality files a petition with the local
3512 district under Subsection 17B-1-504(1)(a)(iv).
3513 (5) (a) After receiving the notice required by Subsection 17B-1-504(2), unless
3514 specifically allowed by law, a public entity may not make expenditures from public funds to
3515 support or oppose the gathering of signatures on a petition for withdrawal.
3516 (b) Nothing in this section prohibits a public entity from providing factual information
3517 and analysis regarding a withdrawal petition to the public, so long as the information grants
3518 equal access to both the opponents and proponents of the petition for withdrawal.
3519 (c) Nothing in this section prohibits a public official from speaking, campaigning,
3520 contributing personal monies, or otherwise exercising the public official's constitutional rights.
3521 Section 22. Section **17B-2a-820** is amended to read:
3522 **17B-2a-820. Authority for other governmental entities to acquire property by**
3523 **eminent domain for a public transit district.**
3524 The state, a county, or a municipality may, by eminent domain under Title [~~78~~] 78B,
3525 Chapter [~~34~~] 6, Part 5, Eminent Domain, acquire within its boundaries a private property
3526 interest, including fee simple, easement, air right, right-of-way, or other interest, necessary for
3527 the establishment or operation of a public transit district.
3528 Section 23. Section **19-6-113** is amended to read:
3529 **19-6-113. Violations -- Penalties -- Reimbursement for expenses.**
3530 (1) As used in this section, "RCRA" means the Resource Conservation and Recovery

3531 Act, 42 U.S.C. Section 6901, et seq.
3532 (2) Any person who violates any order, plan, rule, or other requirement issued or
3533 adopted under this part is subject in a civil proceeding to a penalty of not more than $13,000
3534 per day for each day of violation.
3535 (3) On or after July 1, 1990, no person shall knowingly:
3536 (a) transport or cause to be transported any hazardous waste identified or listed under
3537 this part to a facility that does not have a hazardous waste operation plan or permit under this
3538 part or RCRA;
3539 (b) treat, store, or dispose of any hazardous waste identified or listed under this part:
3540 (i) without having obtained a hazardous waste operation plan or permit as required by
3541 this part or RCRA;
3542 (ii) in knowing violation of any material condition or requirement of a hazardous waste
3543 operation plan or permit; or
3544 (iii) in knowing violation of any material condition or requirement of any rules or
3545 regulations under this part or RCRA;
3546 (c) omit material information or make any false material statement or representation in
3547 any application, label, manifest, record, report, permit, operation plan, or other document filed,
3548 maintained, or used for purposes of compliance with this part or RCRA or any rules or
3549 regulations made under this part or RCRA; and
3550 (d) transport or cause to be transported without a manifest, any hazardous waste
3551 identified or listed under this part and required by rules or regulations made under this part or
3552 RCRA to be accompanied by a manifest.
3553 (4) (a) (i) Any person who knowingly violates any provision of Subsection (3)(a) or (b)
3554 is guilty of a felony.
3555 (ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of
3556 a felony under Subsection (3)(a) or (b) is subject to a fine of not more than $50,000 for each
3557 day of violation, or imprisonment for a term not to exceed five years, or both.
3558 (iii) If a person is convicted of a second or subsequent violation under Subsection
3559 (3)(a) or (b), the maximum punishment is double both the fine and the term of imprisonment
3560 authorized in Subsection (4)(a)(ii).
3561 (b) (i) Any person who knowingly violates any of the provisions of Subsection (3)(c) or

3562 (d) is guilty of a felony.
3563 (ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of
3564 a felony for a violation of Subsection (3)(c) or (d) is subject to a fine of not more than $50,000
3565 for each day of violation, or imprisonment for a term not to exceed two years, or both.
3566 (iii) If a person is convicted of a second or subsequent violation under Subsection
3567 (3)(c) or (d), the maximum punishment is double both the fine and the imprisonment
3568 authorized in Subsection (4)(b)(ii).
3569 (c) (i) Any person who knowingly transports, treats, stores, or disposes of any
3570 hazardous waste identified or listed under this part in violation of Subsection (3)(a), (b), (c), or
3571 (d), who knows at that time that he thereby places another person in imminent danger of death
3572 or serious bodily injury is guilty of a felony.
3573 (ii) Notwithstanding Sections 76-3-203, 76-3-301, and 76-3-302, a person convicted of
3574 a felony described in Subsection (4)(c)(i) is subject to a fine of not more than $250,000 or
3575 imprisonment for a term not to exceed 15 years, or both.
3576 (iii) A corporation, association, partnership, or governmental instrumentality, upon
3577 conviction of violating Subsection (4)(c)(i), is subject to a fine of not more than $1,000,000.
3578 (5) (a) Except as provided in Subsections (5)(b) and (c) and Section 19-6-722, all
3579 penalties assessed and collected under authority of this section shall be deposited in the
3580 General Fund.
3581 (b) The department may reimburse itself and local governments from monies collected
3582 from civil penalties for qualifying extraordinary expenses incurred in qualifying environmental
3583 enforcement activities.
3584 (c) Notwithstanding the provisions of Section [~~78-3-14.5~~] 78A-5-110, the department
3585 may reimburse itself and local governments from monies collected from criminal fines for
3586 qualifying extraordinary expenses incurred in prosecutions for violations of this part.
3587 (d) The department shall regulate reimbursements by making rules that define:
3588 (i) qualifying environmental enforcement activities; and
3589 (ii) qualifying extraordinary expenses.
3590 (6) Prosecution for criminal violations of this part may be commenced by the attorney
3591 general, the county attorney, or the district attorney as appropriate under Section 17-18-1 or
3592 17-18-1.7 in any county where venue is proper.

3593 Section 24. Section **19-9-106** is amended to read:
3594 **19-9-106. Acquisition of sites by authority -- Property vested in state on**
3595 **disincorporation of authority.**
3596 (1) The authority is authorized, pursuant to Title [~~78~~] 78B, Chapter [~~34~~] 6, Part 5,
3597 Eminent Domain, to acquire sites sufficient in number to meet the hazardous waste treatment,
3598 storage, and disposal needs of the state if, in the judgment of the authority, private operators are
3599 not adequately meeting such needs. Exercise of the power of eminent domain to acquire such
3600 sites is declared to be for a public purpose and use.
3601 (2) Before the purchase or condemnation of any site by the authority, the board shall
3602 certify that the site meets the standards for eventual incorporation into an approved hazardous
3603 waste operations plan.
3604 (3) If the authority is disincorporated for any reason, all its property shall vest in, and
3605 become the property of, the state, which shall succeed to all the rights and liabilities of the
3606 authority which exist at the time of vestiture in the state.
3607 Section 25. Section **20A-1-506** is amended to read:
3608 **20A-1-506. Judicial vacancies -- Courts not of record.**
3609 (1) As used in this section:
3610 (a) "Appointing authority" means:
3611 (i) the chair of the county commission in counties having the county commission form
3612 of county government;
3613 (ii) the county executive in counties having the county executive-council form of
3614 government;
3615 (iii) the chair of the city council or town council in municipalities having:
3616 (A) the traditional management arrangement established by Title 10, Chapter 3, Part 1,
3617 Governing Body; and
3618 (B) the council-manager optional form of government defined in Section 10-3-101; and
3619 (iv) the mayor, in the council-mayor optional form of government defined in Section
3620 10-3-101;
3621 (b) "Local legislative body" means:
3622 (i) the county commission or county council; and
3623 (ii) the city council or town council.

3624 (2) (a) If a vacancy occurs in the office of a municipal justice court judge before the
3625 completion of his term of office, the appointing authority may:
3626 (i) fill the vacancy by appointment for the unexpired term by following the procedures
3627 and requirements for appointments in Section [~~78-5-134~~] 78A-7-202; or
3628 (ii) contract with a justice court judge of the county, an adjacent county, or another
3629 municipality within those counties for judicial services.
3630 (b) When the appointing authority chooses to contract under Subsection (2)(a)(ii), it
3631 shall ensure that the contract is for the same term as the term of office of the judge whose
3632 services are replaced by the contract.
3633 (c) The appointing authority shall notify the Office of the State Court Administrator in
3634 writing of the appointment, resignation, or the contractual agreement for services of a judge
3635 under this section within 30 days after filling the vacancy.
3636 (3) (a) If a vacancy occurs in the office of a county justice court judge before the
3637 completion of that judge's term of office, the appointing authority may fill the vacancy by
3638 appointment for the unexpired term by following the procedures and requirements for
3639 appointments in Section [~~78-5-134~~] 78A-7-202.
3640 (b) The appointing authority shall notify the Office of the State Court Administrator in
3641 writing of any appointment of a county justice court judge under this section within 30 days
3642 after the appointment is made.
3643 (4) (a) When a vacancy occurs in the office of a justice court judge, the appointing
3644 authority shall:
3645 (i) advertise the vacancy and solicit applications for the vacancy;
3646 (ii) appoint the best qualified candidate to office based solely upon fitness for office;
3647 (iii) comply with the procedures and requirements of Title 52, Chapter 3, prohibiting
3648 employment of relatives in making appointments to fill the vacancy; and
3649 (iv) submit the name of the appointee to the local legislative body.
3650 (b) If the local legislative body does not confirm the appointment within 30 days of
3651 submission, the appointing authority may either appoint another of the applicants or reopen the
3652 vacancy by advertisement and solicitations of applications.
3653 Section 26. Section **20A-7-702** is amended to read:
3654 **20A-7-702. Voter information pamphlet -- Form -- Contents -- Distribution.**

3655 (1) The lieutenant governor shall ensure that all information submitted for publication
3656 in the voter information pamphlet is:
3657 (a) printed and bound in a single pamphlet;
3658 (b) printed in clear readable type, no less than ten-point, except that the text of any
3659 measure may be set forth in eight-point type; and
3660 (c) printed on a quality and weight of paper that best serves the voters.
3661 (2) The voter information pamphlet shall contain the following items in this order:
3662 (a) a cover title page;
3663 (b) an introduction to the pamphlet by the lieutenant governor;
3664 (c) a table of contents;
3665 (d) a list of all candidates for constitutional offices;
3666 (e) a list of candidates for each legislative district;
3667 (f) a 100-word statement of qualifications for each candidate for the office of governor,
3668 lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the
3669 candidate to the lieutenant governor's office before July 15 at 5 p.m.;
3670 (g) information pertaining to all measures to be submitted to the voters, beginning a
3671 new page for each measure and containing, in the following order for each measure:
3672 (i) a copy of the number and ballot title of the measure;
3673 (ii) the final vote cast by the Legislature on the measure if it is a measure submitted by
3674 the Legislature or by referendum;
3675 (iii) the impartial analysis of the measure prepared by the Office of Legislative
3676 Research and General Counsel;
3677 (iv) the arguments in favor of the measure, the rebuttal to the arguments in favor of the
3678 measure, the arguments against the measure, and the rebuttal to the arguments against the
3679 measure, with the name and title of the authors at the end of each argument or rebuttal;
3680 (v) for each constitutional amendment, a complete copy of the text of the constitutional
3681 amendment, with all new language underlined, and all deleted language placed within brackets;
3682 and
3683 (vi) for each initiative qualified for the ballot, a copy of the measure as certified by the
3684 lieutenant governor and a copy of the fiscal impact estimate prepared according to Section
3685 20A-7-202.5;

3686 (h) a description provided by the Judicial Council of the selection and retention process
3687 for judges, including, in the following order:
3688 (i) a description of the judicial selection process;
3689 (ii) a description of the judicial performance evaluation process;
3690 (iii) a description of the judicial retention election process;
3691 (iv) a list of the criteria and minimum standards of judicial performance evaluation;
3692 (v) the names of the judges standing for retention election; and
3693 (vi) for each judge:
3694 (A) the counties in which the judge is subject to retention election;
3695 (B) a short biography of professional qualifications and a recent photograph;
3696 (C) for each standard of performance, a statement identifying whether or not the judge
3697 met the standard and, if not, the manner in which the judge failed to meet the standard;
3698 (D) a statement provided by the Utah Supreme Court identifying the cumulative
3699 number of informal reprimands, when consented to by the judge in accordance with
3700 [~~Subsection 78-8-107(2)~~] Title 78A, Chapter 11, Judicial Conduct Commission, formal
3701 reprimands, and all orders of censure and suspension issued by the Utah Supreme Court under
3702 Utah Constitution Article VIII, Section 13 during the judge's current term and the immediately
3703 preceding term, and a detailed summary of the supporting reasons for each violation of the
3704 Code of Judicial Conduct that the judge has received; and
3705 (E) a statement identifying whether or not the judge was certified by the Judicial
3706 Council;
3707 (vii) (A) except as provided in Subsection (2)(h)(vii)(B), for each judge, in graphic
3708 format, the responses for each attorney, jury, and other survey question used by the Judicial
3709 Council for certification of judges, displayed in 1% increments;
3710 (B) notwithstanding Subsection (2)(h)(vii)(A), if the sample size for the survey for a
3711 particular judge is too small to provide statistically reliable information in 1% increments, the
3712 survey results for that judge shall be reported as being above or below 70% and a statement by
3713 the surveyor explaining why the survey is statistically unreliable shall also be included;
3714 (i) an explanation of ballot marking procedures prepared by the lieutenant governor,
3715 indicating the ballot marking procedure used by each county and explaining how to mark the
3716 ballot for each procedure;

3717 (j) voter registration information, including information on how to obtain an absentee
3718 ballot;
3719 (k) a list of all county clerks' offices and phone numbers; and
3720 (l) on the back cover page, a printed copy of the following statement signed by the
3721 lieutenant governor:
3722 "I, _____ (print name), Lieutenant Governor of Utah, certify that the
3723 measures contained in this pamphlet will be submitted to the voters of Utah at the election to
3724 be held throughout the state on ____ (date of election), and that this pamphlet is complete and
3725 correct according to law. SEAL
3726 Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day
3727 of ____ (month), ____ (year)
3728 (signed) _____
3729 Lieutenant Governor"
3730 (3) The lieutenant governor shall:
3731 (a) ensure that one copy of the voter information pamphlet is placed in one issue of
3732 every newspaper of general circulation in the state not more than 40 nor less than 15 days
3733 before the day fixed by law for the election;
3734 (b) ensure that a sufficient number of printed voter information pamphlets are available
3735 for distribution as required by this section;
3736 (c) provide voter information pamphlets to each county clerk for free distribution upon
3737 request and for placement at polling places; and
3738 (d) ensure that the distribution of the voter information pamphlets is completed 15 days
3739 before the election.
3740 Section 27. Section **24-1-3.5** is amended to read:
3741 **24-1-3.5. Jurisdiction and venue.**
3742 (1) A state district court has jurisdiction over any action filed in accordance with this
3743 chapter regarding:
3744 (a) all interests in property if the property for which forfeiture is sought is within this
3745 state at the time the action is filed; and
3746 (b) the interests of owners or interest holders in the property, if the owner or interest
3747 holder is subject to the personal jurisdiction of the district court.

3748 (2) (a) In addition to the venue provided for under Title [~~78~~] 78B, Chapter [~~13~~] 3, Part
3749 3, Place of Trial-Venue, or any other provisions of law, a proceeding for forfeiture under this
3750 chapter may be maintained in the judicial district in which:
3751 (i) any part of the property is found; or
3752 (ii) a civil or criminal action could be maintained against an owner or interest holder
3753 for the conduct alleged to give cause for the forfeiture.
3754 (b) A claimant may obtain a change of venue under Section [~~78-13-9~~] 78B-3-309.
3755 Section 28. Section **26-2-5** is amended to read:
3756 **26-2-5. Birth certificates -- Execution and registration requirements.**
3757 (1) As used in this section, "birthing facility" means a general acute hospital or birthing
3758 center as defined in Section 26-21-2.
3759 (2) For each live birth occurring in the state, a certificate shall be filed with the local
3760 registrar for the district in which the birth occurred within ten days following the birth. The
3761 certificate shall be registered if it is completed and filed in accordance with this chapter.
3762 (3) (a) For each live birth that occurs in a birthing facility, the administrator of the
3763 birthing facility, or his designee, shall obtain and enter the information required under this
3764 chapter on the certificate, securing the required signatures, and filing the certificate.
3765 (b) (i) The date, time, place of birth, and required medical information shall be certified
3766 by the birthing facility administrator or his designee.
3767 (ii) The attending physician or nurse midwife may sign the certificate, but if the
3768 attending physician or nurse midwife has not signed the certificate within seven days of the
3769 date of birth, the birthing facility administrator or his designee shall enter the attending
3770 physician's or nurse midwife's name and transmit the certificate to the local registrar.
3771 (iii) The information on the certificate about the parents shall be provided and certified
3772 by the mother or father or, in their incapacity or absence, by a person with knowledge of the
3773 facts.
3774 (4) (a) For live births that occur outside a birthing facility, the birth certificate shall be
3775 completed and filed by the physician, nurse, midwife, or other person primarily responsible for
3776 providing assistance to the mother at the birth. If there is no such person, either the presumed
3777 or declarant father shall complete and file the certificate. In his absence, the mother shall
3778 complete and file the certificate, and in the event of her death or disability, the owner or

3779 operator of the premises where the birth occurred shall do so.
3780 (b) The certificate shall be completed as fully as possible and shall include the date,
3781 time, and place of birth, the mother's name, and the signature of the person completing the
3782 certificate.
3783 (5) (a) For each live birth to an unmarried mother that occurs in a birthing facility, the
3784 administrator or director of that facility, or his designee, shall:
3785 (i) provide the birth mother and declarant father, if present, with:
3786 (A) a voluntary declaration of paternity form published by the state registrar;
3787 (B) oral and written notice to the birth mother and declarant father of the alternatives
3788 to, the legal consequences of, and the rights and responsibilities that arise from signing the
3789 declaration; and
3790 (C) the opportunity to sign the declaration;
3791 (ii) witness the signature of a birth mother or declarant father in accordance with
3792 Section [~~78-45g-302~~] 78B-15-302 if the signature occurs at the facility;
3793 (iii) enter the declarant father's information on the original birth certificate, but only if
3794 the mother and declarant father have signed a voluntary declaration of paternity or a court or
3795 administrative agency has issued an adjudication of paternity; and
3796 (iv) file the completed declaration with the original birth certificate.
3797 (b) If there is a presumed father, the voluntary declaration will only be valid if the
3798 presumed father also signs the voluntary declaration.
3799 (c) The state registrar shall file the information provided on the voluntary declaration
3800 of paternity form with the original birth certificate and may provide certified copies of the
3801 declaration of paternity as otherwise provided under Title [~~78~~] 78B, Chapter [~~45g~~] 15, Utah
3802 Uniform Parentage Act.
3803 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,
3804 a description of the process for filing a voluntary declaration of paternity, and of the rights and
3805 responsibilities established or effected by that filing, in accordance with Title [~~78~~] 78B,
3806 Chapter [~~45g~~] 15, Utah Uniform Parentage Act.
3807 (b) Information regarding the form and services related to voluntary paternity
3808 establishment shall be made available to birthing facilities and to any other entity or individual
3809 upon request.

3810 (7) The name of a declarant father may only be included on the birth certificate of a
3811 child of unmarried parents if:
3812 (a) the mother and declarant father have signed a voluntary declaration of paternity; or
3813 (b) a court or administrative agency has issued an adjudication of paternity.
3814 (8) Voluntary declarations of paternity, adjudications of paternity by judicial or
3815 administrative agencies, and voluntary rescissions of paternity shall be filed with and
3816 maintained by the state registrar for the purpose of comparing information with the state case
3817 registry maintained by the Office of Recovery Services pursuant to Section 62A-11-104.
3818 Section 29. Section **26-2-10** is amended to read:
3819 **26-2-10. Supplementary certificate of birth.**
3820 (1) Any person born in this state who is legitimized by the subsequent marriage of his
3821 natural parents, or whose parentage has been determined by any U.S. state court or Canadian
3822 provincial court having jurisdiction, or who has been legally adopted under the law of this or
3823 any other state or any province of Canada, may request the state registrar to register a
3824 supplementary certificate of birth on the basis of that status.
3825 (2) The application for registration of a supplementary certificate may be made by the
3826 person requesting registration, if he is of legal age, by a legal representative, or by any agency
3827 authorized to receive children for placement or adoption under the laws of this or any other
3828 state.
3829 (3) (a) The state registrar shall require that an applicant submit identification and proof
3830 according to department rules.
3831 (b) In the case of an adopted person, that proof may be established by order of the court
3832 in which the adoption proceedings were held.
3833 (4) (a) After the supplementary certificate is registered, any information disclosed from
3834 the record shall be from the supplementary certificate.
3835 (b) Access to the original certificate and to the evidence submitted in support of the
3836 supplementary certificate are not open to inspection except upon the order of a Utah district
3837 court or as provided under Section [~~78-30-18~~] 78B-6-144.
3838 Section 30. Section **26-2-15** is amended to read:
3839 **26-2-15. Petition for establishment of unregistered birth or death -- Court**
3840 **procedure.**

3841 (1) A person holding a direct, tangible, and legitimate interest as described in
3842 Subsection 26-2-22(2)(a) or (b) may petition for a court order establishing the fact, time, and
3843 place of a birth or death that is not registered or for which a certified copy of the registered
3844 birth or death certificate is not obtainable. The person shall verify the petition and file it in the
3845 Utah district court for the county where:
3846 (a) the birth or death is alleged to have occurred;
3847 (b) the person resides whose birth is to be established; or
3848 (c) the decedent named in the petition resided at the date of death.
3849 (2) In order for the court to have jurisdiction, the petition shall:
3850 (a) allege the date, time, and place of the birth or death; and
3851 (b) state either that no certificate of birth or death has been registered or that a copy of
3852 the registered certificate cannot be obtained.
3853 (3) The court shall set a hearing for five to ten days after the filing of the petition.
3854 (4) (a) If the time and place of birth or death are in question, the court shall hear
3855 available evidence and determine the time and place of the birth or death.
3856 (b) If the time and place of birth or death are not in question, the court shall determine
3857 the time and place of birth or death to be those alleged in the petition.
3858 (5) A court order under this section shall be made on a form prescribed and furnished
3859 by the department and is effective upon the filing of a certified copy of the order with the state
3860 registrar.
3861 (6) (a) For purposes of this section, the birth certificate of an adopted alien child, as
3862 defined in Section [~~78-30-8.5~~] 78B-6-108, is considered to be unobtainable if the child was
3863 born in a country that is not recognized by department rule as having an established vital
3864 records registration system.
3865 (b) If the adopted child was born in a country recognized by department rule, but a
3866 person described in Subsection (1) is unable to obtain a certified copy of the birth certificate,
3867 the state registrar shall authorize the preparation of a birth certificate if he receives a written
3868 statement signed by the registrar of the child's birth country stating a certified copy of the birth
3869 certificate is not available.
3870 Section 31. Section **26-2-22** is amended to read:
3871 **26-2-22. Inspection of vital records.**

3872 (1) (a) The vital records shall be open to inspection, but only in compliance with the
3873 provisions of this chapter, department rules, and Section [~~78-30-18~~] 78B-6-144.
3874 (b) It is unlawful for any state or local officer or employee to disclose data contained in
3875 vital records contrary to this chapter or department rule.
3876 (c) A custodian of vital records may permit inspection of a vital record or issue a
3877 certified copy of a record or a part of a record when the custodian is satisfied that the applicant
3878 has demonstrated a direct, tangible, and legitimate interest.
3879 (2) A direct, tangible, and legitimate interest in a vital record is present only if:
3880 (a) the request is from the subject, a member of the subject's immediate family, the
3881 guardian of the subject, or a designated legal representative;
3882 (b) the request involves a personal or property right of the subject of the record;
3883 (c) the request is for official purposes of a state, local, or federal governmental agency;
3884 (d) the request is for a statistical or medical research program and prior consent has
3885 been obtained from the state registrar; or
3886 (e) the request is a certified copy of an order of a court of record specifying the record
3887 to be examined or copied.
3888 (3) For purposes of Subsection (2):
3889 (a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or
3890 grandchild;
3891 (b) a designated legal representative means an attorney, physician, funeral service
3892 director, genealogist, or other agent of the subject or the subject's immediate family who has
3893 been delegated the authority to access vital records;
3894 (c) except as provided in Title [~~78~~] 78B, Chapter [~~30,~~] 6, Part 1, Utah Adoption Act, a
3895 parent, or the immediate family member of a parent, who does not have legal or physical
3896 custody of or visitation or parent-time rights for a child because of the termination of parental
3897 rights pursuant to Title [~~78~~] 78A, Chapter [~~3a~~] 6, Juvenile Court Act of 1996, or by virtue of
3898 consenting to or relinquishing a child for adoption pursuant to Title [~~78~~] 78B, Chapter [~~30,~~] 6,
3899 Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate
3900 interest; and
3901 (d) a commercial firm or agency requesting names, addresses, or similar information
3902 may not be considered as having a direct, tangible, and legitimate interest.

3903 (4) Upon payment of a fee established in accordance with Section 63-38-3.2, the
3904 following records shall be available to the public:
3905 (a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding
3906 confidential information collected for medical and health use, if 100 years or more have passed
3907 since the date of birth;
3908 (b) a death record if 50 years or more have passed since the date of death; and
3909 (c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have passed
3910 since the date of the event upon which the record is based.
3911 Section 32. Section **26-2-28** is amended to read:
3912 **26-2-28. Birth certificate for foreign adoptees.**
3913 Upon presentation of a court order of adoption and an order establishing the fact, time,
3914 and place of birth under Section 26-2-15, the department shall prepare a birth certificate for any
3915 person who:
3916 (1) was adopted under the laws of this state; and
3917 (2) was at the time of adoption considered an alien child for whom the court received
3918 documentary evidence of legal residence under Section [~~78-30-8.5~~] 78B-6-108.
3919 Section 33. Section **26-3-7** is amended to read:
3920 **26-3-7. Disclosure of health data -- Limitations.**
3921 The department may not disclose any identifiable health data unless:
3922 (1) one of the following persons has consented to the disclosure:
3923 (a) the individual;
3924 (b) the next-of-kin if the individual is deceased;
3925 (c) the parent or legal guardian if the individual is a minor or mentally incompetent; or
3926 (d) a person holding a power of attorney covering such matters on behalf of the
3927 individual;
3928 (2) the disclosure is to a governmental entity in this or another state or the federal
3929 government, provided that:
3930 (a) the data will be used for a purpose for which they were collected by the department;
3931 and
3932 (b) the recipient enters into a written agreement satisfactory to the department agreeing
3933 to protect such data in accordance with the requirements of this chapter and department rule

3934 and not permit further disclosure without prior approval of the department;
3935 (3) the disclosure is to an individual or organization, for a specified period, solely for
3936 bona fide research and statistical purposes, determined in accordance with department rules,
3937 and the department determines that the data are required for the research and statistical
3938 purposes proposed and the requesting individual or organization enters into a written
3939 agreement satisfactory to the department to protect the data in accordance with this chapter and
3940 department rule and not permit further disclosure without prior approval of the department;
3941 (4) the disclosure is to a governmental entity for the purpose of conducting an audit,
3942 evaluation, or investigation of the department and such governmental entity agrees not to use
3943 those data for making any determination affecting the rights, benefits, or entitlements of any
3944 individual to whom the health data relates;
3945 (5) the disclosure is of specific medical or epidemiological information to authorized
3946 personnel within the department, local health departments, official health agencies in other
3947 states, the United States Public Health Service, the Centers for Disease Control and Prevention
3948 (CDC), or agencies responsible to enforce quarantine, when necessary to continue patient
3949 services or to undertake public health efforts to control communicable, infectious, acute,
3950 chronic, or any other disease or health hazard that the department considers to be dangerous or
3951 important or that may affect the public health;
3952 (6) the disclosure is of specific medical or epidemiological information to a "health
3953 care provider" as defined in Section [~~78-14-3~~] 78B-3-403, health care personnel, or public
3954 health personnel who has a legitimate need to have access to the information in order to assist
3955 the patient or to protect the health of others closely associated with the patient. This
3956 Subsection (6) does not create a duty to warn third parties;
3957 (7) the disclosure is necessary to obtain payment from an insurer or other third-party
3958 payor in order for the department to obtain payment or to coordinate benefits for a patient; or
3959 (8) the disclosure is to the subject of the identifiable health data.
3960 Section 34. Section **26-6-6** is amended to read:
3961 **26-6-6. Duty to report individual suspected of having communicable disease.**
3962 The following shall report to the department or the local health department regarding
3963 any individual suffering from or suspected of having a disease that is communicable, as
3964 required by department rule:

3965 (1) health care providers as defined in Section [~~78-14-3~~] 78B-3-403;
3966 (2) facilities licensed under Title 26, Chapter 21, Health Care Facility Licensure and
3967 Inspection Act;
3968 (3) health care facilities operated by the federal government;
3969 (4) mental health facilities;
3970 (5) care facilities licensed by the Department of Human Services;
3971 (6) nursing homes and other care facilities;
3972 (7) dispensaries, clinics, or laboratories that diagnose, test, or otherwise care for
3973 individuals who are suffering from a disease suspected of being communicable;
3974 (8) individuals who have knowledge of others who have a communicable disease;
3975 (9) individuals in charge of schools having responsibility for any individuals who have
3976 a disease suspected of being communicable; and
3977 (10) child care programs, as defined in Section 26-39-102.
3978 Section 35. Section **26-6-27** is amended to read:
3979 **26-6-27. Information regarding communicable or reportable disease confidential**
3980 **-- Exceptions.**
3981 (1) Information collected pursuant to this chapter in the possession of the department
3982 or local health departments relating to an individual who has or is suspected of having a disease
3983 designated by the department as a communicable or reportable disease under this chapter shall
3984 be held by the department and local health departments as strictly confidential. The department
3985 and local health departments may not release or make public that information upon subpoena,
3986 search warrant, discovery proceedings, or otherwise, except as provided by this section.
3987 (2) The information described in Subsection (1) may be released by the department or
3988 local health departments only in accordance with the requirements of this chapter and as
3989 follows:
3990 (a) specific medical or epidemiological information may be released with the written
3991 consent of the individual identified in that information or, if that individual is deceased, his
3992 next-of-kin;
3993 (b) specific medical or epidemiological information may be released to medical
3994 personnel or peace officers in a medical emergency, as determined by the department in
3995 accordance with guidelines it has established, only to the extent necessary to protect the health

3996 or life of the individual identified in the information, or of the attending medical personnel or
3997 law enforcement or public safety officers;
3998 (c) specific medical or epidemiological information may be released to authorized
3999 personnel within the department, local health departments, official health agencies in other
4000 states, the United States Public Health Service, the Centers for Disease Control and Prevention
4001 (CDC), or when necessary to continue patient services or to undertake public health efforts to
4002 interrupt the transmission of disease;
4003 (d) if the individual identified in the information is under the age of 18, the information
4004 may be released to the Division of Child and Family Services within the Department of Human
4005 Services in accordance with Section 62A-4a-403. If that information is required in a court
4006 proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, the information
4007 shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;
4008 (e) specific medical or epidemiological information may be released to authorized
4009 personnel in the department or in local health departments, and to the courts, to carry out the
4010 provisions of this title, and rules adopted by the department in accordance with this title;
4011 (f) specific medical or epidemiological information may be released to blood banks,
4012 organ and tissue banks, and similar institutions for the purpose of identifying individuals with
4013 communicable diseases. The department may, by rule, designate the diseases about which
4014 information may be disclosed under this subsection, and may choose to release the name of an
4015 infected individual to those organizations without disclosing the specific disease;
4016 (g) specific medical or epidemiological information may be released in such a way that
4017 no individual is identifiable;
4018 (h) specific medical or epidemiological information may be released to a "health care
4019 provider" as defined in Section [~~78-14-3~~] 78B-3-403, health care personnel, and public health
4020 personnel who have a legitimate need to have access to the information in order to assist the
4021 patient, or to protect the health of others closely associated with the patient. This subsection
4022 does not create a duty to warn third parties, but is intended only to aid health care providers in
4023 their treatment and containment of infectious disease; and
4024 (i) specific medical or epidemiological information regarding a health care provider, as
4025 defined in Section [~~78-14-3~~] 78B-3-403, may be released to the department, the appropriate
4026 local health department, and the Division of Occupational and Professional Licensing within

4027 the Department of Commerce, if the identified health care provider is endangering the safety or
4028 life of any individual by his continued practice of health care.
4029 Section 36. Section **26-6b-3.4** is amended to read:
4030 **26-6b-3.4. Medical records -- Privacy protections.**
4031 (1) (a) Health care providers as defined in Section [~~78-14-3~~] 78B-3-403, health care
4032 facilities licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection
4033 Act, and governmental entities, shall, when requested, provide the public health official and the
4034 individual subject to an order of restriction, a copy of medical records that are relevant to the
4035 order of restriction.
4036 (b) The records requested under Subsection (1)(a) shall be provided as soon as
4037 reasonably possible after the request is submitted to the health care provider or health care
4038 facility, or as soon as reasonably possible after the health care provider or facility receives the
4039 results of any relevant diagnostic testing of the individual.
4040 (2) (a) The production of records under the provisions of this section is for the benefit
4041 of the public health and safety of the citizens of the state. A health care provider or facility is
4042 encouraged to provide copies of medical records or other records necessary to carry out the
4043 purpose of this chapter free of charge.
4044 (b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a
4045 state governmental entity shall provide medical records or other records necessary to carry out
4046 the purposes of this chapter, free of charge.
4047 (c) If a health care provider or health care facility does not provide medical records free
4048 of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility
4049 may charge a fee for the records that does not exceed the presumed reasonable charges
4050 established for workers' compensation by administrative rule adopted by the Labor
4051 Commission.
4052 (3) Medical records held by a court related to orders of restriction under this chapter
4053 shall be sealed by the district court.
4054 Section 37. Section **26-21-9.5** is amended to read:
4055 **26-21-9.5. Criminal background check and Licensing Information System check.**
4056 (1) For purposes of this section:
4057 (a) "Covered health care facility" means:

4058 (i) home health care agencies;
4059 (ii) hospices;
4060 (iii) nursing care facilities;
4061 (iv) assisted-living facilities;
4062 (v) small health care facilities; and
4063 (vi) end stage renal disease facilities.
4064 (b) "Covered person" includes:
4065 (i) the following people who provide direct patient care:
4066 (A) employees;
4067 (B) volunteers; and
4068 (C) people under contract with the facility; and
4069 (ii) for residential settings, any individual residing in the home where the assisted
4070 living or small health care program is to be licensed who:
4071 (A) is 18 years of age or older; or
4072 (B) is a child between the age of 12 and 17 years of age; however, the identifying
4073 information required for a child between the age of 12 and 17 does not include fingerprints.
4074 (2) In addition to the licensing requirements of Sections 26-21-8 and 26-21-9, a
4075 covered health care facility at the time of initial application for a license and license renewal
4076 shall:
4077 (a) submit the name and other identifying information of each covered person at the
4078 covered facility who:
4079 (i) provides direct care to a patient; and
4080 (ii) has been the subject of a criminal background check within the preceding
4081 three-year period by a public or private entity recognized by the department; and
4082 (b) submit the name and other identifying information, which may include fingerprints,
4083 of each covered person at the covered facility who has not been the subject of a criminal
4084 background check in accordance with Subsection (1)(a)(ii).
4085 (3) (a) The department shall forward the information received under Subsection (2)(b)
4086 to the Criminal Investigations and Technical Services Division of the Department of Public
4087 Safety for processing to determine whether the covered individual has been convicted of any
4088 crime.

4089 (b) Except for individuals described in Subsection (1)(b)(ii)(B), if an individual has not
4090 had residency in Utah for the last five years, the individual shall submit fingerprints for an FBI
4091 national criminal history record check. The fingerprints shall be submitted to the FBI through
4092 the Criminal Investigations and Technical Services Division. The individual or licensee is
4093 responsible for the cost of the fingerprinting and national criminal history check.
4094 (4) The department may determine whether:
4095 (a) an individual whose name and other identifying information has been submitted
4096 pursuant to Subsection (2) and who provides direct care to children is listed in the Licensing
4097 Information System described in Section 62A-4a-1006 or has a substantiated finding by a court
4098 of a severe type of child abuse or neglect under Section [~~78-3a-320~~] 78A-6-323, if
4099 identification as a possible perpetrator of child abuse or neglect is relevant to the employment
4100 activities of that individual;
4101 (b) an individual whose name and other identifying information has been submitted
4102 pursuant to Subsection (2) and who provides direct care to disabled or elder adults, or who is
4103 residing in a residential home that is a facility licensed to provide direct care to disabled or
4104 elder adults has a substantiated finding of abuse, neglect, or exploitation of a disabled or elder
4105 adult by accessing in accordance with Subsection (5) the database created in Section
4106 62A-3-311.1 if identification as a possible perpetrator of disabled or elder adult abuse, neglect,
4107 or exploitation is relevant to the employment activities or residence of that person; or
4108 (c) an individual whose name or other identifying information has been submitted
4109 pursuant to Subsection (2) has been adjudicated in a juvenile court of committing an act which
4110 if committed by an adult would be a felony or a misdemeanor if:
4111 (i) the individual is under the age of 28 years; or
4112 (ii) the individual is over the age of 28 and has been convicted, has pleaded no contest,
4113 or is currently subject to a plea in abeyance or diversion agreement for any felony or
4114 misdemeanor.
4115 (5) (a) The department shall:
4116 (i) designate two persons within the department to access:
4117 (A) the Licensing Information System described in Section 62A-4a-1006;
4118 (B) court records under Subsection [~~78-3a-320~~] 78A-6-323(6);
4119 (C) the database described in Subsection (4)(b); and

4120 (D) juvenile court records as permitted by Subsection (4)(c); and
4121 (ii) adopt measures to:
4122 (A) protect the security of the Licensing Information System, the court records, and the
4123 database; and
4124 (B) strictly limit access to the Licensing Information System, the court records, and the
4125 database to those designated under Subsection (5)(a)(i).
4126 (b) Those designated under Subsection (5)(a)(i) shall receive training from the
4127 Department of Human Services with respect to:
4128 (i) accessing the Licensing Information System, the court records, and the database;
4129 (ii) maintaining strict security; and
4130 (iii) the criminal provisions in Section 62A-4a-412 for the improper release of
4131 information.
4132 (c) Those designated under Subsection (5)(a)(i):
4133 (i) are the only ones in the department with the authority to access the Licensing
4134 Information System, the court records, and database; and
4135 (ii) may only access the Licensing Information System, the court records, and the
4136 database for the purpose of licensing and in accordance with the provisions of Subsection (4).
4137 (6) Within ten days of initially hiring a covered individual, a covered health care
4138 facility shall submit the covered individual's information to the department in accordance with
4139 Subsection (2).
4140 (7) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative
4141 Rulemaking Act, consistent with this chapter, defining the circumstances under which a person
4142 who has been convicted of a criminal offense, or a person described in Subsection (4), may
4143 provide direct care to a patient in a covered health care facility, taking into account the nature
4144 of the criminal conviction or substantiated finding and its relation to patient care.
4145 (8) The department may, in accordance with Section 26-1-6, assess reasonable fees for
4146 a criminal background check processed pursuant to this section.
4147 (9) The department may inform the covered health care facility of information
4148 discovered under Subsection (4) with respect to a covered individual.
4149 (10) A covered health care facility is not civilly liable for submitting information to the
4150 department as required by this section.

4151 Section 38. Section **26-23b-102** is amended to read:
4152 **26-23b-102. Definitions.**
4153 As used in this chapter:
4154 (1) "Bioterrorism" means:
4155 (a) the intentional use of any microorganism, virus, infectious substance, or biological
4156 product to cause death, disease, or other biological malfunction in a human, an animal, a plant,
4157 or another living organism in order to influence, intimidate, or coerce the conduct of
4158 government or a civilian population; and
4159 (b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic
4160 fevers.
4161 (2) "Department" means the Department of Health created in Section 26-1-4 and a
4162 local health department as defined in Section 26A-1-102.
4163 (3) "Diagnostic information" means a clinical facility's record of individuals who
4164 present for treatment, including the reason for the visit, chief complaint, presenting diagnosis,
4165 final diagnosis, and any pertinent lab results.
4166 (4) "Epidemic or pandemic disease":
4167 (a) means the occurrence in a community or region of cases of an illness clearly in
4168 excess of normal expectancy; and
4169 (b) includes diseases designated by the Department of Health which have the potential
4170 to cause serious illness or death.
4171 (5) "Health care provider" shall have the meaning provided for in Section [~~78-14-3~~]
4172 78B-3-403.
4173 (6) "Public health emergency" means an occurrence or imminent credible threat of an
4174 illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and
4175 highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant
4176 number of human fatalities or incidents of permanent or long-term disability. Such illness or
4177 health condition includes an illness or health condition resulting from a natural disaster.
4178 (7) "Reportable emergency illness and health condition" includes the diseases,
4179 conditions, or syndromes designated by the Utah Department of Health.
4180 Section 39. Section **26-25-1** is amended to read:
4181 **26-25-1. Authority to provide data on treatment and condition of persons to**

4182 **designated agencies -- Immunity from liability.**
4183 (1) Any person, health facility, or other organization may, without incurring liability,
4184 provide the following information to the persons and entities described in Subsection (2):
4185 (a) information as determined by the state registrar of vital records appointed under
4186 Title 26, Chapter 2, Utah Vital Statistics Act;
4187 (b) interviews;
4188 (c) reports;
4189 (d) statements;
4190 (e) memoranda;
4191 (f) familial information; and
4192 (g) other data relating to the condition and treatment of any person.
4193 (2) The information described in Subsection (1) may be provided to:
4194 (a) the department and local health departments;
4195 (b) the Division of Substance Abuse and Mental Health within the Department of
4196 Human Services;
4197 (c) scientific and health care research organizations affiliated with institutions of higher
4198 education;
4199 (d) the Utah Medical Association or any of its allied medical societies;
4200 (e) peer review committees;
4201 (f) professional review organizations;
4202 (g) professional societies and associations; and
4203 (h) any health facility's in-house staff committee for the uses described in Subsection
4204 (3).
4205 (3) The information described in Subsection (1) may be provided for the following
4206 purposes:
4207 (a) study and advancing medical research, with the purpose of reducing the incidence
4208 of disease, morbidity, or mortality; or
4209 (b) the evaluation and improvement of hospital and health care rendered by hospitals,
4210 health facilities, or health care providers.
4211 (4) Any person may, without incurring liability, provide information, interviews,
4212 reports, statements, memoranda, or other information relating to the ethical conduct of any

4213 health care provider to peer review committees, professional societies and associations, or any
4214 in-hospital staff committee to be used for purposes of intraprofessional society or association
4215 discipline.
4216 (5) No liability may arise against any person or organization as a result of:
4217 (a) providing information or material authorized in this section;
4218 (b) releasing or publishing findings and conclusions of groups referred to in this
4219 section to advance health research and health education; or
4220 (c) releasing or publishing a summary of these studies in accordance with this chapter.
4221 (6) As used in this chapter:
4222 (a) "health care provider" has the meaning set forth in Section [~~78-14-3~~] 78B-3-403;
4223 and
4224 (b) "health care facility" has the meaning set forth in Section 26-21-2.
4225 Section 40. Section **26A-1-121** is amended to read:
4226 **26A-1-121. Standards and regulations adopted by local board -- Administrative**
4227 **and judicial review of actions.**
4228 (1) (a) The board may make standards and regulations not in conflict with rules of the
4229 Departments of Health and Environmental Quality and necessary for the promotion of public
4230 health, environmental health quality, injury control, and the prevention of outbreaks and spread
4231 of communicable and infectious diseases.
4232 (b) The standards and regulations supersede existing local standards, regulations, and
4233 ordinances pertaining to similar subject matter.
4234 (c) The board shall provide public hearings prior to the adoption of any regulation or
4235 standard. Notice of any public hearing shall be published at least twice throughout the county
4236 or counties served by the local health department. The publication may be in one or more
4237 newspapers, so long as notice is provided in accordance with this Subsection (1)(c).
4238 (d) The hearings may be conducted by the board at a regular or special meeting, or the
4239 board may appoint hearing officers who may conduct hearings in the name of the board at a
4240 designated time and place.
4241 (e) A record or summary of the proceedings of any hearing shall be taken and filed
4242 with the board.
4243 (2) (a) Any person aggrieved by any action or inaction of the local health department

4244 relating to the public health shall have an opportunity for a hearing with the local health officer
4245 or a designated representative of the local health department. The board shall grant a
4246 subsequent hearing to the person upon his request in writing.
4247 (b) In any adjudicative hearing, a member of the board or the hearing officer may
4248 administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name
4249 of the board requiring the testimony of witnesses and the production of evidence relevant to
4250 any matter in the hearing. A written record shall be made of the hearing, including findings of
4251 facts and conclusions of law.
4252 (c) Judicial review of a final determination of the local board may be secured by any
4253 person adversely affected by the final determination, or by the Departments of Health or
4254 Environmental Quality, by filing a petition in the district court within 30 days after receipt of
4255 notice of the board's final determination.
4256 (d) The petition shall be served upon the secretary of the board and shall state the
4257 grounds upon which review is sought.
4258 (e) The board in its answer shall certify and file with the court all documents and
4259 papers and a transcript of all testimony taken in the matter together with its findings of fact,
4260 conclusions of law, and order.
4261 (f) The appellant and the board are parties to the appeal.
4262 (g) The Departments of Health and Environmental Quality may become a party by
4263 intervention as in a civil action upon showing cause.
4264 (h) A further appeal may be taken to the Court of Appeals under Section [~~78-2a-3~~]
4265 78A-4-103.
4266 Section 41. Section **30-1-17.2** is amended to read:
4267 **30-1-17.2. Action to determine validity of marriage -- Orders relating to parties,**
4268 **property, and children -- Presumption of paternity in marriage.**
4269 (1) If the parties have accumulated any property or acquired any obligations subsequent
4270 to the marriage, if there is a genuine need arising from an economic change of circumstances
4271 due to the marriage, or if there are children born or expected, the court may make temporary
4272 and final orders, and subsequently modify the orders, relating to the parties, their property and
4273 obligations, the children and their custody and parent-time, and the support and maintenance of
4274 the parties and children, as may be equitable.

4275 (2) A man is presumed to be the father of a child if:
4276 (a) he and the mother of the child are married to each other and the child is born during
4277 the marriage;
4278 (b) he and the mother of the child were married to each other and the child is born
4279 within 300 days after the marriage is terminated by death, annulment, declaration of invalidity,
4280 or divorce, or after a decree of separation;
4281 (c) before the birth of the child, he and the mother of the child married each other in
4282 apparent compliance with law, even if the attempted marriage is, or could be, declared invalid
4283 and the child is born during the invalid marriage or within 300 days after its termination by
4284 death, annulment, declaration of invalidity, or divorce, or after a decree of separation; or
4285 (d) after the birth of the child, he and the mother of the child have married each other
4286 in apparent compliance with law, whether or not the marriage is, or could be declared, invalid,
4287 he voluntarily asserted his paternity of the child, and there is no other presumptive father of the
4288 child, and:
4289 (i) the assertion is in a record filed with the state registrar;
4290 (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
4291 (iii) he promised in a record to support the child as his own.
4292 (3) If the child was born at the time of entry of a divorce decree, other children are
4293 named as children of the marriage, but that child is specifically not named, the husband is not
4294 presumed to be the father of the child not named in the order.
4295 (4) A presumption of paternity established under this section may only be rebutted in
4296 accordance with Section [~~78-45g-607~~] 78B-15-607.
4297 (5) A final order or decree issued by a tribunal in which paternity is adjudicated may
4298 not be set aside unless the court finds that one of the parties perpetrated a fraud in the
4299 establishment of the paternity and another party did not know or could not reasonably have
4300 known of the fraud at the time of the entry of the order. The party who committed the fraud
4301 may not bring the action.
4302 Section 42. Section **30-2-5** is amended to read:
4303 **30-2-5. Separate debts.**
4304 (1) Neither spouse is personally liable for the separate debts, obligations, or liabilities
4305 of the other:

4306 (a) contracted or incurred before marriage;
4307 (b) contracted or incurred during marriage, except family expenses as provided in
4308 Section 30-2-9;
4309 (c) contracted or incurred after divorce or an order for separate maintenance under this
4310 title, except the spouse is personally liable for that portion of the expenses incurred on behalf
4311 of a minor child for reasonable and necessary medical and dental expenses, and other similar
4312 necessities as provided in a court order under Section 30-3-5, 30-4-3, or [~~78-45-7.15~~]
4313 78B-12-212, or an administrative order under Section 62A-11-326; or
4314 (d) ordered by the court to be paid by the other spouse under Section 30-3-5 or 30-4-3
4315 and not in conflict with Section 15-4-6.5 or 15-4-6.7.
4316 (2) The wages, earnings, property, rents, or other income of one spouse may not be
4317 reached by a creditor of the other spouse to satisfy a debt, obligation, or liability of the other
4318 spouse, as described under Subsection (1).
4319 Section 43. Section **30-2-11** is amended to read:
4320 **30-2-11. Action for consortium due to personal injury.**
4321 (1) For purposes of this section:
4322 (a) "injury" or "injured" means a significant permanent injury to a person that
4323 substantially changes that person's lifestyle and includes the following:
4324 (i) a partial or complete paralysis of one or more of the extremities;
4325 (ii) significant disfigurement; or
4326 (iii) incapability of the person of performing the types of jobs the person performed
4327 before the injury; and
4328 (b) "spouse" means the legal relationship:
4329 (i) established between a man and a woman as recognized by the laws of this state; and
4330 (ii) existing at the time of the person's injury.
4331 (2) The spouse of a person injured by a third party on or after May 4, 1997, may
4332 maintain an action against the third party to recover for loss of consortium.
4333 (3) A claim for loss of consortium begins on the date of injury to the spouse. The
4334 statute of limitations applicable to the injured person shall also apply to the spouse's claim of
4335 loss of consortium.
4336 (4) A claim for the spouse's loss of consortium shall be:

4337 (a) made at the time the claim of the injured person is made and joinder of actions shall
4338 be compulsory; and
4339 (b) subject to the same defenses, limitations, immunities, and provisions applicable to
4340 the claims of the injured person.
4341 (5) The spouse's action for loss of consortium:
4342 (a) shall be derivative from the cause of action existing in behalf of the injured person;
4343 and
4344 (b) may not exist in cases where the injured person would not have a cause of action.
4345 (6) Fault of the spouse of the injured person, as well as fault of the injured person, shall
4346 be compared with the fault of all other parties, pursuant to Sections [~~78-27-37~~] 78B-5-817
4347 through [~~78-27-43~~] 78B-5-823, for purposes of reducing or barring any recovery by the spouse
4348 for loss of consortium.
4349 (7) Damages awarded for loss of consortium, when combined with any award to the
4350 injured person for general damages, may not exceed any applicable statutory limit on
4351 noneconomic damages, including Section [~~78-14-7.1~~] 78B-3-410.
4352 (8) Damages awarded for loss of consortium which a governmental entity is required to
4353 pay, when combined with any award to the injured person which a governmental entity is
4354 required to pay, may not exceed the liability limit for one person in any one occurrence under
4355 Title 63, Chapter 30d, Governmental Immunity Act of Utah.
4356 Section 44. Section **30-3-3** is amended to read:
4357 **30-3-3. Award of costs, attorney and witness fees -- Temporary alimony.**
4358 (1) In any action filed under Title 30, Chapter 3, [~~4, or 6~~] Divorce, Chapter 4, Separate
4359 Maintenance, or Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act, and in any action to
4360 establish an order of custody, parent-time, child support, alimony, or division of property in a
4361 domestic case, the court may order a party to pay the costs, attorney fees, and witness fees,
4362 including expert witness fees, of the other party to enable the other party to prosecute or defend
4363 the action. The order may include provision for costs of the action.
4364 (2) In any action to enforce an order of custody, parent-time, child support, alimony, or
4365 division of property in a domestic case, the court may award costs and attorney fees upon
4366 determining that the party substantially prevailed upon the claim or defense. The court, in its
4367 discretion, may award no fees or limited fees against a party if the court finds the party is

4368 impecunious or enters in the record the reason for not awarding fees.
4369 (3) In any action listed in Subsection (1), the court may order a party to provide money,
4370 during the pendency of the action, for the separate support and maintenance of the other party
4371 and of any children in the custody of the other party.
4372 (4) Orders entered under this section prior to entry of the final order or judgment may
4373 be amended during the course of the action or in the final order or judgment.
4374 Section 45. Section **30-3-4** is amended to read:
4375 **30-3-4. Pleadings -- Decree -- Use of affidavit -- Private records.**
4376 (1) (a) The complaint shall be in writing and signed by the petitioner or petitioner's
4377 attorney.
4378 (b) A decree of divorce may not be granted upon default or otherwise except upon legal
4379 evidence taken in the cause. If the decree is to be entered upon the default of the respondent,
4380 evidence to support the decree may be submitted upon the affidavit of the petitioner with the
4381 approval of the court.
4382 (c) If the petitioner and the respondent have a child or children, a decree of divorce
4383 may not be granted until both parties have attended the mandatory course described in Section
4384 30-3-11.3, and have presented a certificate of course completion to the court. The court may
4385 waive this requirement, on its own motion or on the motion of one of the parties, if it
4386 determines course attendance and completion are not necessary, appropriate, feasible, or in the
4387 best interest of the parties.
4388 (d) All hearings and trials for divorce shall be held before the court or the court
4389 commissioner as provided by Section [~~78-3-31~~] 78A-5-107 and rules of the Judicial Council.
4390 The court or the commissioner in all divorce cases shall enter the decree upon the evidence or,
4391 in the case of a decree after default of the respondent, upon the petitioner's affidavit.
4392 (2) (a) A party to an action brought under this title or to an action under Title [~~78~~] 78B,
4393 Chapter [~~45, Uniform Civil Liability for~~] 12, Utah Child Support Act, Title [~~78~~] 78B, Chapter
4394 [~~45c~~] 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, Title [~~78~~] 78B,
4395 Chapter [~~45f~~] 14, Uniform Interstate Family Support Act, Title [~~78~~] 78B, Chapter [~~45g~~] 15,
4396 Utah Uniform Parentage Act, or to an action to modify or enforce a judgment in the action may
4397 file a motion to have the file other than the final judgment, order, or decree classified as
4398 private.

4399 (b) If the court finds that there are substantial interests favoring restricting access that
4400 clearly outweigh the interests favoring access, the court may classify the file, or any part
4401 thereof other than the final order, judgment, or decree, as private. An order classifying part of
4402 the file as private does not apply to subsequent filings.
4403 (c) The record is private until the judge determines it is possible to release the record
4404 without prejudice to the interests that justified the closure. Any interested person may petition
4405 the court to permit access to a record classified as private under this section. The petition shall
4406 be served on the parties to the closure order.
4407 Section 46. Section **30-3-5.2** is amended to read:
4408 **30-3-5.2. Allegations of child abuse or child sexual abuse -- Investigation.**
4409 When, in any divorce proceeding or upon a request for modification of a divorce
4410 decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the
4411 court, after making an inquiry, may order that an investigation be conducted by the Division of
4412 Child and Family Services within the Department of Human Services in accordance with Title
4413 62A, Chapter 4a. A final award of custody or parent-time may not be rendered until a report on
4414 that investigation, consistent with Section 62A-4a-412, is received by the court. That
4415 investigation shall be conducted by the Division of Child and Family Services within 30 days
4416 of the court's notice and request for an investigation. In reviewing this report, the court shall
4417 comply with Section [~~78-7-9~~] 78A-2-227.
4418 Section 47. Section **30-3-10** is amended to read:
4419 **30-3-10. Custody of children in case of separation or divorce -- Custody**
4420 **consideration.**
4421 (1) If a husband and wife having minor children are separated, or their marriage is
4422 declared void or dissolved, the court shall make an order for the future care and custody of the
4423 minor children as it considers appropriate.
4424 (a) In determining any form of custody, the court shall consider the best interests of the
4425 child and, among other factors the court finds relevant, the following:
4426 (i) the past conduct and demonstrated moral standards of each of the parties;
4427 (ii) which parent is most likely to act in the best interest of the child, including
4428 allowing the child frequent and continuing contact with the noncustodial parent;
4429 (iii) the extent of bonding between the parent and child, meaning the depth, quality,

4430 and nature of the relationship between a parent and child; and
4431 (iv) those factors outlined in Section 30-3-10.2.
4432 (b) The court shall, in every case, consider joint custody but may award any form of
4433 custody which is determined to be in the best interest of the child.
4434 (c) The children may not be required by either party to testify unless the trier of fact
4435 determines that extenuating circumstances exist that would necessitate the testimony of the
4436 children be heard and there is no other reasonable method to present their testimony.
4437 (d) The court may inquire of the children and take into consideration the children's
4438 desires regarding future custody or parent-time schedules, but the expressed desires are not
4439 controlling and the court may determine the children's custody or parent-time otherwise. The
4440 desires of a child 16 years of age or older shall be given added weight, but is not the single
4441 controlling factor.
4442 (e) If interviews with the children are conducted by the court pursuant to Subsection
4443 (1)(d), they shall be conducted by the judge in camera. The prior consent of the parties may be
4444 obtained but is not necessary if the court finds that an interview with the children is the only
4445 method to ascertain the child's desires regarding custody.
4446 (2) In awarding custody, the court shall consider, among other factors the court finds
4447 relevant, which parent is most likely to act in the best interests of the child, including allowing
4448 the child frequent and continuing contact with the noncustodial parent as the court finds
4449 appropriate.
4450 (3) If the court finds that one parent does not desire custody of the child, or has
4451 attempted to permanently relinquish custody to a third party, it shall take that evidence into
4452 consideration in determining whether to award custody to the other parent.
4453 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a
4454 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining
4455 whether a substantial change has occurred for the purpose of modifying an award of custody.
4456 (b) If a court takes a parent's disability into account in awarding custody or determining
4457 whether a substantial change has occurred for the purpose of modifying an award of custody,
4458 the parent with a disability may rebut any evidence, presumption, or inference arising from the
4459 disability by showing that:
4460 (i) the disability does not significantly or substantially inhibit the parent's ability to

4461 provide for the physical and emotional needs of the child at issue; or
4462 (ii) the parent with a disability has sufficient human, monetary, or other resources
4463 available to supplement the parent's ability to provide for the physical and emotional needs of
4464 the child at issue.
4465 (c) Nothing in this section may be construed to apply to adoption proceedings under
4466 Title [~~78~~] 78B, Chapter [~~30,~~] 6, Part 1, Utah Adoption Act.
4467 (5) This section establishes neither a preference nor a presumption for or against joint
4468 legal custody, joint physical custody, or sole custody, but allows the court and the family the
4469 widest discretion to choose a parenting plan that is in the best interest of the child.
4470 Section 48. Section **30-3-10.5** is amended to read:
4471 **30-3-10.5. Payments of support, maintenance, and alimony.**
4472 (1) All monthly payments of support, maintenance, or alimony provided for in the order
4473 or decree shall be due on the first day of each month for purposes of Section [~~78-45-9.3~~]
4474 78B-12-112, child support services pursuant to Title 62A, Chapter 11, Part 3, Public Support of
4475 Child, income withholding services pursuant to Title 62A, Chapter 11, Part 4, Income
4476 Withholding in IV-D Cases, and other income withholding procedures pursuant to Title 62A,
4477 Chapter 11, Part 5, Income Withholding in Non IV-D Cases.
4478 (2) For purposes of child support services and income withholding pursuant to Title
4479 62A, Chapter 11, Part 3 and Part 4, child support is not considered past due until the first day
4480 of the following month.
4481 (3) For purposes other than those specified in Subsections (1) and (2), support shall be
4482 payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the
4483 order or decree provides for a different time for payment.
4484 Section 49. Section **30-3-15.3** is amended to read:
4485 **30-3-15.3. Commissioners -- Powers.**
4486 Commissioners shall:
4487 (1) secure compliance with court orders;
4488 (2) require attendance at the mandatory course as provided in Section 30-3-11.3;
4489 (3) serve as judge pro tempore, master or referee on:
4490 (a) assignment of the court; and
4491 (b) with the written consent of the parties:

4492 (i) orders to show cause where no contempt is alleged;
4493 (ii) default divorces where the parties have had marriage counseling but there has been
4494 no reconciliation;
4495 (iii) uncontested actions under Title [~~78~~] 78B, Chapter [~~45g~~] 15, Utah Uniform
4496 Parentage Act;
4497 (iv) actions under Title [~~78~~] 78B, Chapter [~~45, Uniform Civil Liability for~~] 12, Utah
4498 Child Support Act; and
4499 (v) actions under Title [~~78~~] 78B, Chapter [~~45f~~] 14, Uniform Interstate Family Support
4500 Act; and
4501 (4) represent the interest of children in divorce or annulment actions, and the parties in
4502 appropriate cases.
4503 Section 50. Section **30-3-17.1** is amended to read:
4504 **30-3-17.1. Proceedings considered confidential -- Written evaluation by**
4505 **counselor.**
4506 The petition for conciliation and all communications, verbal or written, from the parties
4507 to the domestic relations counselors or other personnel of the conciliation department in
4508 counseling or conciliation proceedings shall be deemed to be made in official confidence
4509 within the meaning of Section [~~78-24-8~~] 78B-1-137 and shall not be admissible or usable for
4510 any purpose in any divorce hearing or other proceeding. However, the marriage counselor may
4511 submit to the appropriate court a written evaluation of the prospects or prognosis of a particular
4512 marriage without divulging facts or revealing confidential disclosures.
4513 Section 51. Section **30-3-32** is amended to read:
4514 **30-3-32. Parent-time -- Intent -- Policy -- Definitions.**
4515 (1) It is the intent of the Legislature to promote parent-time at a level consistent with
4516 all parties' interests.
4517 (2) (a) A court shall consider as primary the safety and well-being of the child and the
4518 parent who is the victim of domestic or family violence.
4519 (b) Absent a showing by a preponderance of evidence of real harm or substantiated
4520 potential harm to the child:
4521 (i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to
4522 have frequent, meaningful, and continuing access to each parent following separation or

4523 divorce;
4524 (ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for
4525 frequent, meaningful, and continuing access with his child consistent with the child's best
4526 interests; and
4527 (iii) it is in the best interests of the child to have both parents actively involved in
4528 parenting the child.
4529 (c) An order issued by a court pursuant to Title [~~30~~] 78B, Chapter [~~6~~] 7, Part 1,
4530 Cohabitant Abuse Act shall be considered evidence of real harm or substantiated potential
4531 harm to the child.
4532 (3) For purposes of Sections 30-3-32 through 30-3-37:
4533 (a) "Child" means the child or children of divorcing, separating, or adjudicated parents.
4534 (b) "Christmas school vacation" means the time period beginning on the evening the
4535 child gets out of school for the Christmas or winter school break until the evening before the
4536 child returns to school, except for Christmas Eve and Christmas Day.
4537 (c) "Extended parent-time" means a period of parent-time other than a weekend,
4538 holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in
4539 Subsections 30-3-33(3) and (15), and "Christmas school vacation."
4540 (d) "Virtual parent-time" means parent-time facilitated by tools such as telephone,
4541 email, instant messaging, video conferencing, and other wired or wireless technologies over the
4542 Internet or other communication media to supplement in-person visits between a noncustodial
4543 parent and a child or between a child and the custodial parent when the child is staying with the
4544 noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person
4545 parent-time.
4546 (4) If a parent relocates because of an act of domestic violence or family violence by
4547 the other parent, the court shall make specific findings and orders with regards to the
4548 application of Section 30-3-37.
4549 Section 52. Section **30-3-39** is amended to read:
4550 **30-3-39. Mediation program.**
4551 (1) There is established a mandatory domestic mediation program to help reduce the
4552 time and tensions associated with obtaining a divorce.
4553 (2) If, after the filing of an answer to a complaint of divorce, there are any remaining

4554 contested issues, the parties shall participate in good faith in at least one session of mediation.
4555 This requirement does not preclude the entry of pretrial orders before mediation takes place.
4556 (3) The parties shall use a mediator qualified to mediate domestic disputes under
4557 criteria established by the Judicial Council in accordance with Section [~~78-31b-5~~] 78B-6-205.
4558 (4) Unless otherwise ordered by the court or the parties agree upon a different payment
4559 arrangement, the cost of mediation shall be divided equally between the parties.
4560 (5) The director of dispute resolution programs for the courts, the court, or the
4561 mediator may excuse either party from the requirement to mediate for good cause.
4562 (6) Mediation shall be conducted in accordance with the Utah Rules of Court-Annexed
4563 Alternative Dispute Resolution.
4564 Section 53. Section **31A-2-304** is amended to read:
4565 **31A-2-304. Auxiliary procedural powers.**
4566 The commissioner, or his delegate authorized for a particular matter over his
4567 handwritten signature, may administer oaths, take testimony, issue subpoenas, and take
4568 depositions in connection with any hearing, meeting, examination, investigation, or other
4569 proceeding that the commissioner may conduct. The subpoena shall have the same effect and
4570 shall be served in the same manner as if issued from a court of record. Sections [~~78-24-7~~]
4571 78B-1-131 and [~~78-32-15~~] 78B-6-313 apply to the enforcement of the process issued by the
4572 commissioner or his delegate.
4573 Section 54. Section **31A-4-106** is amended to read:
4574 **31A-4-106. Provision of health care.**
4575 (1) As used in this section, "health care provider" has the same definition as in Section
4576 [~~78-14-3~~] 78B-3-403.
4577 (2) Except under Subsection (3) or (4), a person may not directly or indirectly provide
4578 health care, or arrange for, manage, or administer the provision or arrangement of, collect
4579 advance payments for, or compensate providers of health care unless authorized to do so or
4580 employed by someone authorized to do so under Chapter 5, 7, 8, 9, or 14.
4581 (3) Subsection (2) does not apply to:
4582 (a) a natural person or professional corporation that alone or with others professionally
4583 associated with the natural person or professional corporation, and without receiving
4584 consideration for services in advance of the need for a particular service, provides the service

4585 personally with the aid of nonprofessional assistants;
4586 (b) a health care facility as defined in Section 26-21-2 which:
4587 (i) is licensed or exempt from licensing under Title 26, Chapter 21; and
4588 (ii) does not engage in health care insurance as defined under Section 31A-1-301;
4589 (c) a person who files with the commissioner under Section 31A-1-105 a certificate
4590 from the United States Department of Labor, or other evidence satisfactory to the
4591 commissioner, showing that the laws of Utah are preempted under Section 514 of the
4592 Employee Retirement Income Security Act of 1974 or other federal law;
4593 (d) a person licensed under Chapter 23a, Insurance Marketing - Licensing Producers,
4594 Consultants, and Reinsurance Intermediaries, who has arranged for the insurance of all services
4595 under:
4596 (i) Subsection (2) by an insurer authorized to do business in Utah;
4597 (ii) Section 31A-15-103; or
4598 (iii) works for an uninsured employer that complies with Chapter 13; or
4599 (e) an employer that self-funds its obligations to provide health care services or
4600 indemnity for its employees if the employer complies with Chapter 13.
4601 (4) A person may not provide administrative or management services for any other
4602 person subject to Subsection (2) and not exempt under Subsection (3) unless the person is an
4603 authorized insurer under Chapter 5, 7, 8, 9, or 14, or complies with Chapter 25.
4604 (5) It is unlawful for any insurer or person providing, administering, or managing
4605 health care insurance under Chapter 5, 7, 8, 9, or 14 to enter into a contract that limits a health
4606 care provider's ability to advise the health care provider's patients or clients fully about
4607 treatment options or other issues that affect the health care of the health care provider's patients
4608 or clients.
4609 Section 55. Section **31A-8a-102** is amended to read:
4610 **31A-8a-102. Definitions.**
4611 For purposes of this chapter:
4612 (1) "Fee" means any periodic charge for use of a discount program.
4613 (2) "Health care provider" means a health care provider as defined in Section [~~78-14-3~~]
4614 78B-3-403 who:
4615 (a) is practicing within the scope of the provider's license; and

4616 (b) has agreed either directly or indirectly, by contract or any other arrangement with a
4617 health discount program operator, to provide a discount to enrollees of a health discount
4618 program.
4619 (3) "Health discount program" means a business arrangement or contract in which a
4620 person pays fees, dues, charges, or other consideration in exchange for a program that provides
4621 access to health care providers who agree to provide a discount for health care services.
4622 (4) "Operates a health discount program" or "health discount program operator" means
4623 to:
4624 (a) enter into a contract or agreement either directly or indirectly with a health care
4625 provider in this state which the health care provider agrees to provide discounts to enrollees of
4626 the health discount program;
4627 (b) enter into a contract or agreement either directly or indirectly with a person in this
4628 state to provide access to more than one health care provider who has agreed to provide
4629 discounts for medical services to enrollees of the health discount program;
4630 (c) sell or distribute a health discount program in this state; or
4631 (d) place your name on and market or promote a health discount program in this state.
4632 (5) "Value-added benefit" means a discount offering with no additional charge made by
4633 a health insurer or health maintenance organization that is licensed under this title, in
4634 connection with existing contracts with the health insurer or health maintenance organization.
4635 Section 56. Section **31A-21-313** is amended to read:
4636 **31A-21-313. Limitation of actions.**
4637 (1) An action on a written policy or contract of first party insurance must be
4638 commenced within three years after the inception of the loss.
4639 (2) Except as provided in Subsection (1) or elsewhere in this title, the law applicable to
4640 limitation of actions in Title [~~78~~] 78B, Chapter [~~12, Limitation of Actions~~] 2, Statutes of
4641 Limitations, applies to actions on insurance policies.
4642 (3) An insurance policy may not:
4643 (a) limit the time for beginning an action on the policy to a time less than that
4644 authorized by statute;
4645 (b) prescribe in what court an action may be brought on the policy; or
4646 (c) provide that no action may be brought, subject to permissible arbitration provisions

4647 in contracts.
4648 (4) Unless by verified complaint it is alleged that prejudice to the complainant will
4649 arise from a delay in bringing suit against an insurer, which prejudice is other than the delay
4650 itself, no action may be brought against an insurer on an insurance policy to compel payment
4651 under the policy until the earlier of:
4652 (a) 60 days after proof of loss has been furnished as required under the policy;
4653 (b) waiver by the insurer of proof of loss; or
4654 (c) the insurer's denial of full payment.
4655 (5) The period of limitation is tolled during the period in which the parties conduct an
4656 appraisal or arbitration procedure prescribed by the insurance policy, by law, or as agreed to by
4657 the parties.
4658 Section 57. Section **31A-22-303** is amended to read:
4659 **31A-22-303. Motor vehicle liability coverage.**
4660 (1) (a) In addition to complying with the requirements of Chapter 21, Insurance
4661 Contracts in General, and Chapter 22, Part 2, Liability Insurance in General, a policy of motor
4662 vehicle liability coverage under Subsection 31A-22-302(1)(a) shall:
4663 (i) name the motor vehicle owner or operator in whose name the policy was purchased,
4664 state that named insured's address, the coverage afforded, the premium charged, the policy
4665 period, and the limits of liability;
4666 (ii) (A) if it is an owner's policy, designate by appropriate reference all the motor
4667 vehicles on which coverage is granted, insure the person named in the policy, insure any other
4668 person using any named motor vehicle with the express or implied permission of the named
4669 insured, and, except as provided in Subsection (7), insure any person included in Subsection
4670 (1)(a)(iii) against loss from the liability imposed by law for damages arising out of the
4671 ownership, maintenance, or use of these motor vehicles within the United States and Canada,
4672 subject to limits exclusive of interest and costs, for each motor vehicle, in amounts not less
4673 than the minimum limits specified under Section 31A-22-304; or
4674 (B) if it is an operator's policy, insure the person named as insured against loss from
4675 the liability imposed upon him by law for damages arising out of the insured's use of any motor
4676 vehicle not owned by him, within the same territorial limits and with the same limits of liability
4677 as in an owner's policy under Subsection (1)(a)(ii)(A);

4678 (iii) except as provided in Subsection (7), insure persons related to the named insured
4679 by blood, marriage, adoption, or guardianship who are residents of the named insured's
4680 household, including those who usually make their home in the same household but
4681 temporarily live elsewhere, to the same extent as the named insured;
4682 (iv) where a claim is brought by the named insured or a person described in Subsection
4683 (1)(a)(iii), the available coverage of the policy may not be reduced or stepped-down because:
4684 (A) a permissive user driving a covered motor vehicle is at fault in causing an accident;
4685 or
4686 (B) the named insured or any of the persons described in this Subsection (1)(a)(iii)
4687 driving a covered motor vehicle is at fault in causing an accident; and
4688 (v) cover damages or injury resulting from a covered driver of a motor vehicle who is
4689 stricken by an unforeseeable paralysis, seizure, or other unconscious condition and who is not
4690 reasonably aware that paralysis, seizure, or other unconscious condition is about to occur to the
4691 extent that a person of ordinary prudence would not attempt to continue driving.
4692 (b) The driver's liability under Subsection (1)(a)(v) is limited to the insurance
4693 coverage.
4694 (2) (a) A policy containing motor vehicle liability coverage under Subsection
4695 31A-22-302(1)(a) may:
4696 (i) provide for the prorating of the insurance under that policy with other valid and
4697 collectible insurance;
4698 (ii) grant any lawful coverage in addition to the required motor vehicle liability
4699 coverage;
4700 (iii) if the policy is issued to a person other than a motor vehicle business, limit the
4701 coverage afforded to a motor vehicle business or its officers, agents, or employees to the
4702 minimum limits under Section 31A-22-304, and to those instances when there is no other valid
4703 and collectible insurance with at least those limits, whether the other insurance is primary,
4704 excess, or contingent; and
4705 (iv) if issued to a motor vehicle business, restrict coverage afforded to anyone other
4706 than the motor vehicle business or its officers, agents, or employees to the minimum limits
4707 under Section 31A-22-304, and to those instances when there is no other valid and collectible
4708 insurance with at least those limits, whether the other insurance is primary, excess, or

4709 contingent.
4710 (b) (i) The liability insurance coverage of a permissive user of a motor vehicle owned
4711 by a motor vehicle business shall be primary coverage.
4712 (ii) The liability insurance coverage of a motor vehicle business shall be secondary to
4713 the liability insurance coverage of a permissive user as specified under Subsection (2)(b)(i).
4714 (3) Motor vehicle liability coverage need not insure any liability:
4715 (a) under any workers' compensation law under Title 34A, Utah Labor Code;
4716 (b) resulting from bodily injury to or death of an employee of the named insured, other
4717 than a domestic employee, while engaged in the employment of the insured, or while engaged
4718 in the operation, maintenance, or repair of a designated vehicle; or
4719 (c) resulting from damage to property owned by, rented to, bailed to, or transported by
4720 the insured.
4721 (4) An insurance carrier providing motor vehicle liability coverage has the right to
4722 settle any claim covered by the policy, and if the settlement is made in good faith, the amount
4723 of the settlement is deductible from the limits of liability specified under Section 31A-22-304.
4724 (5) A policy containing motor vehicle liability coverage imposes on the insurer the
4725 duty to defend, in good faith, any person insured under the policy against any claim or suit
4726 seeking damages which would be payable under the policy.
4727 (6) (a) If a policy containing motor vehicle liability coverage provides an insurer with
4728 the defense of lack of cooperation on the part of the insured, that defense is not effective
4729 against a third person making a claim against the insurer, unless there was collusion between
4730 the third person and the insured.
4731 (b) If the defense of lack of cooperation is not effective against the claimant, after
4732 payment, the insurer is subrogated to the injured person's claim against the insured to the extent
4733 of the payment and is entitled to reimbursement by the insured after the injured third person has
4734 been made whole with respect to the claim against the insured.
4735 (7) A policy of motor vehicle liability coverage under Subsection 31A-22-302(1) may
4736 specifically exclude from coverage a person who is a resident of the named insured's
4737 household, including a person who usually makes his home in the same household but
4738 temporarily lives elsewhere, if:
4739 (a) at the time of the proposed exclusion, each person excluded from coverage satisfies

4740 the owner's or operator's security requirement of Section 41-12a-301, independently of the
4741 named insured's proof of owner's or operator's security;
4742 (b) the named insured and the person excluded from coverage each provide written
4743 consent to the exclusion; and
4744 (c) the insurer includes the name of each person excluded from coverage in the
4745 evidence of insurance provided to an additional insured or loss payee.
4746 (8) A policy of motor vehicle liability coverage may limit coverage to the policy
4747 minimum limits under Section 31A-22-304 if the insured motor vehicle is operated by a person
4748 who has consumed any alcohol or any illegal drug or illegal substance if the policy or a
4749 specifically reduced premium was extended to the insured upon express written declaration
4750 executed by the insured that the insured motor vehicle would not be so operated.
4751 (9) (a) When a claim is brought exclusively by a named insured or a person described
4752 in Subsection (1)(a)(iii) and asserted exclusively against a named insured or an individual
4753 described in Subsection (1)(a)(iii), the claimant may elect to resolve the claim:
4754 (i) by submitting the claim to binding arbitration; or
4755 (ii) through litigation.
4756 (b) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii),
4757 the claimant may not elect to resolve the claim through binding arbitration under this section
4758 without the written consent of both parties and the defendant's liability insurer.
4759 (c) (i) Unless otherwise agreed on in writing by the parties, a claim that is submitted to
4760 binding arbitration under Subsection (9)(a)(i) shall be resolved by a panel of three arbitrators.
4761 (ii) Unless otherwise agreed on in writing by the parties, each party shall select an
4762 arbitrator. The arbitrators selected by the parties shall select a third arbitrator.
4763 (d) Unless otherwise agreed on in writing by the parties, each party will pay the fees
4764 and costs of the arbitrator that party selects. Both parties shall share equally the fees and costs
4765 of the third arbitrator.
4766 (e) Except as otherwise provided in this section, an arbitration procedure conducted
4767 under this section shall be governed by Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform
4768 Arbitration Act, unless otherwise agreed on in writing by the parties.
4769 (f) (i) Discovery shall be conducted in accordance with Rules 26b through 36, Utah
4770 Rules of Civil Procedure.

4771 (ii) All issues of discovery shall be resolved by the arbitration panel.
4772 (g) A written decision of two of the three arbitrators shall constitute a final decision of
4773 the arbitration panel.
4774 (h) Prior to the rendering of the arbitration award:
4775 (i) the existence of a liability insurance policy may be disclosed to the arbitration
4776 panel; and
4777 (ii) the amount of all applicable liability insurance policy limits may not be disclosed to
4778 the arbitration panel.
4779 (i) The amount of the arbitration award may not exceed the liability limits of all the
4780 defendant's applicable liability insurance policies, including applicable liability umbrella
4781 policies. If the initial arbitration award exceeds the liability limits of all applicable liability
4782 insurance policies, the arbitration award shall be reduced to an amount equal to the liability
4783 limits of all applicable liability insurance policies.
4784 (j) The arbitration award is the final resolution of all claims between the parties unless
4785 the award was procured by corruption, fraud, or other undue means.
4786 (k) If the arbitration panel finds that the action was not brought, pursued, or defended
4787 in good faith, the arbitration panel may award reasonable fees and costs against the party that
4788 failed to bring, pursue, or defend the claim in good faith.
4789 (l) Nothing in this section is intended to limit any claim under any other portion of an
4790 applicable insurance policy.
4791 (10) An at-fault driver or an insurer issuing a policy of insurance under this part that is
4792 covering an at-fault driver may not reduce compensation to an injured party based on the
4793 injured party not being covered by a policy of insurance that provides personal injury
4794 protection coverage under Sections 31A-22-306 through 31A-22-309.
4795 Section 58. Section **31A-22-305** is amended to read:
4796 **31A-22-305. Uninsured motorist coverage.**
4797 (1) As used in this section, "covered persons" includes:
4798 (a) the named insured;
4799 (b) persons related to the named insured by blood, marriage, adoption, or guardianship,
4800 who are residents of the named insured's household, including those who usually make their
4801 home in the same household but temporarily live elsewhere;

4802 (c) any person occupying or using a motor vehicle:
4803 (i) referred to in the policy; or
4804 (ii) owned by a self-insured; and
4805 (d) any person who is entitled to recover damages against the owner or operator of the
4806 uninsured or underinsured motor vehicle because of bodily injury to or death of persons under
4807 Subsection (1)(a), (b), or (c).
4808 (2) As used in this section, "uninsured motor vehicle" includes:
4809 (a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered
4810 under a liability policy at the time of an injury-causing occurrence; or
4811 (ii) (A) a motor vehicle covered with lower liability limits than required by Section
4812 31A-22-304; and
4813 (B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of
4814 the deficiency;
4815 (b) an unidentified motor vehicle that left the scene of an accident proximately caused
4816 by the motor vehicle operator;
4817 (c) a motor vehicle covered by a liability policy, but coverage for an accident is
4818 disputed by the liability insurer for more than 60 days or continues to be disputed for more than
4819 60 days; or
4820 (d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of
4821 the motor vehicle is declared insolvent by a court of competent jurisdiction; and
4822 (ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent
4823 that the claim against the insolvent insurer is not paid by a guaranty association or fund.
4824 (3) (a) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides
4825 coverage for covered persons who are legally entitled to recover damages from owners or
4826 operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.
4827 (b) For new policies written on or after January 1, 2001, the limits of uninsured
4828 motorist coverage shall be equal to the lesser of the limits of the insured's motor vehicle
4829 liability coverage or the maximum uninsured motorist coverage limits available by the insurer
4830 under the insured's motor vehicle policy, unless the insured purchases coverage in a lesser
4831 amount by signing an acknowledgment form that:
4832 (i) is filed with the department;

4833 (ii) is provided by the insurer;
4834 (iii) waives the higher coverage;
4835 (iv) reasonably explains the purpose of uninsured motorist coverage; and
4836 (v) discloses the additional premiums required to purchase uninsured motorist
4837 coverage with limits equal to the lesser of the limits of the insured's motor vehicle liability
4838 coverage or the maximum uninsured motorist coverage limits available by the insurer under the
4839 insured's motor vehicle policy.
4840 (c) A self-insured, including a governmental entity, may elect to provide uninsured
4841 motorist coverage in an amount that is less than its maximum self-insured retention under
4842 Subsections (3)(b) and (4)(a) by issuing a declaratory memorandum or policy statement from
4843 the chief financial officer or chief risk officer that declares the:
4844 (i) self-insured entity's coverage level; and
4845 (ii) process for filing an uninsured motorist claim.
4846 (d) Uninsured motorist coverage may not be sold with limits that are less than the
4847 minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.
4848 (e) The acknowledgment under Subsection (3)(b) continues for that issuer of the
4849 uninsured motorist coverage until the insured, in writing, requests different uninsured motorist
4850 coverage from the insurer.
4851 (f) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
4852 policies existing on that date, the insurer shall disclose in the same medium as the premium
4853 renewal notice, an explanation of:
4854 (A) the purpose of uninsured motorist coverage; and
4855 (B) the costs associated with increasing the coverage in amounts up to and including
4856 the maximum amount available by the insurer under the insured's motor vehicle policy.
4857 (ii) The disclosure required under this Subsection (3)(f) shall be sent to all insureds that
4858 carry uninsured motorist coverage limits in an amount less than the insured's motor vehicle
4859 liability policy limits or the maximum uninsured motorist coverage limits available by the
4860 insurer under the insured's motor vehicle policy.
4861 (4) (a) (i) Except as provided in Subsection (4)(b), the named insured may reject
4862 uninsured motorist coverage by an express writing to the insurer that provides liability
4863 coverage under Subsection 31A-22-302(1)(a).

4864 (ii) This rejection shall be on a form provided by the insurer that includes a reasonable
4865 explanation of the purpose of uninsured motorist coverage.
4866 (iii) This rejection continues for that issuer of the liability coverage until the insured in
4867 writing requests uninsured motorist coverage from that liability insurer.
4868 (b) (i) All persons, including governmental entities, that are engaged in the business of,
4869 or that accept payment for, transporting natural persons by motor vehicle, and all school
4870 districts that provide transportation services for their students, shall provide coverage for all
4871 motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance,
4872 uninsured motorist coverage of at least $25,000 per person and $500,000 per accident.
4873 (ii) This coverage is secondary to any other insurance covering an injured covered
4874 person.
4875 (c) Uninsured motorist coverage:
4876 (i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers'
4877 Compensation Act;
4878 (ii) may not be subrogated by the workers' compensation insurance carrier;
4879 (iii) may not be reduced by any benefits provided by workers' compensation insurance;
4880 (iv) may be reduced by health insurance subrogation only after the covered person has
4881 been made whole;
4882 (v) may not be collected for bodily injury or death sustained by a person:
4883 (A) while committing a violation of Section 41-1a-1314;
4884 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
4885 in violation of Section 41-1a-1314; or
4886 (C) while committing a felony; and
4887 (vi) notwithstanding Subsection (4)(c)(v), may be recovered:
4888 (A) for a person under 18 years of age who is injured within the scope of Subsection
4889 (4)(c)(v) but limited to medical and funeral expenses; or
4890 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
4891 within the course and scope of the law enforcement officer's duties.
4892 (d) As used in this Subsection (4), "motor vehicle" has the same meaning as under
4893 Section 41-1a-102.
4894 (5) When a covered person alleges that an uninsured motor vehicle under Subsection

4895 (2)(b) proximately caused an accident without touching the covered person or the motor
4896 vehicle occupied by the covered person, the covered person must show the existence of the
4897 uninsured motor vehicle by clear and convincing evidence consisting of more than the covered
4898 person's testimony.
4899 (6) (a) The limit of liability for uninsured motorist coverage for two or more motor
4900 vehicles may not be added together, combined, or stacked to determine the limit of insurance
4901 coverage available to an injured person for any one accident.
4902 (b) (i) Subsection (6)(a) applies to all persons except a covered person as defined under
4903 Subsection (7)(b)(ii).
4904 (ii) A covered person as defined under Subsection (7)(b)(ii) is entitled to the highest
4905 limits of uninsured motorist coverage afforded for any one motor vehicle that the covered
4906 person is the named insured or an insured family member.
4907 (iii) This coverage shall be in addition to the coverage on the motor vehicle the covered
4908 person is occupying.
4909 (iv) Neither the primary nor the secondary coverage may be set off against the other.
4910 (c) Coverage on a motor vehicle occupied at the time of an accident shall be primary
4911 coverage, and the coverage elected by a person described under Subsections (1)(a) and (b) shall
4912 be secondary coverage.
4913 (7) (a) Uninsured motorist coverage under this section applies to bodily injury,
4914 sickness, disease, or death of covered persons while occupying or using a motor vehicle only if
4915 the motor vehicle is described in the policy under which a claim is made, or if the motor
4916 vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy.
4917 Except as provided in Subsection (6) or this Subsection (7), a covered person injured in a
4918 motor vehicle described in a policy that includes uninsured motorist benefits may not elect to
4919 collect uninsured motorist coverage benefits from any other motor vehicle insurance policy
4920 under which the person is a covered person.
4921 (b) Each of the following persons may also recover uninsured motorist benefits under
4922 any one other policy in which they are described as a "covered person" as defined in Subsection
4923 (1):
4924 (i) a covered person injured as a pedestrian by an uninsured motor vehicle; and
4925 (ii) except as provided in Subsection (7)(c), a covered person injured while occupying

4926 or using a motor vehicle that is not owned, leased, or furnished:
4927 (A) to the covered person;
4928 (B) to the covered person's spouse; or
4929 (C) to the covered person's resident parent or resident sibling.
4930 (c) (i) A covered person may recover benefits from no more than two additional
4931 policies, one additional policy from each parent's household if the covered person is:
4932 (A) a dependent minor of parents who reside in separate households; and
4933 (B) injured while occupying or using a motor vehicle that is not owned, leased, or
4934 furnished:
4935 (I) to the covered person;
4936 (II) to the covered person's resident parent; or
4937 (III) to the covered person's resident sibling.
4938 (ii) Each parent's policy under this Subsection (7)(c) is liable only for the percentage of
4939 the damages that the limit of liability of each parent's policy of uninsured motorist coverage
4940 bears to the total of both parents' uninsured coverage applicable to the accident.
4941 (d) A covered person's recovery under any available policies may not exceed the full
4942 amount of damages.
4943 (e) A covered person in Subsection (7)(b) is not barred against making subsequent
4944 elections if recovery is unavailable under previous elections.
4945 (f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a
4946 single incident of loss under more than one insurance policy.
4947 (ii) Except to the extent permitted by Subsection (6) and this Subsection (7),
4948 interpolicy stacking is prohibited for uninsured motorist coverage.
4949 (8) (a) When a claim is brought by a named insured or a person described in
4950 Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the
4951 claimant may elect to resolve the claim:
4952 (i) by submitting the claim to binding arbitration; or
4953 (ii) through litigation.
4954 (b) Unless otherwise provided in the policy under which uninsured benefits are
4955 claimed, the election provided in Subsection (8)(a) is available to the claimant only.
4956 (c) Once the claimant has elected to commence litigation under Subsection (8)(a)(ii),

4957 the claimant may not elect to resolve the claim through binding arbitration under this section
4958 without the written consent of the uninsured motorist carrier.
4959 (d) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
4960 binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.
4961 (ii) All parties shall agree on the single arbitrator selected under Subsection (8)(d)(i).
4962 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
4963 (8)(d)(ii), the parties shall select a panel of three arbitrators.
4964 (e) If the parties select a panel of three arbitrators under Subsection (8)(d)(iii):
4965 (i) each side shall select one arbitrator; and
4966 (ii) the arbitrators appointed under Subsection (8)(e)(i) shall select one additional
4967 arbitrator to be included in the panel.
4968 (f) Unless otherwise agreed to in writing:
4969 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
4970 under Subsection (8)(d)(i); or
4971 (ii) if an arbitration panel is selected under Subsection (8)(d)(iii):
4972 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and
4973 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
4974 under Subsection (8)(e)(ii).
4975 (g) Except as otherwise provided in this section or unless otherwise agreed to in
4976 writing by the parties, an arbitration proceeding conducted under this section shall be governed
4977 by Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act.
4978 (h) The arbitration shall be conducted in accordance with Rules 26 through 37, 54, and
4979 68 of the Utah Rules of Civil Procedure.
4980 (i) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.
4981 (j) A written decision by a single arbitrator or by a majority of the arbitration panel
4982 shall constitute a final decision.
4983 (k) (i) The amount of an arbitration award may not exceed the uninsured motorist
4984 policy limits of all applicable uninsured motorist policies, including applicable uninsured
4985 motorist umbrella policies.
4986 (ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all
4987 applicable uninsured motorist policies, the arbitration award shall be reduced to an amount

4988 equal to the combined uninsured motorist policy limits of all applicable uninsured motorist
4989 policies.
4990 (l) The arbitrator or arbitration panel may not decide the issues of coverage or
4991 extra-contractual damages, including:
4992 (i) whether the claimant is a covered person;
4993 (ii) whether the policy extends coverage to the loss; or
4994 (iii) any allegations or claims asserting consequential damages or bad faith liability.
4995 (m) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
4996 class-representative basis.
4997 (n) If the arbitrator or arbitration panel finds that the action was not brought, pursued,
4998 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
4999 and costs against the party that failed to bring, pursue, or defend the claim in good faith.
5000 (o) An arbitration award issued under this section shall be the final resolution of all
5001 claims not excluded by Subsection (8)(l) between the parties unless:
5002 (i) the award was procured by corruption, fraud, or other undue means; or
5003 (ii) either party, within 20 days after service of the arbitration award:
5004 (A) files a complaint requesting a trial de novo in the district court; and
5005 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
5006 under Subsection (8)(o)(ii)(A).
5007 (p) (i) Upon filing a complaint for a trial de novo under Subsection (8)(o), the claim
5008 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules
5009 of Evidence in the district court.
5010 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
5011 request a jury trial with a complaint requesting a trial de novo under Subsection (8)(o)(ii)(A).
5012 (q) (i) If the claimant, as the moving party in a trial de novo requested under
5013 Subsection (8)(o), does not obtain a verdict that is at least $5,000 and is at least 20% greater
5014 than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.
5015 (ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested
5016 under Subsection (8)(o), does not obtain a verdict that is at least 20% less than the arbitration
5017 award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.
5018 (iii) Except as provided in Subsection (8)(q)(iv), the costs under this Subsection (8)(q)

5019 shall include:
5020 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
5021 (B) the costs of expert witnesses and depositions.
5022 (iv) An award of costs under this Subsection (8)(q) may not exceed $2,500.
5023 (r) For purposes of determining whether a party's verdict is greater or less than the
5024 arbitration award under Subsection (8)(q), a court may not consider any recovery or other relief
5025 granted on a claim for damages if the claim for damages:
5026 (i) was not fully disclosed in writing prior to the arbitration proceeding; or
5027 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
5028 Procedure.
5029 (s) If a district court determines, upon a motion of the nonmoving party, that the
5030 moving party's use of the trial de novo process was filed in bad faith in accordance with
5031 Section [~~78-27-56~~] 78B-5-825, the district court may award reasonable attorney fees to the
5032 nonmoving party.
5033 (t) Nothing in this section is intended to limit any claim under any other portion of an
5034 applicable insurance policy.
5035 (u) If there are multiple uninsured motorist policies, as set forth in Subsection (7), the
5036 claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist
5037 carriers.
5038 Section 59. Section **31A-22-305.3** is amended to read:
5039 **31A-22-305.3. Underinsured motorist coverage.**
5040 (1) As used in this section:
5041 (a) "Covered person" has the same meaning as defined in Section 31A-22-305.
5042 (b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation,
5043 maintenance, or use of which is covered under a liability policy at the time of an injury-causing
5044 occurrence, but which has insufficient liability coverage to compensate fully the injured party
5045 for all special and general damages.
5046 (ii) The term "underinsured motor vehicle" does not include:
5047 (A) a motor vehicle that is covered under the liability coverage of the same policy that
5048 also contains the underinsured motorist coverage;
5049 (B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

5050 (C) a motor vehicle owned or leased by:
5051 (I) the named insured;
5052 (II) the named insured's spouse; or
5053 (III) any dependent of the named insured.
5054 (2) (a) (i) Underinsured motorist coverage under Subsection 31A-22-302(1)(c)
5055 provides coverage for covered persons who are legally entitled to recover damages from
5056 owners or operators of underinsured motor vehicles because of bodily injury, sickness, disease,
5057 or death.
5058 (ii) A covered person occupying or using a motor vehicle owned, leased, or furnished
5059 to the covered person, the covered person's spouse, or covered person's resident relative may
5060 recover underinsured benefits only if the motor vehicle is:
5061 (A) described in the policy under which a claim is made; or
5062 (B) a newly acquired or replacement motor vehicle covered under the terms of the
5063 policy.
5064 (b) For new policies written on or after January 1, 2001, the limits of underinsured
5065 motorist coverage shall be equal to the lesser of the limits of the insured's motor vehicle
5066 liability coverage or the maximum underinsured motorist coverage limits available by the
5067 insurer under the insured's motor vehicle policy, unless the insured purchases coverage in a
5068 lesser amount by signing an acknowledgment form that:
5069 (i) is filed with the department;
5070 (ii) is provided by the insurer;
5071 (iii) waives the higher coverage;
5072 (iv) reasonably explains the purpose of underinsured motorist coverage; and
5073 (v) discloses the additional premiums required to purchase underinsured motorist
5074 coverage with limits equal to the lesser of the limits of the insured's motor vehicle liability
5075 coverage or the maximum underinsured motorist coverage limits available by the insurer under
5076 the insured's motor vehicle policy.
5077 (c) A self-insured, including a governmental entity, may elect to provide underinsured
5078 motorist coverage in an amount that is less than its maximum self-insured retention under
5079 Subsections (2)(b) and (2)(g) by issuing a declaratory memorandum or policy statement from
5080 the chief financial officer or chief risk officer that declares the:

5081 (i) self-insured entity's coverage level; and
5082 (ii) process for filing an underinsured motorist claim.
5083 (d) Underinsured motorist coverage may not be sold with limits that are less than:
5084 (i) $10,000 for one person in any one accident; and
5085 (ii) at least $20,000 for two or more persons in any one accident.
5086 (e) The acknowledgment under Subsection (2)(b) continues for that issuer of the
5087 underinsured motorist coverage until the insured, in writing, requests different underinsured
5088 motorist coverage from the insurer.
5089 (f) (i) The named insured's underinsured motorist coverage, as described in Subsection
5090 (2)(a), is secondary to the liability coverage of an owner or operator of an underinsured motor
5091 vehicle, as described in Subsection (1).
5092 (ii) Underinsured motorist coverage may not be set off against the liability coverage of
5093 the owner or operator of an underinsured motor vehicle, but shall be added to, combined with,
5094 or stacked upon the liability coverage of the owner or operator of the underinsured motor
5095 vehicle to determine the limit of coverage available to the injured person.
5096 (g) (i) A named insured may reject underinsured motorist coverage by an express
5097 writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).
5098 (ii) This written rejection shall be on a form provided by the insurer that includes a
5099 reasonable explanation of the purpose of underinsured motorist coverage and when it would be
5100 applicable.
5101 (iii) This rejection continues for that issuer of the liability coverage until the insured in
5102 writing requests underinsured motorist coverage from that liability insurer.
5103 (h) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for
5104 policies existing on that date, the insurer shall disclose in the same medium as the premium
5105 renewal notice, an explanation of:
5106 (A) the purpose of underinsured motorist coverage; and
5107 (B) the costs associated with increasing the coverage in amounts up to and including
5108 the maximum amount available by the insurer under the insured's motor vehicle policy.
5109 (ii) The disclosure required by this Subsection (2)(h) shall be sent to all insureds that
5110 carry underinsured motorist coverage limits in an amount less than the insured's motor vehicle
5111 liability policy limits or the maximum underinsured motorist coverage limits available by the

5112 insurer under the insured's motor vehicle policy.
5113 (3) (a) (i) Except as provided in this Subsection (3), a covered person injured in a
5114 motor vehicle described in a policy that includes underinsured motorist benefits may not elect
5115 to collect underinsured motorist coverage benefits from any other motor vehicle insurance
5116 policy.
5117 (ii) The limit of liability for underinsured motorist coverage for two or more motor
5118 vehicles may not be added together, combined, or stacked to determine the limit of insurance
5119 coverage available to an injured person for any one accident.
5120 (iii) Subsection (3)(a)(ii) applies to all persons except a covered person described
5121 under Subsections (3)(b)(i) and (ii).
5122 (b) (i) Except as provided in Subsection (3)(b)(ii), a covered person injured while
5123 occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the
5124 covered person, the covered person's spouse, or the covered person's resident parent or resident
5125 sibling, may also recover benefits under any one other policy under which they are a covered
5126 person.
5127 (ii) (A) A covered person may recover benefits from no more than two additional
5128 policies, one additional policy from each parent's household if the covered person is:
5129 (I) a dependent minor of parents who reside in separate households; and
5130 (II) injured while occupying or using a motor vehicle that is not owned, leased, or
5131 furnished to the covered person, the covered person's resident parent, or the covered person's
5132 resident sibling.
5133 (B) Each parent's policy under this Subsection (3)(b)(ii) is liable only for the
5134 percentage of the damages that the limit of liability of each parent's policy of underinsured
5135 motorist coverage bears to the total of both parents' underinsured coverage applicable to the
5136 accident.
5137 (iii) A covered person's recovery under any available policies may not exceed the full
5138 amount of damages.
5139 (iv) Underinsured coverage on a motor vehicle occupied at the time of an accident shall
5140 be primary coverage, and the coverage elected by a person described under Subsections
5141 31A-22-305(1)(a) and (b) shall be secondary coverage.
5142 (v) The primary and the secondary coverage may not be set off against the other.

5143 (vi) A covered person as described under Subsection (3)(b)(i) is entitled to the highest
5144 limits of underinsured motorist coverage under only one additional policy per household
5145 applicable to that covered person as a named insured, spouse, or relative.
5146 (vii) A covered injured person is not barred against making subsequent elections if
5147 recovery is unavailable under previous elections.
5148 (viii) (A) As used in this section, "interpolicy stacking" means recovering benefits for a
5149 single incident of loss under more than one insurance policy.
5150 (B) Except to the extent permitted by this Subsection (3), interpolicy stacking is
5151 prohibited for underinsured motorist coverage.
5152 (c) Underinsured motorist coverage:
5153 (i) is secondary to the benefits provided by Title 34A, Chapter 2, Workers'
5154 Compensation Act;
5155 (ii) may not be subrogated by the workers' compensation insurance carrier;
5156 (iii) may not be reduced by any benefits provided by workers' compensation insurance;
5157 (iv) may be reduced by health insurance subrogation only after the covered person has
5158 been made whole;
5159 (v) may not be collected for bodily injury or death sustained by a person:
5160 (A) while committing a violation of Section 41-1a-1314;
5161 (B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated
5162 in violation of Section 41-1a-1314; or
5163 (C) while committing a felony; and
5164 (vi) notwithstanding Subsection (3)(c)(v), may be recovered:
5165 (A) for a person under 18 years of age who is injured within the scope of Subsection
5166 (3)(c)(v) but limited to medical and funeral expenses; or
5167 (B) by a law enforcement officer as defined in Section 53-13-103, who is injured
5168 within the course and scope of the law enforcement officer's duties.
5169 (4) The inception of the loss under Subsection 31A-21-313(1) for underinsured
5170 motorist claims occurs upon the date of the last liability policy payment.
5171 (5) (a) Within five business days after notification in a manner specified by the
5172 department that all liability insurers have tendered their liability policy limits, the underinsured
5173 carrier shall either:

5174 (i) waive any subrogation claim the underinsured carrier may have against the person
5175 liable for the injuries caused in the accident; or
5176 (ii) pay the insured an amount equal to the policy limits tendered by the liability carrier.
5177 (b) If neither option is exercised under Subsection (5)(a), the subrogation claim is
5178 considered to be waived by the underinsured carrier.
5179 (6) Except as otherwise provided in this section, a covered person may seek, subject to
5180 the terms and conditions of the policy, additional coverage under any policy:
5181 (a) that provides coverage for damages resulting from motor vehicle accidents; and
5182 (b) that is not required to conform to Section 31A-22-302.
5183 (7) (a) When a claim is brought by a named insured or a person described in
5184 Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist
5185 carrier, the claimant may elect to resolve the claim:
5186 (i) by submitting the claim to binding arbitration; or
5187 (ii) through litigation.
5188 (b) Unless otherwise provided in the policy under which underinsured benefits are
5189 claimed, the election provided in Subsection (7)(a) is available to the claimant only.
5190 (c) Once the claimant has elected to commence litigation under Subsection (7)(a)(ii),
5191 the claimant may not elect to resolve the claim through binding arbitration under this section
5192 without the written consent of the underinsured motorist coverage carrier.
5193 (d) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
5194 binding arbitration under Subsection (7)(a)(i) shall be resolved by a single arbitrator.
5195 (ii) All parties shall agree on the single arbitrator selected under Subsection (7)(d)(i).
5196 (iii) If the parties are unable to agree on a single arbitrator as required under Subsection
5197 (7)(d)(ii), the parties shall select a panel of three arbitrators.
5198 (e) If the parties select a panel of three arbitrators under Subsection (7)(d)(iii):
5199 (i) each side shall select one arbitrator; and
5200 (ii) the arbitrators appointed under Subsection (7)(e)(i) shall select one additional
5201 arbitrator to be included in the panel.
5202 (f) Unless otherwise agreed to in writing:
5203 (i) each party shall pay an equal share of the fees and costs of the arbitrator selected
5204 under Subsection (7)(d)(i); or

5205 (ii) if an arbitration panel is selected under Subsection (7)(d)(iii):
5206 (A) each party shall pay the fees and costs of the arbitrator selected by that party; and
5207 (B) each party shall pay an equal share of the fees and costs of the arbitrator selected
5208 under Subsection (7)(e)(ii).
5209 (g) Except as otherwise provided in this section or unless otherwise agreed to in
5210 writing by the parties, an arbitration proceeding conducted under this section shall be governed
5211 by Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act.
5212 (h) The arbitration shall be conducted in accordance with Rules 26 through 37, 54, and
5213 68 of the Utah Rules of Civil Procedure.
5214 (i) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.
5215 (j) A written decision by a single arbitrator or by a majority of the arbitration panel
5216 shall constitute a final decision.
5217 (k) (i) The amount of an arbitration award may not exceed the underinsured motorist
5218 policy limits of all applicable underinsured motorist policies, including applicable underinsured
5219 motorist umbrella policies.
5220 (ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all
5221 applicable underinsured motorist policies, the arbitration award shall be reduced to an amount
5222 equal to the combined underinsured motorist policy limits of all applicable underinsured
5223 motorist policies.
5224 (l) The arbitrator or arbitration panel may not decide the issues of coverage or
5225 extra-contractual damages, including:
5226 (i) whether the claimant is a covered person;
5227 (ii) whether the policy extends coverage to the loss; or
5228 (iii) any allegations or claims asserting consequential damages or bad faith liability.
5229 (m) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or
5230 class-representative basis.
5231 (n) If the arbitrator or arbitration panel finds that the action was not brought, pursued,
5232 or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees
5233 and costs against the party that failed to bring, pursue, or defend the claim in good faith.
5234 (o) An arbitration award issued under this section shall be the final resolution of all
5235 claims not excluded by Subsection (7)(l) between the parties unless:

5236 (i) the award was procured by corruption, fraud, or other undue means; or
5237 (ii) either party, within 20 days after service of the arbitration award:
5238 (A) files a complaint requesting a trial de novo in the district court; and
5239 (B) serves the nonmoving party with a copy of the complaint requesting a trial de novo
5240 under Subsection (7)(o)(ii)(A).
5241 (p) (i) Upon filing a complaint for a trial de novo under Subsection (7)(o), the claim
5242 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules
5243 of Evidence in the district court.
5244 (ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
5245 request a jury trial with a complaint requesting a trial de novo under Subsection (7)(o)(ii)(A).
5246 (q) (i) If the claimant, as the moving party in a trial de novo requested under
5247 Subsection (7)(o), does not obtain a verdict that is at least $5,000 and is at least 20% greater
5248 than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.
5249 (ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested
5250 under Subsection (7)(o), does not obtain a verdict that is at least 20% less than the arbitration
5251 award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.
5252 (iii) Except as provided in Subsection (7)(q)(iv), the costs under this Subsection (7)(q)
5253 shall include:
5254 (A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
5255 (B) the costs of expert witnesses and depositions.
5256 (iv) An award of costs under this Subsection (7)(q) may not exceed $2,500.
5257 (r) For purposes of determining whether a party's verdict is greater or less than the
5258 arbitration award under Subsection (7)(q), a court may not consider any recovery or other relief
5259 granted on a claim for damages if the claim for damages:
5260 (i) was not fully disclosed in writing prior to the arbitration proceeding; or
5261 (ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil
5262 Procedure.
5263 (s) If a district court determines, upon a motion of the nonmoving party, that the
5264 moving party's use of the trial de novo process was filed in bad faith in accordance with
5265 Section [~~78-27-56~~] 78B-5-825, the district court may award reasonable attorney fees to the
5266 nonmoving party.

5267 (t) Nothing in this section is intended to limit any claim under any other portion of an
5268 applicable insurance policy.
5269 (u) If there are multiple underinsured motorist policies, as set forth in Subsection (3),
5270 the claimant may elect to arbitrate in one hearing the claims against all the underinsured
5271 motorist carriers.
5272 Section 60. Section **31A-22-321** is amended to read:
5273 **31A-22-321. Use of arbitration in third party motor vehicle accident cases.**
5274 (1) A person injured as a result of a motor vehicle accident may elect to submit all third
5275 party bodily injury claims to arbitration by filing a notice of the submission of the claim to
5276 binding arbitration in a district court if:
5277 (a) the claimant or the claimant's representative has:
5278 (i) previously and timely filed a complaint in a district court that includes a third party
5279 bodily injury claim; and
5280 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint
5281 has been answered; and
5282 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under
5283 Subsection (1)(a)(i) is still pending.
5284 (2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the
5285 party submitting the claim or the party's representative is limited to an arbitration award that
5286 does not exceed $25,000 in addition to any available personal injury protection benefits and
5287 any claim for property damage.
5288 (b) A claim for reimbursement of personal injury protection benefits is to be resolved
5289 between insurers as provided for in Subsection 31A-22-309(6)(b).
5290 (c) A claim for property damage may not be made in an arbitration proceeding under
5291 Subsection (1) unless agreed upon by the parties in writing.
5292 (3) A claim for punitive damages may not be made in an arbitration proceeding under
5293 Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial
5294 de novo under Subsection (11).
5295 (4) (a) A person who has elected arbitration under this section may rescind the person's
5296 election if the rescission is made within:
5297 (i) 90 days after the election to arbitrate; and

5298 (ii) no less than 30 days before any scheduled arbitration hearing.
5299 (b) A person seeking to rescind an election to arbitrate under this Subsection (4) shall:
5300 (i) file a notice of the rescission of the election to arbitrate with the district court in
5301 which the matter was filed; and
5302 (ii) send copies of the notice of the rescission of the election to arbitrate to all counsel
5303 of record to the action.
5304 (c) All discovery completed in anticipation of the arbitration hearing shall be available
5305 for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah Rules of
5306 Evidence.
5307 (d) A party who has elected to arbitrate under this section and then rescinded the
5308 election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this
5309 section again.
5310 (5) (a) Unless otherwise agreed to by the parties or by order of the court, an arbitration
5311 process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.
5312 (b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be
5313 completed within 150 days after the date arbitration is elected under this section.
5314 (6) (a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to
5315 arbitration under this section shall be resolved by a single arbitrator.
5316 (b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall
5317 agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of
5318 the defendant.
5319 (c) If the parties are unable to agree on a single arbitrator as required under Subsection
5320 (6)(b), the parties shall select a panel of three arbitrators.
5321 (d) If the parties select a panel of three arbitrators under Subsection (6)(c):
5322 (i) each side shall select one arbitrator; and
5323 (ii) the arbitrators appointed under Subsection (6)(d)(i) shall select one additional
5324 arbitrator to be included in the panel.
5325 (7) Unless otherwise agreed to in writing:
5326 (a) each party shall pay an equal share of the fees and costs of the arbitrator selected
5327 under Subsection (6)(a); and
5328 (b) if an arbitration panel is selected under Subsection (6)(d):

5329 (i) each party shall pay the fees and costs of the arbitrator selected by that party's side;
5330 and
5331 (ii) each party shall pay an equal share of the fees and costs of the arbitrator selected
5332 under Subsection (6)(d)(ii).
5333 (8) Except as otherwise provided in this section and unless otherwise agreed to in
5334 writing by the parties, an arbitration proceeding conducted under this section shall be governed
5335 by Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act.
5336 (9) (a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and
5337 Utah Rules of Evidence apply to the arbitration proceeding.
5338 (b) The Utah Rules of Civil Procedure and Utah Rules of Evidence shall be applied
5339 liberally with the intent of concluding the claim in a timely and cost-efficient manner.
5340 (c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah
5341 Rules of Civil Procedure and shall be subject to the jurisdiction of the district court in which
5342 the matter is filed.
5343 (d) Dispositive motions shall be filed, heard, and decided by the district court prior to
5344 the arbitration proceeding in accordance with the court's scheduling order.
5345 (10) A written decision by a single arbitrator or by a majority of the arbitration panel
5346 shall constitute a final decision.
5347 (11) An arbitration award issued under this section shall be the final resolution of all
5348 bodily injury claims between the parties and may be reduced to judgment by the court upon
5349 motion and notice unless:
5350 (a) either party, within 20 days after service of the arbitration award:
5351 (i) files a notice requesting a trial de novo in the district court; and
5352 (ii) serves the nonmoving party with a copy of the notice requesting a trial de novo
5353 under Subsection (11)(a)(i); or
5354 (b) the arbitration award has been satisfied.
5355 (12) (a) Upon filing a notice requesting a trial de novo under Subsection (11), the claim
5356 shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules
5357 of Evidence in the district court.
5358 (b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may
5359 request a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).

5360 (13) (a) If the plaintiff, as the moving party in a trial de novo requested under
5361 Subsection (11), does not obtain a verdict that is at least $5,000 and is at least 20% greater than
5362 the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.
5363 (b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall
5364 include:
5365 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
5366 (ii) the costs of expert witnesses and depositions.
5367 (c) An award of costs under this Subsection (13) may not exceed $2,500.
5368 (14) (a) If a defendant, as the moving party in a trial de novo requested under
5369 Subsection (11), does not obtain a verdict that is at least 20% less than the arbitration award,
5370 the defendant is responsible for all of the nonmoving party's costs.
5371 (b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall
5372 include:
5373 (i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and
5374 (ii) the costs of expert witnesses and depositions.
5375 (c) An award of costs under this Subsection (14) may not exceed $2,500.
5376 (15) For purposes of determining whether a party's verdict is greater or less than the
5377 arbitration award under Subsections (13) and (14), a court may not consider any recovery or
5378 other relief granted on a claim for damages if the claim for damages:
5379 (a) was not fully disclosed in writing prior to the arbitration proceeding; or
5380 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil
5381 Procedure.
5382 (16) If a district court determines, upon a motion of the nonmoving party, that the
5383 moving party's use of the trial de novo process was filed in bad faith as defined in Section
5384 [~~78-27-56~~] 78B-5-825, the district court may award reasonable attorney fees to the nonmoving
5385 party.
5386 (17) Nothing in this section is intended to affect or prevent any first party claim from
5387 later being brought under any first party insurance policy under which the injured person is a
5388 covered person.
5389 (18) (a) If a defendant requests a trial de novo under Subsection (11), the verdict at trial
5390 may not exceed $40,000.

5391 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may
5392 not exceed $25,000.
5393 (19) All arbitration awards issued under this section shall bear postjudgment interest
5394 pursuant to Section 15-1-4.
5395 Section 61. Section **31A-22-610.5** is amended to read:
5396 **31A-22-610.5. Dependent coverage.**
5397 (1) As used in this section, "child" has the same meaning as defined in Section
5398 [~~78-45-2~~] 78B-12-102.
5399 (2) (a) Any individual or group accident and health insurance policy or health
5400 maintenance organization contract that provides coverage for a policyholder's or certificate
5401 holder's dependent shall not terminate coverage of an unmarried dependent by reason of the
5402 dependent's age before the dependent's 26th birthday and shall, upon application, provide
5403 coverage for all unmarried dependents up to age 26.
5404 (b) The cost of coverage for unmarried dependents 19 to 26 years of age shall be
5405 included in the premium on the same basis as other dependent coverage.
5406 (c) This section does not prohibit the employer from requiring the employee to pay all
5407 or part of the cost of coverage for unmarried dependents.
5408 (3) An individual or group accident and health insurance policy or health maintenance
5409 organization contract shall reinstate dependent coverage, and for purposes of all exclusions and
5410 limitations, shall treat the dependent as if the coverage had been in force since it was
5411 terminated; if:
5412 (a) the dependent has not reached the age of 26 by July 1, 1995;
5413 (b) the dependent had coverage prior to July 1, 1994;
5414 (c) prior to July 1, 1994, the dependent's coverage was terminated solely due to the age
5415 of the dependent; and
5416 (d) the policy has not been terminated since the dependent's coverage was terminated.
5417 (4) (a) When a parent is required by a court or administrative order to provide health
5418 insurance coverage for a child, an accident and health insurer may not deny enrollment of a
5419 child under the accident and health insurance plan of the child's parent on the grounds the
5420 child:
5421 (i) was born out of wedlock and is entitled to coverage under Subsection (5);

5422 (ii) was born out of wedlock and the custodial parent seeks enrollment for the child
5423 under the custodial parent's policy;
5424 (iii) is not claimed as a dependent on the parent's federal tax return; or
5425 (iv) does not reside with the parent or in the insurer's service area.
5426 (b) A child enrolled as required under Subsection (4)(a)(iv) is subject to the terms of
5427 the accident and health insurance plan contract pertaining to services received outside of an
5428 insurer's service area. A health maintenance organization must comply with Section
5429 31A-8-502.
5430 (5) When a child has accident and health coverage through an insurer of a noncustodial
5431 parent, and when requested by the noncustodial or custodial parent, the insurer shall:
5432 (a) provide information to the custodial parent as necessary for the child to obtain
5433 benefits through that coverage, but the insurer or employer, or the agents or employees of either
5434 of them, are not civilly or criminally liable for providing information in compliance with this
5435 Subsection (5)(a), whether the information is provided pursuant to a verbal or written request;
5436 (b) permit the custodial parent or the service provider, with the custodial parent's
5437 approval, to submit claims for covered services without the approval of the noncustodial
5438 parent; and
5439 (c) make payments on claims submitted in accordance with Subsection (5)(b) directly
5440 to the custodial parent, the child who obtained benefits, the provider, or the state Medicaid
5441 agency.
5442 (6) When a parent is required by a court or administrative order to provide health
5443 coverage for a child, and the parent is eligible for family health coverage, the insurer shall:
5444 (a) permit the parent to enroll, under the family coverage, a child who is otherwise
5445 eligible for the coverage without regard to an enrollment season restrictions;
5446 (b) if the parent is enrolled but fails to make application to obtain coverage for the
5447 child, enroll the child under family coverage upon application of the child's other parent, the
5448 state agency administering the Medicaid program, or the state agency administering 42 U.S.C.
5449 651 through 669, the child support enforcement program; and
5450 (c) (i) when the child is covered by an individual policy, not disenroll or eliminate
5451 coverage of the child unless the insurer is provided satisfactory written evidence that:
5452 (A) the court or administrative order is no longer in effect; or

5453 (B) the child is or will be enrolled in comparable accident and health coverage through
5454 another insurer which will take effect not later than the effective date of disenrollment; or
5455 (ii) when the child is covered by a group policy, not disenroll or eliminate coverage of
5456 the child unless the employer is provided with satisfactory written evidence, which evidence is
5457 also provided to the insurer, that Subsection (9)(c)(i), (ii) or (iii) has happened.
5458 (7) An insurer may not impose requirements on a state agency that has been assigned
5459 the rights of an individual eligible for medical assistance under Medicaid and covered for
5460 accident and health benefits from the insurer that are different from requirements applicable to
5461 an agent or assignee of any other individual so covered.
5462 (8) Insurers may not reduce their coverage of pediatric vaccines below the benefit level
5463 in effect on May 1, 1993.
5464 (9) When a parent is required by a court or administrative order to provide health
5465 coverage, which is available through an employer doing business in this state, the employer
5466 shall:
5467 (a) permit the parent to enroll under family coverage any child who is otherwise
5468 eligible for coverage without regard to any enrollment season restrictions;
5469 (b) if the parent is enrolled but fails to make application to obtain coverage of the child,
5470 enroll the child under family coverage upon application by the child's other parent, by the state
5471 agency administering the Medicaid program, or the state agency administering 42 U.S.C. 651
5472 through 669, the child support enforcement program;
5473 (c) not disenroll or eliminate coverage of the child unless the employer is provided
5474 satisfactory written evidence that:
5475 (i) the court order is no longer in effect;
5476 (ii) the child is or will be enrolled in comparable coverage which will take effect no
5477 later than the effective date of disenrollment; or
5478 (iii) the employer has eliminated family health coverage for all of its employees; and
5479 (d) withhold from the employee's compensation the employee's share, if any, of
5480 premiums for health coverage and to pay this amount to the insurer.
5481 (10) An order issued under Section 62A-11-326.1 may be considered a "qualified
5482 medical support order" for the purpose of enrolling a dependent child in a group accident and
5483 health insurance plan as defined in Section 609(a), Federal Employee Retirement Income

5484 Security Act of 1974.
5485 (11) This section does not affect any insurer's ability to require as a precondition of any
5486 child being covered under any policy of insurance that:
5487 (a) the parent continues to be eligible for coverage;
5488 (b) the child shall be identified to the insurer with adequate information to comply with
5489 this section; and
5490 (c) the premium shall be paid when due.
5491 (12) The provisions of this section apply to employee welfare benefit plans as defined
5492 in Section 26-19-2.
5493 (13) The commissioner shall adopt rules interpreting and implementing this section
5494 with regard to out-of-area court ordered dependent coverage.
5495 Section 62. Section **31A-22-617** is amended to read:
5496 **31A-22-617. Preferred provider contract provisions.**
5497 Health insurance policies may provide for insureds to receive services or
5498 reimbursement under the policies in accordance with preferred health care provider contracts as
5499 follows:
5500 (1) Subject to restrictions under this section, any insurer or third party administrator
5501 may enter into contracts with health care providers as defined in Section [~~78-14-3~~] 78B-3-403
5502 under which the health care providers agree to supply services, at prices specified in the
5503 contracts, to persons insured by an insurer.
5504 (a) (i) A health care provider contract may require the health care provider to accept the
5505 specified payment as payment in full, relinquishing the right to collect additional amounts from
5506 the insured person.
5507 (ii) In any dispute involving a provider's claim for reimbursement, the same shall be
5508 determined in accordance with applicable law, the provider contract, the subscriber contract,
5509 and the insurer's written payment policies in effect at the time services were rendered.
5510 (iii) If the parties are unable to resolve their dispute, the matter shall be subject to
5511 binding arbitration by a jointly selected arbitrator. Each party is to bear its own expense except
5512 the cost of the jointly selected arbitrator shall be equally shared. This Subsection (1)(a)(iii)
5513 does not apply to the claim of a general acute hospital to the extent it is inconsistent with the
5514 hospital's provider agreement.

5515 (iv) An organization may not penalize a provider solely for pursuing a claims dispute
5516 or otherwise demanding payment for a sum believed owing.
5517 (v) If an insurer permits another entity with which it does not share common ownership
5518 or control to use or otherwise lease one or more of the organization's networks of participating
5519 providers, the organization shall ensure, at a minimum, that the entity pays participating
5520 providers in accordance with the same fee schedule and general payment policies as the
5521 organization would for that network.
5522 (b) The insurance contract may reward the insured for selection of preferred health care
5523 providers by:
5524 (i) reducing premium rates;
5525 (ii) reducing deductibles;
5526 (iii) coinsurance;
5527 (iv) other copayments; or
5528 (v) any other reasonable manner.
5529 (c) If the insurer is a managed care organization, as defined in Subsection
5530 31A-27a-403(1)(f):
5531 (i) the insurance contract and the health care provider contract shall provide that in the
5532 event the managed care organization becomes insolvent, the rehabilitator or liquidator may:
5533 (A) require the health care provider to continue to provide health care services under
5534 the contract until the earlier of:
5535 (I) 90 days after the date of the filing of a petition for rehabilitation or the petition for
5536 liquidation; or
5537 (II) the date the term of the contract ends; and
5538 (B) subject to Subsection (1)(c)(v), reduce the fees the provider is otherwise entitled to
5539 receive from the managed care organization during the time period described in Subsection
5540 (1)(c)(i)(A);
5541 (ii) the provider is required to:
5542 (A) accept the reduced payment under Subsection (1)(c)(i)(B) as payment in full; and
5543 (B) relinquish the right to collect additional amounts from the insolvent managed care
5544 organization's enrollee, as defined in Subsection 31A-27a-403(1)(b);
5545 (iii) if the contract between the health care provider and the managed care organization

5546 has not been reduced to writing, or the contract fails to contain the language required by
5547 Subsection (1)(c)(i), the provider may not collect or attempt to collect from the enrollee:
5548 (A) sums owed by the insolvent managed care organization; or
5549 (B) the amount of the regular fee reduction authorized under Subsection (1)(c)(i)(B);
5550 (iv) the following may not bill or maintain any action at law against an enrollee to
5551 collect sums owed by the insolvent managed care organization or the amount of the regular fee
5552 reduction authorized under Subsection (1)(c)(i)(B):
5553 (A) a provider;
5554 (B) an agent;
5555 (C) a trustee; or
5556 (D) an assignee of a person described in Subsections (1)(c)(iv)(A) through (C); and
5557 (v) notwithstanding Subsection (1)(c)(i):
5558 (A) a rehabilitator or liquidator may not reduce a fee by less than 75% of the provider's
5559 regular fee set forth in the contract; and
5560 (B) the enrollee shall continue to pay the copayments, deductibles, and other payments
5561 for services received from the provider that the enrollee was required to pay before the filing
5562 of:
5563 (I) a petition for rehabilitation; or
5564 (II) a petition for liquidation.
5565 (2) (a) Subject to Subsections (2)(b) through (2)(f), an insurer using preferred health
5566 care provider contracts shall pay for the services of health care providers not under the contract,
5567 unless the illnesses or injuries treated by the health care provider are not within the scope of the
5568 insurance contract. As used in this section, "class of health care providers" means all health
5569 care providers licensed or licensed and certified by the state within the same professional,
5570 trade, occupational, or facility licensure or licensure and certification category established
5571 pursuant to Titles 26, Utah Health Code and 58, Occupations and Professions.
5572 (b) When the insured receives services from a health care provider not under contract,
5573 the insurer shall reimburse the insured for at least 75% of the average amount paid by the
5574 insurer for comparable services of preferred health care providers who are members of the
5575 same class of health care providers. The commissioner may adopt a rule dealing with the
5576 determination of what constitutes 75% of the average amount paid by the insurer for

5577 comparable services of preferred health care providers who are members of the same class of
5578 health care providers.
5579 (c) When reimbursing for services of health care providers not under contract, the
5580 insurer may make direct payment to the insured.
5581 (d) Notwithstanding Subsection (2)(b), an insurer using preferred health care provider
5582 contracts may impose a deductible on coverage of health care providers not under contract.
5583 (e) When selecting health care providers with whom to contract under Subsection (1),
5584 an insurer may not unfairly discriminate between classes of health care providers, but may
5585 discriminate within a class of health care providers, subject to Subsection (7).
5586 (f) For purposes of this section, unfair discrimination between classes of health care
5587 providers shall include:
5588 (i) refusal to contract with class members in reasonable proportion to the number of
5589 insureds covered by the insurer and the expected demand for services from class members; and
5590 (ii) refusal to cover procedures for one class of providers that are:
5591 (A) commonly utilized by members of the class of health care providers for the
5592 treatment of illnesses, injuries, or conditions;
5593 (B) otherwise covered by the insurer; and
5594 (C) within the scope of practice of the class of health care providers.
5595 (3) Before the insured consents to the insurance contract, the insurer shall fully disclose
5596 to the insured that it has entered into preferred health care provider contracts. The insurer shall
5597 provide sufficient detail on the preferred health care provider contracts to permit the insured to
5598 agree to the terms of the insurance contract. The insurer shall provide at least the following
5599 information:
5600 (a) a list of the health care providers under contract and if requested their business
5601 locations and specialties;
5602 (b) a description of the insured benefits, including any deductibles, coinsurance, or
5603 other copayments;
5604 (c) a description of the quality assurance program required under Subsection (4); and
5605 (d) a description of the adverse benefit determination procedures required under
5606 Subsection (5).
5607 (4) (a) An insurer using preferred health care provider contracts shall maintain a quality

5608 assurance program for assuring that the care provided by the health care providers under
5609 contract meets prevailing standards in the state.
5610 (b) The commissioner in consultation with the executive director of the Department of
5611 Health may designate qualified persons to perform an audit of the quality assurance program.
5612 The auditors shall have full access to all records of the organization and its health care
5613 providers, including medical records of individual patients.
5614 (c) The information contained in the medical records of individual patients shall
5615 remain confidential. All information, interviews, reports, statements, memoranda, or other data
5616 furnished for purposes of the audit and any findings or conclusions of the auditors are
5617 privileged. The information is not subject to discovery, use, or receipt in evidence in any legal
5618 proceeding except hearings before the commissioner concerning alleged violations of this
5619 section.
5620 (5) An insurer using preferred health care provider contracts shall provide a reasonable
5621 procedure for resolving complaints and adverse benefit determinations initiated by the insureds
5622 and health care providers.
5623 (6) An insurer may not contract with a health care provider for treatment of illness or
5624 injury unless the health care provider is licensed to perform that treatment.
5625 (7) (a) A health care provider or insurer may not discriminate against a preferred health
5626 care provider for agreeing to a contract under Subsection (1).
5627 (b) Any health care provider licensed to treat any illness or injury within the scope of
5628 the health care provider's practice, who is willing and able to meet the terms and conditions
5629 established by the insurer for designation as a preferred health care provider, shall be able to
5630 apply for and receive the designation as a preferred health care provider. Contract terms and
5631 conditions may include reasonable limitations on the number of designated preferred health
5632 care providers based upon substantial objective and economic grounds, or expected use of
5633 particular services based upon prior provider-patient profiles.
5634 (8) Upon the written request of a provider excluded from a provider contract, the
5635 commissioner may hold a hearing to determine if the insurer's exclusion of the provider is
5636 based on the criteria set forth in Subsection (7)(b).
5637 (9) Insurers are subject to the provisions of Sections 31A-22-613.5, 31A-22-614.5, and
5638 31A-22-618.

5639 (10) Nothing in this section is to be construed as to require an insurer to offer a certain
5640 benefit or service as part of a health benefit plan.
5641 (11) This section does not apply to catastrophic mental health coverage provided in
5642 accordance with Section 31A-22-625.
5643 Section 63. Section **31A-23a-109** is amended to read:
5644 **31A-23a-109. Nonresident jurisdictional agreement.**
5645 (1) (a) If a nonresident license applicant has a valid producer, limited line producer,
5646 customer service representative, consultant, managing general agent, or reinsurance
5647 intermediary license from the nonresident license applicant's home state and the conditions of
5648 Subsection (1)(b) are met, the commissioner shall:
5649 (i) waive all license requirements for a license under this chapter; and
5650 (ii) issue the nonresident license applicant a nonresident license.
5651 (b) Subsection (1)(a) applies if:
5652 (i) the nonresident license applicant:
5653 (A) is licensed as a resident in the nonresident license applicant's home state at the time
5654 the nonresident license applicant applies for a nonresident producer, limited line producer,
5655 customer service representative, consultant, managing general agent, or reinsurance
5656 intermediary license;
5657 (B) has submitted the proper request for licensure;
5658 (C) has submitted to the commissioner:
5659 (I) the application for licensure that the nonresident license applicant submitted to the
5660 applicant's home state; or
5661 (II) a completed uniform application; and
5662 (D) has paid the applicable fees under Section 31A-3-103; and
5663 (ii) the nonresident license applicant's license in the applicant's home state is in good
5664 standing.
5665 (2) A nonresident applicant applying under Subsection (1) shall in addition to
5666 complying with all license requirements for a license under this chapter execute, in a form
5667 acceptable to the commissioner, an agreement to be subject to the jurisdiction of the Utah
5668 commissioner and courts on any matter related to the applicant's insurance activities in this
5669 state, on the basis of:

5670 (a) service of process under Sections 31A-2-309 and 31A-2-310; or
5671 (b) service authorized:
5672 (i) in the Utah Rules of Civil Procedure; or
5673 (ii) under Section [~~78-27-25~~] 78B-3-206.
5674 (3) The commissioner may verify a producer's licensing status through the producer
5675 database maintained by:
5676 (a) the National Association of Insurance Commissioners; or
5677 (b) an affiliate or subsidiary of the National Association of Insurance Commissioners.
5678 (4) The commissioner may not assess a greater fee for an insurance license or related
5679 service to a person not residing in this state solely on the fact that the person does not reside in
5680 this state.
5681 Section 64. Section **31A-26-208** is amended to read:
5682 **31A-26-208. Nonresident jurisdictional agreement.**
5683 (1) (a) If a nonresident license applicant has a valid license from the nonresident license
5684 applicant's home state and the conditions of Subsection (1)(b) are met, the commissioner shall:
5685 (i) waive any license requirement for a license under this chapter; and
5686 (ii) issue the nonresident license applicant a nonresident adjuster's license.
5687 (b) Subsection (1)(a) applies if:
5688 (i) the nonresident license applicant:
5689 (A) is licensed as a resident in the nonresident license applicant's home state at the time
5690 the nonresident license applicant applies for a nonresident adjuster license;
5691 (B) has submitted the proper request for licensure;
5692 (C) has submitted to the commissioner:
5693 (I) the application for licensure that the nonresident license applicant submitted to the
5694 applicant's home state; or
5695 (II) a completed uniform application; and
5696 (D) has paid the applicable fees under Section 31A-3-103;
5697 (ii) the nonresident license applicant's license in the applicant's home state is in good
5698 standing; and
5699 (iii) the nonresident license applicant's home state awards nonresident adjuster licenses
5700 to residents of this state on the same basis as this state awards licenses to residents of that home

5701 state.
5702 (2) A nonresident applicant shall execute in a form acceptable to the commissioner an
5703 agreement to be subject to the jurisdiction of the commissioner and courts of this state on any
5704 matter related to the adjuster's insurance activities in this state, on the basis of:
5705 (a) service of process under Sections 31A-2-309 and 31A-2-310; or
5706 (b) other service authorized under the Utah Rules of Civil Procedure or Section
5707 [~~78-27-25~~] 78B-3-206.
5708 (3) The commissioner may verify the third party administrator's licensing status
5709 through the database maintained by:
5710 (a) the National Association of Insurance Commissioners; or
5711 (b) an affiliate or subsidiary of the National Association of Insurance Commissioners.
5712 (4) The commissioner may not assess a greater fee for an insurance license or related
5713 service to a person not residing in this state based solely on the fact that the person does not
5714 reside in this state.
5715 Section 65. Section **31A-29-103** is amended to read:
5716 **31A-29-103. Definitions.**
5717 As used in this chapter:
5718 (1) "Board" means the board of directors of the pool created in Section 31A-29-104.
5719 (2) (a) "Creditable coverage" has the same meaning as provided in Section 31A-1-301.
5720 (b) "Creditable coverage" does not include a period of time in which there is a
5721 significant break in coverage, as defined in Section 31A-1-301.
5722 (3) "Domicile" means the place where an individual has a fixed and permanent home
5723 and principal establishment:
5724 (a) to which the individual, if absent, intends to return; and
5725 (b) in which the individual, and the individual's family voluntarily reside, not for a
5726 special or temporary purpose, but with the intention of making a permanent home.
5727 (4) "Enrollee" means an individual who has met the eligibility requirements of the pool
5728 and is covered by a pool policy under this chapter.
5729 (5) "Health care facility" means any entity providing health care services which is
5730 licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
5731 (6) "Health care provider" has the same meaning as provided in Section [~~78-14-3~~]

5732 78B-3-403.
5733 (7) "Health care services" means:
5734 (a) any service or product:
5735 (i) used in furnishing to any individual medical care or hospitalization; or
5736 (ii) incidental to furnishing medical care or hospitalization; and
5737 (b) any other service or product furnished for the purpose of preventing, alleviating,
5738 curing, or healing human illness or injury.
5739 (8) (a) "Health insurance" means any:
5740 (i) hospital and medical expense-incurred policy;
5741 (ii) nonprofit health care service plan contract; or
5742 (iii) health maintenance organization subscriber contract.
5743 (b) "Health insurance" does not mean:
5744 (i) any insurance arising out of Title 34A, Chapter 2 or 3, or similar law;
5745 (ii) automobile medical payment insurance; or
5746 (iii) insurance under which benefits are payable with or without regard to fault and
5747 which is required by law to be contained in any liability insurance policy.
5748 (9) "Health maintenance organization" has the same meaning as provided in Section
5749 31A-8-101.
5750 (10) (a) "Health plan" means any arrangement by which an individual, including a
5751 dependent or spouse, covered or making application to be covered under the pool has:
5752 (i) access to hospital and medical benefits or reimbursement including group or
5753 individual insurance or subscriber contract;
5754 (ii) coverage through:
5755 (A) a health maintenance organization;
5756 (B) a preferred provider prepayment;
5757 (C) group practice; or
5758 (D) individual practice plan;
5759 (iii) coverage under an uninsured arrangement of group or group-type contracts
5760 including employer self-insured, cost-plus, or other benefits methodologies not involving
5761 insurance;
5762 (iv) coverage under a group type contract which is not available to the general public

5763 and can be obtained only because of connection with a particular organization or group; and
5764 (v) coverage by Medicare or other governmental benefit.
5765 (b) "Health plan" includes coverage through health insurance.
5766 (11) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996,
5767 Pub. L. 104-191, 110 Stat. 1936.
5768 (12) "HIPAA eligible" means an individual who is eligible under the provisions of the
5769 Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936.
5770 (13) "Insurer" means:
5771 (a) an insurance company authorized to transact accident and health insurance business
5772 in this state;
5773 (b) a health maintenance organization; or
5774 (c) a self-insurer not subject to federal preemption.
5775 (14) "Medicaid" means coverage under Title XIX of the Social Security Act, 42 U.S.C.
5776 Sec. 1396 et seq., as amended.
5777 (15) "Medicare" means coverage under both Part A and B of Title XVIII of the Social
5778 Security Act, 42 U.S.C. 1395 et seq., as amended.
5779 (16) "Plan of operation" means the plan developed by the board in accordance with
5780 Section 31A-29-105 and includes the articles, bylaws, and operating rules adopted by the board
5781 under Section 31A-29-106.
5782 (17) "Pool" means the Utah Comprehensive Health Insurance Pool created in Section
5783 31A-29-104.
5784 (18) "Pool fund" means the Comprehensive Health Insurance Pool Enterprise Fund
5785 created in Section 31A-29-120.
5786 (19) "Pool policy" means a health insurance policy issued under this chapter.
5787 (20) "Preexisting condition" has the same meaning as defined in Section 31A-1-301.
5788 (21) (a) "Resident" or "residency" means a person who is domiciled in this state.
5789 (b) A resident retains residency if that resident leaves this state:
5790 (i) to serve in the armed forces of the United States; or
5791 (ii) for religious or educational purposes.
5792 (22) "Third-party administrator" has the same meaning as provided in Section
5793 31A-1-301.

5794 Section 66. Section **32A-11a-108** is amended to read:
5795 **32A-11a-108. Reasonable compensation -- Arbitration.**
5796 (1) If a supplier violates Section 32A-11a-103 or 32A-11a-107, the supplier shall be
5797 liable to the wholesaler for the laid-in cost of inventory of the affected brands plus any
5798 diminution in the fair market value of the wholesaler's business with relation to the affected
5799 brands. In determining fair market value, consideration shall be given to all elements of value,
5800 including good will and going concern value.
5801 (2) (a) A distributorship agreement may require that any or all disputes between a
5802 supplier and a wholesaler be submitted to binding arbitration. In the absence of an applicable
5803 arbitration provision in the distributorship agreement, either the supplier or the wholesaler may
5804 request arbitration if a supplier and a wholesaler are unable to mutually agree on:
5805 (i) whether or not good cause exists for termination or nonrenewal;
5806 (ii) whether or not the supplier unreasonably withheld approval of a sale or transfer
5807 under Section 32A-11a-107; or
5808 (iii) the reasonable compensation to be paid for the value of the wholesaler's business
5809 in accordance with Subsection (1).
5810 (b) If a supplier or wholesaler requests arbitration under Subsection (2)(a) and the other
5811 party agrees to submit the matter to arbitration, an arbitration panel shall be created with the
5812 following members:
5813 (i) one member selected by the supplier in a writing delivered to the wholesaler within
5814 ten business days of the date arbitration was requested under Subsection (2)(a);
5815 (ii) one member selected by the wholesaler in a writing delivered to the supplier within
5816 ten business days of the date arbitration was requested under Subsection (2)(a); and
5817 (iii) one member selected by the two arbitrators appointed under Subsections (2)(b)(i)
5818 and (ii).
5819 (c) If the arbitrators selected under Subsection (2)(b)(iii) fail to choose a third arbitrator
5820 within ten business days of their selection, a judge of a district court in the county in which the
5821 wholesaler's principal place of business is located shall select the third arbitrator.
5822 (d) Arbitration costs shall be divided equally between the wholesaler and the supplier.
5823 (e) The award of the arbitration panel is binding on the parties unless appealed within
5824 20 days from the date of the award.

5825 (f) Subject to the requirements of this chapter, arbitration and all proceedings on appeal
5826 shall be governed by Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act.
5827 Section 67. Section **32A-12-209** is amended to read:
5828 **32A-12-209. Unlawful purchase, possession, consumption by minors --**
5829 **Measurable amounts in body.**
5830 (1) Unless specifically authorized by this title, it is unlawful for any minor to:
5831 (a) purchase any alcoholic beverage or product;
5832 (b) attempt to purchase any alcoholic beverage or product;
5833 (c) solicit another person to purchase any alcoholic beverage or product;
5834 (d) possess any alcoholic beverage or product;
5835 (e) consume any alcoholic beverage or product; or
5836 (f) have measurable blood, breath, or urine alcohol concentration in the minor's body.
5837 (2) It is unlawful for the purpose of purchasing or otherwise obtaining an alcoholic
5838 beverage or product for a minor for:
5839 (a) any minor to misrepresent the minor's age; or
5840 (b) any other person to misrepresent the age of a minor.
5841 (3) It is unlawful for a minor to possess or consume any alcoholic beverage while
5842 riding in a limousine or chartered bus.
5843 (4) When a minor who is at least 18 years old, but younger than 21 years old, is found
5844 by a court to have violated this section:
5845 (a) if the violation is the minor's first violation of this section, the court may suspend
5846 the minor's driving privileges; or
5847 (b) if the violation is the minor's second or subsequent violation of this section, the
5848 court shall suspend the minor's driving privileges.
5849 (5) When a minor who is at least 13 years old, but younger than 18 years old, is found
5850 by the court to have violated this section, the provisions regarding suspension of the driver's
5851 license under Section [~~78-3a-506~~] 78A-6-606 apply to the violation.
5852 (6) When the court issues an order suspending a person's driving privileges for a
5853 violation of this section, the Driver License Division shall suspend the person's license under
5854 Section 53-3-219.
5855 (7) When the Department of Public Safety receives the arrest or conviction record of a

5856 person for a driving offense committed while the person's license is suspended pursuant to this
5857 section, the department shall extend the suspension for an additional like period of time.
5858 (8) This section does not apply to a minor's consumption of an alcoholic beverage or
5859 product in accordance with this title:
5860 (a) for medicinal purposes if the alcoholic beverage or product is furnished by:
5861 (i) the parent or guardian of the minor; or
5862 (ii) the minor's physician or dentist; or
5863 (b) as part of a church's or religious organization's religious services.
5864 Section 68. Section **32A-12-209.5** is amended to read:
5865 **32A-12-209.5. Unlawful admittance or attempt to gain admittance by minor.**
5866 (1) It is unlawful for a minor to gain admittance or attempt to gain admittance to the
5867 premises of:
5868 (a) a tavern; or
5869 (b) a class D private club, except to the extent authorized by Subsection 32A-5-107(8).
5870 (2) A minor who violates this section is guilty of a class C misdemeanor.
5871 (3) When a minor who is at least 18 years old, but younger than 21 years old, is found
5872 by a court to have violated this section:
5873 (a) if the violation is the minor's first violation of this section, the court may suspend
5874 the minor's driving privileges; or
5875 (b) if the violation is the minor's second or subsequent violation of this section, the
5876 court shall suspend the minor's driving privileges.
5877 (4) When a minor who is at least 13 years old, but younger than 18 years old, is found
5878 by a court to have violated this section, the provisions regarding suspension of the driver's
5879 license under Section [~~78-3a-506~~] 78A-6-606 apply to the violation.
5880 (5) When the court issues an order suspending a person's driving privileges for a
5881 violation of this section, the Driver License Division shall suspend the person's license under
5882 Section 53-3-219.
5883 (6) When the Department of Public Safety receives the arrest or conviction record of a
5884 person for a driving offense committed while the person's license is suspended pursuant to this
5885 section, the department shall extend the suspension for an additional like period of time.
5886 Section 69. Section **32A-14a-102** is amended to read:

5887 **32A-14a-102. Liability for injuries and damage resulting from distribution of**
5888 **alcoholic beverages -- Causes of action -- Statute of limitations -- Employee protections.**
5889 (1) (a) Except as provided in Section 32A-14a-103, a person described in Subsection
5890 (1)(b) is liable for:
5891 (i) any and all injury and damage, except punitive damages to:
5892 (A) any third person; or
5893 (B) the heir, as defined in Section [~~78-11-6.5~~] 78B-3-105, of that third person; or
5894 (ii) for the death of a third person.
5895 (b) A person is liable under Subsection (1)(a) if:
5896 (i) the person directly gives, sells, or otherwise provides an alcoholic beverage:
5897 (A) to a person described in Subsection (1)(b)(ii); and
5898 (B) as part of the commercial sale, storage, service, manufacture, distribution, or
5899 consumption of alcoholic products;
5900 (ii) those actions cause the intoxication of:
5901 (A) any individual under the age of 21 years;
5902 (B) any individual who is apparently under the influence of intoxicating alcoholic
5903 products or drugs;
5904 (C) any individual whom the person furnishing the alcoholic beverage knew or should
5905 have known from the circumstances was under the influence of intoxicating alcoholic
5906 beverages or products or drugs; or
5907 (D) any individual who is a known interdicted person; and
5908 (iii) the injury or death described in Subsection (1)(a) results from the intoxication of
5909 the individual who is provided the alcoholic beverage.
5910 (2) (a) A person 21 years of age or older who is described in Subsection (2)(b) is liable
5911 for:
5912 (i) any and all injury and damage, except punitive damages to:
5913 (A) any third person; or
5914 (B) the heir, as defined in Section [~~78-11-6.5~~] 78B-3-105, of that third person; or
5915 (ii) for the death of the third person.
5916 (b) A person is liable under Subsection (2)(a) if:
5917 (i) that person directly gives or otherwise provides an alcoholic beverage to an

5918 individual who the person knows or should have known is under the age of 21 years;
5919 (ii) those actions caused the intoxication of the individual provided the alcoholic
5920 beverage;
5921 (iii) the injury or death described in Subsection (2)(a) results from the intoxication of
5922 the individual who is provided the alcoholic beverage; and
5923 (iv) the person is not liable under Subsection (1), because the person did not directly
5924 give or provide the alcoholic beverage as part of the commercial sale, storage, service,
5925 manufacture, distribution, or consumption of alcoholic products.
5926 (3) Except for a violation of Subsection (2), an employer is liable for the actions of its
5927 employees in violation of this chapter.
5928 (4) A person who suffers an injury under Subsection (1) or (2) has a cause of action
5929 against the person who provided the alcoholic beverage in violation of Subsection (1) or (2).
5930 (5) If a person having rights or liabilities under this chapter dies, the rights or liabilities
5931 provided by this chapter survive to or against that person's estate.
5932 (6) The total amount that may be awarded to any person pursuant to a cause of action
5933 for injury and damage under this chapter that arises after January 1, 1998, is limited to
5934 $500,000 and the aggregate amount which may be awarded to all persons injured as a result of
5935 one occurrence is limited to $1,000,000.
5936 (7) An action based upon a cause of action under this chapter shall be commenced
5937 within two years after the date of the injury and damage.
5938 (8) (a) Nothing in this chapter precludes any cause of action or additional recovery
5939 against the person causing the injury.
5940 (b) Any cause of action or additional recovery against the person causing the injury and
5941 damage, which action is not brought under this chapter, is exempt from the damage cap in
5942 Subsection (6).
5943 (c) Any cause of action brought under this chapter is exempt from Sections [~~78-27-37~~]
5944 78B-5-817 through [~~78-27-43~~] 78B-5-823.
5945 (9) This section does not apply to a business licensed under Chapter 10, Part 1, General
5946 Provisions, to sell beer at retail only for off-premise consumption.
5947 Section 70. Section **34A-1-302** is amended to read:
5948 **34A-1-302. Presiding officers for adjudicative proceedings -- Subpoenas --**

5949 **Independent judgment -- Consolidation -- Record -- Notice of order.**
5950 (1) (a) The commissioner shall authorize the Division of Adjudication to call, assign a
5951 presiding officer, and conduct hearings and adjudicative proceedings when an application for a
5952 proceeding is filed with the Division of Adjudication under this title.
5953 (b) The director of the Division of Adjudication or the director's designee may issue
5954 subpoenas. Failure to respond to a properly issued subpoena may result in a contempt citation
5955 and offenders may be punished as provided in Section [~~78-32-15~~] 78B-6-313.
5956 (c) Witnesses subpoenaed under this section are allowed fees as provided by law for
5957 witnesses in the district court of the state. The witness fees shall be paid by the state unless the
5958 witness is subpoenaed at the instance of a party other than the commission.
5959 (d) A presiding officer assigned under this section may not participate in any case in
5960 which the presiding officer is an interested party. Each decision of a presiding officer shall
5961 represent the presiding officer's independent judgment.
5962 (2) If, in the judgment of the presiding officer having jurisdiction of the proceeding the
5963 consolidation would not be prejudicial to any party, when the same or substantially similar
5964 evidence is relevant and material to the matters in issue in more than one proceeding, the
5965 presiding officer may:
5966 (a) fix the same time and place for considering each matter;
5967 (b) jointly conduct hearings;
5968 (c) make a single record of the proceedings; and
5969 (d) consider evidence introduced with respect to one proceeding as introduced in the
5970 others.
5971 (3) (a) The commission shall keep a full and complete record of all adjudicative
5972 proceedings in connection with a disputed matter.
5973 (b) All testimony at any hearing shall be recorded but need not be transcribed. If a
5974 party requests transcription, the transcription shall be provided at the party's expense.
5975 (c) All records on appeals shall be maintained by the Division of Adjudication. The
5976 records shall include an appeal docket showing the receipt and disposition of the appeals.
5977 (4) A party in interest shall be given notice of the entry of a presiding officer's order or
5978 any order or award of the commission. The mailing of the copy of the order or award to the
5979 last-known address in the files of the commission of a party in interest and to the attorneys or

5980 agents of record in the case, if any, is considered to be notice of the order.
5981 (5) In any formal adjudicative proceeding, the presiding officer may take any action
5982 permitted under Section 63-46b-8.
5983 Section 71. Section **34A-2-106** is amended to read:
5984 **34A-2-106. Injuries or death caused by wrongful acts of persons other than**
5985 **employer, officer, agent, or employee of employer -- Rights of employer or insurance**
5986 **carrier in cause of action -- Maintenance of action -- Notice of intention to proceed**
5987 **against third party -- Right to maintain action not involving employee-employer**
5988 **relationship -- Disbursement of proceeds of recovery -- Exclusive remedy.**
5989 (1) When any injury or death for which compensation is payable under this chapter or
5990 Chapter 3, Utah Occupational Disease Act is caused by the wrongful act or neglect of a person
5991 other than an employer, officer, agent, or employee of the employer:
5992 (a) the injured employee, or in case of death, the employee's dependents, may claim
5993 compensation; and
5994 (b) the injured employee or the employee's heirs or personal representative may have
5995 an action for damages against the third person.
5996 (2) (a) If compensation is claimed and the employer or insurance carrier becomes
5997 obligated to pay compensation, the employer or insurance carrier:
5998 (i) shall become trustee of the cause of action against the third party; and
5999 (ii) may bring and maintain the action either in its own name or in the name of the
6000 injured employee, or the employee's heirs or the personal representative of the deceased.
6001 (b) Notwithstanding Subsection (2)(a), an employer or insurance carrier may not settle
6002 and release a cause of action of which it is a trustee under Subsection (2)(a) without the consent
6003 of the commission.
6004 (3) (a) Before proceeding against a third party, to give a person described in
6005 Subsections (3)(a)(i) and (ii) a reasonable opportunity to enter an appearance in the proceeding,
6006 the injured employee or, in case of death, the employee's heirs, shall give written notice of the
6007 intention to bring an action against the third party to:
6008 (i) the carrier; and
6009 (ii) any other person obligated for the compensation payments.
6010 (b) The injured employee, or, in case of death, the employee's heirs, shall give written

6011 notice to the carrier and other person obligated for the compensation payments of any known
6012 attempt to attribute fault to the employer, officer, agent, or employee of the employer:
6013 (i) by way of settlement; or
6014 (ii) in a proceeding brought by the injured employee, or, in case of death, the
6015 employee's heirs.
6016 (4) For the purposes of this section and notwithstanding Section 34A-2-103, the
6017 injured employee or the employee's heirs or personal representative may also maintain an
6018 action for damages against any of the following persons who do not occupy an
6019 employee-employer relationship with the injured or deceased employee at the time of the
6020 employee's injury or death:
6021 (a) a subcontractor;
6022 (b) a general contractor;
6023 (c) an independent contractor;
6024 (d) a property owner; or
6025 (e) a lessee or assignee of a property owner.
6026 (5) If any recovery is obtained against a third person, it shall be disbursed in
6027 accordance with Subsections (5)(a) through (c).
6028 (a) The reasonable expense of the action, including [~~attorneys'~~] attorney fees, shall be
6029 paid and charged proportionately against the parties as their interests may appear. Any fee
6030 chargeable to the employer or carrier is to be a credit upon any fee payable by the injured
6031 employee or, in the case of death, by the dependents, for any recovery had against the third
6032 party.
6033 (b) The person liable for compensation payments shall be reimbursed, less the
6034 proportionate share of costs and [~~attorneys'~~] attorney fees provided for in Subsection (5)(a), for
6035 the payments made as follows:
6036 (i) without reduction based on fault attributed to the employer, officer, agent, or
6037 employee of the employer in the action against the third party if the combined percentage of
6038 fault attributed to persons immune from suit is determined to be less than 40% prior to any
6039 reallocation of fault under Subsection [~~78-27-39~~] 78B-5-819(2); or
6040 (ii) less the amount of payments made multiplied by the percentage of fault attributed
6041 to the employer, officer, agent, or employee of the employer in the action against the third party

6042 if the combined percentage of fault attributed to persons immune from suit is determined to be
6043 40% or more prior to any reallocation of fault under Subsection [~~78-27-39~~] 78B-5-819(2).
6044 (c) The balance shall be paid to the injured employee, or the employee's heirs in case of
6045 death, to be applied to reduce or satisfy in full any obligation thereafter accruing against the
6046 person liable for compensation.
6047 (6) The apportionment of fault to the employer in a civil action against a third party is
6048 not an action at law and does not impose any liability on the employer. The apportionment of
6049 fault does not alter or diminish the exclusiveness of the remedy provided to employees, their
6050 heirs, or personal representatives, or the immunity provided employers pursuant to Section
6051 34A-2-105 or 34A-3-102 for injuries sustained by an employee, whether resulting in death or
6052 not. Any court in which a civil action is pending shall issue a partial summary judgment to an
6053 employer with respect to the employer's immunity as provided in Section 34A-2-105 or
6054 34A-3-102, even though the conduct of the employer may be considered in allocating fault to
6055 the employer in a third party action in the manner provided in Sections [~~78-27-37~~] 78B-5-817
6056 through [~~78-27-43~~] 78B-5-823.
6057 Section 72. Section **34A-2-901** is amended to read:
6058 **34A-2-901. Workers' compensation presumption for emergency medical services**
6059 **providers.**
6060 (1) An emergency medical services provider who claims to have contracted a disease,
6061 as defined by Section [~~78-29-101~~] 78B-8-401, as a result of a significant exposure in the
6062 performance of his duties as an emergency medical services provider, is presumed to have
6063 contracted the disease by accident during the course of his duties as an emergency medical
6064 services provider if:
6065 (a) his employment or service as an emergency medical services provider in this state
6066 commenced prior to July 1, 1988, and he tests positive for a disease during the tenure of his
6067 employment or service, or within three months after termination of his employment or service;
6068 or
6069 (b) the individual's employment or service as an emergency medical services provider
6070 in this state commenced on or after July 1, 1988, and he tests negative for any disease at the
6071 time his employment or service commenced, and again three months later, and he subsequently
6072 tests positive during the tenure of his employment or service, or within three months after

6073 termination of his employment or service.
6074 (2) Each emergency medical services agency shall inform the emergency medical
6075 services providers that it employs or utilizes of the provisions and benefits of this section at
6076 commencement of and termination of employment or service.
6077 Section 73. Section **34A-2-902** is amended to read:
6078 **34A-2-902. Workers' compensation claims by emergency medical services**
6079 **providers -- Time limits.**
6080 (1) For all purposes of establishing a workers' compensation claim, the "date of
6081 accident" is presumed to be the date on which an emergency medical services provider first
6082 tests positive for a disease, as defined in Section [~~78-29-101~~] 78B-8-401. However, for
6083 purposes of establishing the rate of workers' compensation benefits under Subsection
6084 34A-2-702(5), if a positive test for a disease occurs within three months after termination of
6085 employment, the last date of employment is presumed to be the "date of accident."
6086 (2) The time limits prescribed by Section 34A-2-417 do not apply to an employee
6087 whose disability is due to a disease, so long as the employee who claims to have suffered a
6088 significant exposure in the service of his employer gives notice, as required by Section
6089 34A-3-108, of the "date of accident."
6090 (3) Any claim for workers' compensation benefits or medical expenses shall be filed
6091 with the Division of Adjudication of the Labor Commission within one year after the date on
6092 which the employee first becomes disabled or requires medical treatment for a disease, or
6093 within one year after the termination of employment as an emergency medical services
6094 provider, whichever occurs later.
6095 Section 74. Section **34A-6-301** is amended to read:
6096 **34A-6-301. Inspection and investigation of workplace, worker injury, illness, or**
6097 **complaint -- Warrants -- Attendance of witnesses -- Recordkeeping by employers --**
6098 **Employer and employee representatives -- Request for inspection -- Compilation and**
6099 **publication of reports and information -- Rules.**
6100 (1) (a) The division or its representatives, upon presenting appropriate credentials to
6101 the owner, operator, or agent in charge, may:
6102 (i) enter without delay at reasonable times any workplace where work is performed by
6103 an employee of an employer;

6104 (ii) inspect and investigate during regular working hours and at other reasonable times
6105 in a reasonable manner, any workplace, worker injury, occupational disease, or complaint and
6106 all pertinent methods, operations, processes, conditions, structures, machines, apparatus,
6107 devices, equipment, and materials in the workplace; and
6108 (iii) question privately any such employer, owner, operator, agent, or employee.
6109 (b) The division, upon an employer's refusal to permit an inspection, may seek a
6110 warrant pursuant to the Utah Rules of Criminal Procedure.
6111 (2) (a) The division or its representatives may require the attendance and testimony of
6112 witnesses and the production of evidence under oath.
6113 (b) Witnesses shall receive fees and mileage in accordance with Section [~~78-46-28~~]
6114 78B-1-119.
6115 (c) (i) If any person fails or refuses to obey an order of the division to appear, any
6116 district court within the jurisdiction of which such person is found, or resides or transacts
6117 business, upon the application by the division, shall have jurisdiction to issue to any person an
6118 order requiring that person to:
6119 (A) appear to produce evidence if, as, and when so ordered; and
6120 (B) give testimony relating to the matter under investigation or in question.
6121 (ii) Any failure to obey an order of the court described in this Subsection (2)(c) may be
6122 punished by the court as a contempt.
6123 (3) (a) The commission shall make rules in accordance with Title 63, Chapter 46a,
6124 Utah Administrative Rulemaking Act, requiring employers:
6125 (i) to keep records regarding activities related to this chapter considered necessary for
6126 enforcement or for the development of information about the causes and prevention of
6127 occupational accidents and diseases; and
6128 (ii) through posting of notices or other means, to inform employees of their rights and
6129 obligations under this chapter including applicable standards.
6130 (b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
6131 Administrative Rulemaking Act, requiring employers to keep records regarding any
6132 work-related death and injury and any occupational disease as provided in this Subsection
6133 (3)(b).
6134 (i) Each employer shall investigate or cause to be investigated all work-related injuries

6135 and occupational diseases and any sudden or unusual occurrence or change of conditions that
6136 pose an unsafe or unhealthful exposure to employees.
6137 (ii) Each employer shall, within eight hours of occurrence, notify the division of any:
6138 (A) work-related fatality;
6139 (B) disabling, serious, or significant injury; or
6140 (C) occupational disease incident.
6141 (iii) (A) Each employer shall file a report with the Division of Industrial Accidents
6142 within seven days after the occurrence of an injury or occupational disease, after the employer's
6143 first knowledge of the occurrence, or after the employee's notification of the same, in the form
6144 prescribed by the Division of Industrial Accidents, of any work-related fatality or any
6145 work-related injury or occupational disease resulting in:
6146 (I) medical treatment;
6147 (II) loss of consciousness;
6148 (III) loss of work;
6149 (IV) restriction of work; or
6150 (V) transfer to another job.
6151 (B) (I) Each employer shall file a subsequent report with the Division of Industrial
6152 Accidents of any previously reported injury or occupational disease that later resulted in death.
6153 (II) The subsequent report shall be filed with the Division of Industrial Accidents
6154 within seven days following the death or the employer's first knowledge or notification of the
6155 death.
6156 (iv) A report is not required for minor injuries, such as cuts or scratches that require
6157 first-aid treatment only, unless a treating physician files, or is required to file, the Physician's
6158 Initial Report of Work Injury or Occupational Disease with the Division of Industrial
6159 Accidents.
6160 (v) A report is not required:
6161 (A) for occupational diseases that manifest after the employee is no longer employed
6162 by the employer with which the exposure occurred; or
6163 (B) where the employer is not aware of an exposure occasioned by the employment
6164 which results in a compensable occupational disease as defined by Section 34A-3-103.
6165 (vi) Each employer shall provide the employee with:

6166 (A) a copy of the report submitted to the Division of Industrial Accidents; and
6167 (B) a statement, as prepared by the Division of Industrial Accidents, of the employee's
6168 rights and responsibilities related to the industrial injury or occupational disease.
6169 (vii) Each employer shall maintain a record in a manner prescribed by the commission
6170 of all work-related fatalities or work-related injuries and of all occupational diseases resulting
6171 in:
6172 (A) medical treatment;
6173 (B) loss of consciousness;
6174 (C) loss of work;
6175 (D) restriction of work; or
6176 (E) transfer to another job.
6177 (viii) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
6178 Administrative Rulemaking Act, to implement this Subsection (3)(b) consistent with nationally
6179 recognized rules or standards on the reporting and recording of work-related injuries and
6180 occupational diseases.
6181 (c) (i) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
6182 Administrative Rulemaking Act, requiring employers to keep records regarding exposures to
6183 potentially toxic materials or harmful physical agents required to be measured or monitored
6184 under Section 34A-6-202.
6185 (ii) (A) The rules made under Subsection (3)(c)(i) shall provide for employees or their
6186 representatives:
6187 (I) to observe the measuring or monitoring; and
6188 (II) to have access to the records of the measuring or monitoring, and to records that
6189 indicate their exposure to toxic materials or harmful agents.
6190 (B) Each employer shall promptly notify employees being exposed to toxic materials or
6191 harmful agents in concentrations that exceed prescribed levels and inform any such employee
6192 of the corrective action being taken.
6193 (4) Information obtained by the division shall be obtained with a minimum burden
6194 upon employers, especially those operating small businesses.
6195 (5) A representative of the employer and a representative authorized by employees
6196 shall be given an opportunity to accompany the division's authorized representative during the

6197 physical inspection of any workplace. If there is no authorized employee representative, the
6198 division's authorized representative shall consult with a reasonable number of employees
6199 concerning matters of health and safety in the workplace.
6200 (6) (a) (i) (A) Any employee or representative of employees who believes that a
6201 violation of an adopted safety or health standard exists that threatens physical harm, or that an
6202 imminent danger exists, may request an inspection by giving notice to the division's authorized
6203 representative of the violation or danger. The notice shall be:
6204 (I) in writing, setting forth with reasonable particularity the grounds for notice; and
6205 (II) signed by the employee or representative of employees.
6206 (B) A copy of the notice shall be provided the employer or the employer's agent no
6207 later than at the time of inspection.
6208 (C) Upon request of the person giving notice, the person's name and the names of
6209 individual employees referred to in the notice shall not appear in the copy or on any record
6210 published, released, or made available pursuant to Subsection (7).
6211 (ii) (A) If upon receipt of the notice the division's authorized representative determines
6212 there are reasonable grounds to believe that a violation or danger exists, the authorized
6213 representative shall make a special inspection in accordance with this section as soon as
6214 practicable to determine if a violation or danger exists.
6215 (B) If the division's authorized representative determines there are no reasonable
6216 grounds to believe that a violation or danger exists, the authorized representative shall notify
6217 the employee or representative of the employees in writing of that determination.
6218 (b) (i) Prior to or during any inspection of a workplace, any employee or representative
6219 of employees employed in the workplace may notify the division or its representative of any
6220 violation of a standard that they have reason to believe exists in the workplace.
6221 (ii) The division shall:
6222 (A) by rule, establish procedures for informal review of any refusal by a representative
6223 of the division to issue a citation with respect to any alleged violation; and
6224 (B) furnish the employees or representative of employees requesting review a written
6225 statement of the reasons for the division's final disposition of the case.
6226 (7) (a) The division may compile, analyze, and publish, either in summary or detailed
6227 form, all reports or information obtained under this section, subject to the limitations set forth

6228 in Section 34A-6-306.
6229 (b) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
6230 Administrative Rulemaking Act, necessary to carry out its responsibilities under this chapter,
6231 including rules for information obtained under this section, subject to the limitations set forth
6232 in Section 34A-6-306.
6233 (8) Any employer who refuses or neglects to make reports, to maintain records, or to
6234 file reports with the commission as required by this section is guilty of a class C misdemeanor
6235 and subject to citation under Section 34A-6-302 and a civil assessment as provided under
6236 Section 34A-6-307, unless the commission finds that the employer has shown good cause for
6237 submitting a report later than required by this section.
6238 Section 75. Section **34A-7-202** is amended to read:
6239 **34A-7-202. Definitions.**
6240 As used in this part:
6241 (1) "Division" means the Division of Boiler and Elevator Safety within the
6242 commission.
6243 (2) (a) "Elevator" means a hoisting and lowering mechanism:
6244 (i) equipped with a car or platform; and
6245 (ii) that moves in guides in a substantially vertical direction.
6246 (b) "Elevator" does not mean:
6247 (i) a device used for the sole purpose of elevating or lowering materials such as:
6248 (A) a dumbwaiter;
6249 (B) a conveyor; or
6250 (C) a chain, bucket, or construction hoist;
6251 (ii) a tiering, piling, feeding, or similar machine giving service within only one story;
6252 (iii) a portable platform;
6253 (iv) a stage lift;
6254 (v) a device installed in a single family dwelling;
6255 (vi) a device installed in a facility owned and operated by the federal government; or
6256 (vii) an amusement ride, as defined in Section [~~78-27-61~~] 78B-4-507.
6257 (3) (a) "Escalator" means a stairway, moving walkway, or runway that is:
6258 (i) power-driven;

6259 (ii) continuous; and
6260 (iii) used to transport one or more individuals.
6261 (b) "Escalator" does not mean:
6262 (i) a device used for the sole purpose of elevating or lowering materials such as:
6263 (A) a dumbwaiter;
6264 (B) a conveyor; or
6265 (C) a chain, bucket, or construction hoist;
6266 (ii) a device installed in a single-family dwelling;
6267 (iii) a device installed in a facility owned and operated by the federal government; or
6268 (iv) an amusement ride, as defined in Section [~~78-27-61~~] 78B-4-507.
6269 (4) "Owner or operator" means a person who owns, controls, or has the duty to control
6270 the operation of an elevator or escalator.
6271 (5) "Safety code" means the one or more codes adopted by the division in accordance
6272 with Subsection 34A-7-203(6) to be used in inspecting elevators and escalators.
6273 Section 76. Section **35A-1-301** is amended to read:
6274 **35A-1-301. Presiding officers for adjudicative proceedings -- Subpoenas --**
6275 **Independent judgment -- Consolidation -- Record -- Notice of order.**
6276 (1) (a) The executive director shall authorize the Division of Adjudication to call,
6277 assign a presiding officer, and conduct hearings and adjudicative proceedings when an
6278 application for a proceeding is filed with the Division of Adjudication under this title.
6279 (b) The director of the Division of Adjudication or the director's designee may issue
6280 subpoenas. Failure to respond to a properly issued subpoena may result in a contempt citation
6281 and offenders may be punished as provided in Section [~~78-32-15~~] 78B-6-313.
6282 (c) Witnesses subpoenaed under this section are allowed fees as provided by law for
6283 witnesses in the district court of the state. The fees shall be paid as follows:
6284 (i) The witness fees shall be paid by the state unless the witness is subpoenaed at the
6285 instance of a party other than the department.
6286 (ii) Notwithstanding Subsection (1)(c)(i), if the subpoena is issued under Chapter 4,
6287 Employment Security Act, the fees are part of the expense of administering that chapter.
6288 (d) A presiding officer assigned under this section may not participate in any case in
6289 which the presiding officer is an interested party. Each decision of a presiding officer shall

6290 represent the presiding officer's independent judgment.
6291 (2) In the judgment of the presiding officer having jurisdiction of the proceedings the
6292 consolidation would not be prejudicial to any party, when the same or substantially similar
6293 evidence is relevant and material to the matters in issue in more than one proceeding:
6294 (a) the presiding officer may fix the same time and place for considering each matter;
6295 (b) jointly conduct hearings;
6296 (c) make a single record of the proceedings; and
6297 (d) consider evidence introduced with respect to one proceeding as introduced in the
6298 others.
6299 (3) (a) The director shall keep a full and complete record of all adjudicative proceedings
6300 in connection with a disputed matter.
6301 (b) All testimony at any hearing shall be recorded but need not be transcribed unless
6302 the disputed matter is appealed. If a party requests transcription, the transcription shall be
6303 provided at the party's expense.
6304 (c) All records on appeals shall be maintained in the offices of the Division of
6305 Adjudication. The records shall include an appeal docket showing the receipt and disposition
6306 of the appeals.
6307 (4) A party in interest shall be given notice of the entry of a presiding officer's order or
6308 any order or award of the department. The mailing of the copy of the order or award to the
6309 last-known address in the files of the department of a party in interest and to the attorneys or
6310 agents of record in the case, if any, is considered to be notice of the order.
6311 (5) In any formal adjudication proceeding, the presiding officer may take any action
6312 permitted under Section 63-46b-8.
6313 Section 77. Section **35A-3-307** is amended to read:
6314 **35A-3-307. Cash assistance to a single minor parent.**
6315 (1) The division may provide cash assistance to a single minor parent in accordance
6316 with this section.
6317 (2) A single minor parent who receives cash assistance under this part shall:
6318 (a) reside in a place of residence maintained by a parent, legal guardian, or other adult
6319 relative of the single minor parent, except as provided in Subsection (3);
6320 (b) participate in education for parenting and life skills;

6321 (c) participate in infant and child wellness programs operated by the Department of
6322 Health; and
6323 (d) for not less than 20 hours per week:
6324 (i) attend high school or an alternative to high school, if the single minor parent does
6325 not have a high school diploma;
6326 (ii) participate in education or training;
6327 (iii) participate in employment; or
6328 (iv) participate in a combination of employment and education or training.
6329 (3) (a) If the division determines that the requirements of Subsection (2)(a) are not
6330 appropriate for a single minor parent, the division may assist the single minor parent to obtain
6331 suitable living arrangements, including an adult-supervised living arrangement.
6332 (b) As a condition of receiving cash assistance, a single minor parent who is exempt
6333 from the requirements of Subsection (2)(a) shall reside in a living arrangement that is approved
6334 by the division.
6335 (c) The approval by the division of a living arrangement under Subsection (3)(b):
6336 (i) is a means of safeguarding the use of state and federal funds; and
6337 (ii) is not a certification or guarantee of the safety, quality, or condition of the living
6338 arrangements of the single minor parent.
6339 (4) (a) If a single minor parent resides with a parent, the division shall include the
6340 income of the parent of the single minor parent in determining the single minor parent's
6341 eligibility for services and supports under this part.
6342 (b) If a single minor parent receives services and supports under this chapter but does
6343 not reside with a parent, the division shall seek an order under Title [~~78~~] 78B, Chapter [~~45,~~
6344 ~~Uniform Civil Liability for~~] 12, Utah Child Support Act, requiring the parent of the single
6345 minor parent to financially support the single minor parent.
6346 (5) The requirements of this section shall be included in a single minor parent's
6347 employment plan under Section 35A-3-304.
6348 Section 78. Section **35A-3-308** is amended to read:
6349 **35A-3-308. Adoption services -- Printed information -- Supports provided.**
6350 (1) The division may provide assistance under this section to a client who is pregnant
6351 and is not receiving cash assistance no sooner than the beginning of the third trimester of

6352 pregnancy.
6353 (2) For pregnant clients, the division shall:
6354 (a) refer the client for appropriate prenatal medical care, including maternal health
6355 services provided under Title 26, Chapter 10, Family Health Services;
6356 (b) inform the client of free counseling about adoption from licensed child placement
6357 agencies and licensed attorneys; and
6358 (c) offer the client the adoption information packet described in Subsection (3).
6359 (3) The department shall publish an adoption information packet that:
6360 (a) is easy to understand;
6361 (b) contains geographically indexed materials on the public and private organizations
6362 that provide adoption assistance;
6363 (c) lists the names, addresses, and telephone numbers of licensed child placement
6364 agencies and licensed attorneys who place children for adoption;
6365 (d) explains that private adoption is legal and that the law permits adoptive parents to
6366 reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to
6367 pregnancy; and
6368 (e) describes the services and supports available to the client under this section.
6369 (4) (a) A client remains eligible for assistance under this section, even though the client
6370 relinquishes a child for adoption, provided that the adoption is in accordance with [~~Section~~
6371 ~~78-30-4.14~~] Sections 78B-6-120 through 78B-6-122.
6372 (b) The assistance provided under this section may include:
6373 (i) reimbursement for expenses associated with care and confinement during pregnancy
6374 as provided for in Subsection (5); and
6375 (ii) for a maximum of 12 months from the date of relinquishment, coordination of
6376 services to assist the client in:
6377 (A) receiving appropriate educational and occupational assessment and planning;
6378 (B) enrolling in appropriate education or training programs, including high school
6379 completion and adult education programs;
6380 (C) enrolling in programs that provide assistance with job readiness, employment
6381 counseling, finding employment, and work skills;
6382 (D) finding suitable housing;

6383 (E) receiving medical assistance, under Title 26, Chapter 18, Medical Assistance Act,
6384 if the client is otherwise eligible; and
6385 (F) receiving counseling and other mental health services.
6386 (5) (a) Except as provided in Subsection (5)(b), a client is eligible to receive an amount
6387 equal to the maximum monthly amount of cash assistance paid to one person for up to 12
6388 consecutive months from the date of relinquishment.
6389 (b) If a client is otherwise eligible to receive cash assistance under this part, the client
6390 is eligible to receive an amount equal to the increase in cash assistance the client would have
6391 received but for the relinquishment for up to 12 consecutive months from the date of
6392 relinquishment.
6393 (6) (a) To be eligible for assistance under this section, a client shall:
6394 (i) with the cooperation of the division, develop and implement an employment plan
6395 containing goals for achieving self-sufficiency and describing the action the client will take
6396 concerning education and training that will result in full-time employment;
6397 (ii) if the client does not have a high school diploma, enroll in high school or an
6398 alternative to high school and demonstrate progress toward graduation; and
6399 (iii) make a good faith effort to meet the goals of the employment plan as provided in
6400 Section 35A-3-304.
6401 (b) Cash assistance provided to a client before the client relinquishes a child for
6402 adoption is part of the state plan.
6403 (c) Assistance provided under Subsection (5):
6404 (i) shall be provided for with state funds; and
6405 (ii) may not be tolled when determining subsequent eligibility for cash assistance under
6406 this chapter.
6407 (d) The time limit provisions of Section 35A-3-306 apply to cash assistance provided
6408 under the state plan.
6409 (e) The division shall monitor a client's compliance with this section.
6410 (f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the
6411 state plan.
6412 Section 79. Section **35A-4-305** is amended to read:
6413 **35A-4-305. Collection of contributions -- Unpaid contributions to bear interest.**

6414 (1) (a) Contributions unpaid on the date on which they are due and payable, as
6415 prescribed by the division, shall bear interest at the rate of 1% per month from and after that
6416 date until payment plus accrued interest is received by the division.
6417 (b) (i) Contribution reports not made and filed by the date on which they are due as
6418 prescribed by the division are subject to a penalty to be assessed and collected in the same
6419 manner as contributions due under this section equal to 5% of the contribution due if the failure
6420 to file on time was not more than 15 days, with an additional 5% for each additional 15 days or
6421 fraction thereof during which the failure continued, but not to exceed 25% in the aggregate and
6422 not less than $25 with respect to each reporting period.
6423 (ii) If a report is filed after the required time and it is shown to the satisfaction of the
6424 division or its authorized representative that the failure to file was due to a reasonable cause
6425 and not to willful neglect, no addition shall be made to the contribution.
6426 (c) (i) If contributions are unpaid after ten days from the date of the mailing or personal
6427 delivery by the division or its authorized representative, of a written demand for payment, there
6428 shall attach to the contribution, to be assessed and collected in the same manner as
6429 contributions due under this section, a penalty equal to 5% of the contribution due.
6430 (ii) A penalty may not attach if within ten days after the mailing or personal delivery,
6431 arrangements for payment have been made with the division, or its authorized representative,
6432 and payment is made in accordance with those arrangements.
6433 (d) The division shall assess as a penalty a service charge, in addition to any other
6434 penalties that may apply, in an amount not to exceed the service charge imposed by Section
6435 7-15-1 for dishonored instruments if:
6436 (i) any amount due the division for contributions, interest, other penalties or benefit
6437 overpayments is paid by check, draft, order, or other instrument; and
6438 (ii) the instrument is dishonored or not paid by the institution against which it is drawn.
6439 (e) Except for benefit overpayments under Subsection 35A-4-405(5), benefit
6440 overpayments, contributions, interest, penalties, and assessed costs, uncollected three years
6441 after they become due, may be charged as uncollectible and removed from the records of the
6442 division if:
6443 (i) no assets belonging to the liable person and subject to attachment can be found; and
6444 (ii) in the opinion of the division there is no likelihood of collection at a future date.

6445 (f) Interest and penalties collected in accordance with this section shall be paid into the
6446 Special Administrative Expense Fund.
6447 (g) Action required for the collection of sums due under this chapter is subject to the
6448 applicable limitations of actions under Title [~~78~~] 78B, Chapter [~~12, Limitation of Actions~~] 2,
6449 Statutes of Limitations.
6450 (2) (a) If an employer fails to file a report when prescribed by the division for the
6451 purpose of determining the amount of the employer's contribution due under this chapter, or if
6452 the report when filed is incorrect or insufficient or is not satisfactory to the division, the
6453 division may determine the amount of wages paid for employment during the period or periods
6454 with respect to which the reports were or should have been made and the amount of
6455 contribution due from the employer on the basis of any information it may be able to obtain.
6456 (b) The division shall give written notice of the determination to the employer.
6457 (c) The determination is considered correct unless:
6458 (i) the employer, within ten days after mailing or personal delivery of notice of the
6459 determination, applies to the division for a review of the determination as provided in Section
6460 35A-4-508; or
6461 (ii) unless the division or its authorized representative of its own motion reviews the
6462 determination.
6463 (d) The amount of contribution determined under Subsection (2)(a) is subject to
6464 penalties and interest as provided in Subsection (1).
6465 (3) (a) If, after due notice, an employer defaults in the payment of contributions,
6466 interest, or penalties on the contributions, or a claimant defaults in a repayment of benefit
6467 overpayments and penalties on the overpayments, the amount due shall be collectible by civil
6468 action in the name of the division, and the employer adjudged in default shall pay the costs of
6469 the action.
6470 (b) Civil actions brought under this section to collect contributions, interest, or
6471 penalties from an employer, or benefit overpayments and penalties from a claimant shall be:
6472 (i) heard by the court at the earliest possible date; and
6473 (ii) entitled to preference upon the calendar of the court over all other civil actions
6474 except:
6475 (A) petitions for judicial review under this chapter; and

6476 (B) cases arising under the workers' compensation law of this state.
6477 (c) (i) (A) To collect contributions, interest, or penalties, or benefit overpayments and
6478 penalties due from employers or claimants located outside Utah, the division may employ
6479 private collectors providing debt collection services outside Utah.
6480 (B) Accounts may be placed with private collectors only after the employer or claimant
6481 has been given a final notice that the division intends to place the account with a private
6482 collector for further collection action.
6483 (C) The notice shall advise the employer or claimant of the employer's or claimant's
6484 rights under this chapter and the applicable rules of the department.
6485 (ii) (A) A private collector may receive as compensation up to 25% of the lesser of the
6486 amount collected or the amount due, plus the costs and fees of any civil action or postjudgment
6487 remedy instituted by the private collector with the approval of the division.
6488 (B) The employer or claimant shall be liable to pay the compensation of the collector,
6489 costs, and fees in addition to the original amount due.
6490 (iii) A private collector is subject to the federal Fair Debt Collection Practices Act, 15
6491 U.S.C. Sec. 1692 et seq.
6492 (iv) (A) A civil action may not be maintained by a private collector without specific
6493 prior written approval of the division.
6494 (B) When division approval is given for civil action against an employer or claimant,
6495 the division may cooperate with the private collector to the extent necessary to effect the civil
6496 action.
6497 (d) (i) Notwithstanding Section 35A-4-312, the division may disclose the contribution,
6498 interest, penalties or benefit overpayments and penalties, costs due, the name of the employer
6499 or claimant, and the employer's or claimant's address and telephone number when any
6500 collection matter is referred to a private collector under Subsection (3)(c).
6501 (ii) A private collector is subject to the confidentiality requirements and penalty
6502 provisions provided in Section 35A-4-312 and Subsection 76-8-1301(4), except to the extent
6503 disclosure is necessary in a civil action to enforce collection of the amounts due.
6504 (e) An action taken by the division under this section may not be construed to be an
6505 election to forego other collection procedures by the division.
6506 (4) (a) In the event of a distribution of an employer's assets under an order of a court

6507 under the laws of Utah, including a receivership, assignment for benefits of creditors,
6508 adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter
6509 due shall be paid in full prior to all other claims except taxes and claims for wages of not more
6510 than $400 to each claimant, earned within five months of the commencement of the
6511 proceeding.
6512 (b) If an employer commences a proceeding in the Federal Bankruptcy Court under a
6513 chapter of 11 U.S.C. 101 et seq., as amended by the Bankruptcy Abuse Prevention and
6514 Consumer Protection Act of 2005, contributions, interest, and penalties then or thereafter due
6515 shall be entitled to the priority provided for taxes, interest, and penalties in the Bankruptcy
6516 Abuse Prevention and Consumer Protection Act of 2005.
6517 (5) (a) In addition and as an alternative to any other remedy provided by this chapter
6518 and provided that no appeal or other proceeding for review provided by this chapter is then
6519 pending and the time for taking it has expired, the division may issue a warrant in duplicate,
6520 under its official seal, directed to the sheriff of any county of the state, commanding the sheriff
6521 to levy upon and sell the real and personal property of a delinquent employer or claimant found
6522 within the sheriff's county for the payment of the contributions due, with the added penalties,
6523 interest, or benefit overpayment and penalties, and costs, and to return the warrant to the
6524 division and pay into the fund the money collected by virtue of the warrant by a time to be
6525 specified in the warrant, not more than 60 days from the date of the warrant.
6526 (b) (i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the
6527 duplicate with the clerk of the district court in the sheriff's county.
6528 (ii) The clerk shall enter in the judgment docket, in the column for judgment debtors,
6529 the name of the delinquent employer or claimant mentioned in the warrant, and in appropriate
6530 columns the amount of the contribution, penalties, interest, or benefit overpayment and
6531 penalties, and costs, for which the warrant is issued and the date when the duplicate is filed.
6532 (c) The amount of the docketed warrant shall:
6533 (i) have the force and effect of an execution against all personal property of the
6534 delinquent employer; and
6535 (ii) become a lien upon the real property of the delinquent employer or claimant in the
6536 same manner and to the same extent as a judgment duly rendered by a district court and
6537 docketed in the office of the clerk.

6538 (d) After docketing, the sheriff shall:
6539 (i) proceed in the same manner as is prescribed by law with respect to execution issued
6540 against property upon judgments of a court of record; and
6541 (ii) be entitled to the same fees for the sheriff's services in executing the warrant, to be
6542 collected in the same manner.
6543 (6) (a) Contributions imposed by this chapter are a lien upon the property of an
6544 employer liable for the contribution required to be collected under this section who shall sell
6545 out the employer's business or stock of goods or shall quit business, if the employer fails to
6546 make a final report and payment on the date subsequent to the date of selling or quitting
6547 business on which they are due and payable as prescribed by rule.
6548 (b) (i) An employer's successor, successors, or assigns, if any, are required to withhold
6549 sufficient of the purchase money to cover the amount of the contributions and interest or
6550 penalties due and payable until the former owner produces a receipt from the division showing
6551 that they have been paid or a certificate stating that no amount is due.
6552 (ii) If the purchaser of a business or stock of goods fails to withhold sufficient purchase
6553 money, the purchaser is personally liable for the payment of the amount of the contributions
6554 required to be paid by the former owner, interest and penalties accrued and unpaid by the
6555 former owner, owners, or assignors.
6556 (7) (a) If an employer is delinquent in the payment of a contribution, the division may
6557 give notice of the amount of the delinquency by registered mail to all persons having in their
6558 possession or under their control, any credits or other personal property belonging to the
6559 employer, or owing any debts to the employer at the time of the receipt by them of the notice.
6560 (b) A person notified under Subsection (7)(a) shall neither transfer nor make any other
6561 disposition of the credits, other personal property, or debts until:
6562 (i) the division has consented to a transfer or disposition; or
6563 (ii) 20 days after the receipt of the notice.
6564 (c) All persons notified under Subsection (7)(a) shall, within five days after receipt of
6565 the notice, advise the division of credits, other personal property, or other debts in their
6566 possession, under their control or owing by them, as the case may be.
6567 (8) (a) (i) Each employer shall furnish the division necessary information for the proper
6568 administration of this chapter and shall include wage information for each employee, for each

6569 calendar quarter.
6570 (ii) The information shall be furnished at a time, in the form, and to those individuals
6571 as the department may by rule require.
6572 (b) (i) Each employer shall furnish each individual worker who is separated that
6573 information as the department may by rule require, and shall furnish within 48 hours of the
6574 receipt of a request from the division a report of the earnings of any individual during the
6575 individual's base-period.
6576 (ii) The report shall be on a form prescribed by the division and contain all information
6577 prescribed by the division.
6578 (c) (i) For each failure by an employer to conform to this Subsection (8) the division
6579 shall, unless good cause is shown, assess a $50 penalty if the filing was not more than 15 days
6580 late.
6581 (ii) If the filing is more than 15 days late, the division shall assess an additional penalty
6582 of $50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed $250
6583 per filing.
6584 (iii) The penalty is to be collected in the same manner as contributions due under this
6585 chapter.
6586 (d) (i) The division shall prescribe rules providing standards for determining which
6587 contribution reports must be filed on magnetic or electronic media or in other machine-readable
6588 form.
6589 (ii) In prescribing these rules, the division:
6590 (A) may not require an employer to file contribution reports on magnetic or electronic
6591 media unless the employer is required to file wage data on at least 250 employees during any
6592 calendar quarter or is an authorized employer representative who files quarterly tax reports on
6593 behalf of 100 or more employers during any calendar quarter;
6594 (B) shall take into account, among other relevant factors, the ability of the employer to
6595 comply at reasonable cost with the requirements of the rules; and
6596 (C) may require an employer to post a bond for failure to comply with the rules
6597 required by this Subsection (8)(d).
6598 (9) (a) (i) An employer liable for payments in lieu of contributions shall file
6599 Reimbursable Employment and Wage Reports.

6600 (ii) The reports are due on the last day of the month that follows the end of each
6601 calendar quarter unless the division, after giving notice, changes the due date.
6602 (iii) A report postmarked on or before the due date is considered timely.
6603 (b) (i) Unless the employer can show good cause, the division shall assess a $50
6604 penalty against an employer who does not file Reimbursable Employment and Wage Reports
6605 within the time limits set out in Subsection (9)(a) if the filing was not more than 15 days late.
6606 (ii) If the filing is more than 15 days late, the division shall assess an additional penalty
6607 of $50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed $250
6608 per filing.
6609 (iii) The division shall assess and collect the penalties referred to in this Subsection
6610 (9)(b) in the same manner as prescribed in Sections 35A-4-309 and 35A-4-311.
6611 (10) If a person liable to pay a contribution or benefit overpayment imposed by this
6612 chapter neglects or refuses to pay it after demand, the amount, including any interest, additional
6613 amount, addition to contributions, or assessable penalty, together with any additional accruable
6614 costs, shall be a lien in favor of the division upon all property and rights to property, whether
6615 real or personal belonging to the person.
6616 (11) (a) The lien imposed by Subsection (10) arises at the time the assessment, as
6617 defined in the department rules, is made and continues until the liability for the amount
6618 assessed, or a judgment against the taxpayer arising out of the liability, is satisfied.
6619 (b) (i) The lien imposed by Subsection (10) is not valid as against a purchaser, holder
6620 of a security interest, mechanics' lien holder, or judgment lien creditor until the division files a
6621 warrant with the clerk of the district court.
6622 (ii) For the purposes of this Subsection (11)(b):
6623 (A) "Judgment lien creditor" means a person who obtains a valid judgment of a court
6624 of record for recovery of specific property or a sum certain of money, and who in the case of a
6625 recovery of money, has a perfected lien under the judgment on the property involved. A
6626 judgment lien does not include inchoate liens such as attachment or garnishment liens until
6627 they ripen into a judgment. A judgment lien does not include the determination or assessment
6628 of a quasi-judicial authority, such as a state or federal taxing authority.
6629 (B) "Mechanics' lien holder" means any person who has a lien on real property, or on
6630 the proceeds of a contract relating to real property, for services, labor, or materials furnished in

6631 connection with the construction or improvement of the property. A person has a lien on the
6632 earliest date the lien becomes valid against subsequent purchasers without actual notice, but not
6633 before the person begins to furnish the services, labor, or materials.
6634 (C) "Person" means:
6635 (I) an individual;
6636 (II) a trust;
6637 (III) an estate;
6638 (IV) a partnership;
6639 (V) an association;
6640 (VI) a company;
6641 (VII) a limited liability company;
6642 (VIII) a limited liability partnership; or
6643 (IX) a corporation.
6644 (D) "Purchaser" means a person who, for adequate and full consideration in money or
6645 money's worth, acquires an interest, other than a lien or security interest, in property which is
6646 valid under state law against subsequent purchasers without actual notice.
6647 (E) "Security interest" means any interest in property acquired by contract for the
6648 purpose of securing payment or performance of an obligation or indemnifying against loss or
6649 liability. A security interest exists at any time:
6650 (I) the property is in existence and the interest has become protected under the law
6651 against a subsequent judgment lien arising out of an unsecured obligation; and
6652 (II) to the extent that, at that time, the holder has parted with money or money's worth.
6653 Section 80. Section **36-14-5** is amended to read:
6654 **36-14-5. Legislative subpoenas -- Enforcement.**
6655 (1) If any person disobeys or fails to comply with a legislative subpoena, or if a person
6656 appears before a legislative body pursuant to a subpoena and refuses to testify to a matter upon
6657 which he may be lawfully interrogated, that person is in contempt of the Legislature.
6658 (2) (a) When the subject of a legislative subpoena disobeys or fails to comply with the
6659 legislative subpoena, or if a person appears before a legislative body pursuant to a subpoena
6660 and refuses to testify to a matter upon which the person may be lawfully interrogated, the issuer
6661 may:

6662 (i) file a motion for an order to compel obedience to the subpoena with the district
6663 court;
6664 (ii) file, with the district court, a motion for an order to show cause why the penalties
6665 established in Title [~~78~~] 78B, Chapter [~~32~~] 6, Part 3, Contempt, should not be imposed upon
6666 the person named in the subpoena for contempt of the Legislature; or
6667 (iii) pursue other remedies against persons in contempt of the Legislature.
6668 (b) (i) Upon receipt of a motion under this subsection, the court shall expedite the
6669 hearing and decision on the motion.
6670 (ii) A court may:
6671 (A) order the person named in the subpoena to comply with the subpoena; and
6672 (B) impose any penalties authorized by Title [~~78~~] 78B, Chapter [~~32~~] 6, Part 3,
6673 Contempt, upon the person named in the subpoena for contempt of the Legislature.
6674 (3) (a) If a legislative subpoena requires the production of accounts, books, papers,
6675 documents, or other tangible things, the person or entity to whom it is directed may petition a
6676 district court to quash or modify the subpoena at or before the time specified in the subpoena
6677 for compliance.
6678 (b) An issuer may respond to a motion to quash or modify the subpoena by pursuing
6679 any remedy authorized by Subsection (2).
6680 (c) If the court finds that a legislative subpoena requiring the production of accounts,
6681 books, papers, documents, or other tangible things is unreasonable or oppressive, the court may
6682 quash or modify the subpoena.
6683 (4) Nothing in this section prevents an issuer from seeking an extraordinary writ to
6684 remedy contempt of the Legislature.
6685 (5) Any party aggrieved by a decision of a court under this section may appeal that
6686 action directly to the Utah Supreme Court.
6687 Section 81. Section **36-20-1** is amended to read:
6688 **36-20-1. Definitions.**
6689 As used in this chapter:
6690 (1) "Advisory committee" means the committee which proposes rules or changes in
6691 rules to the Supreme Court on civil procedure, criminal procedure, juvenile procedure,
6692 appellate procedure, evidence, and professional conduct.

6693 (2) "Committee" means the Judicial Rules Review Committee created in Section
6694 36-20-2.
6695 (3) "Court rules" means any of the following:
6696 (a) rules of procedure, evidence, and practice for use of the courts of this state;
6697 (b) rules governing and managing the appellate process adopted by the Supreme Court;
6698 (c) rules adopted by the Judicial Council for the administration of the courts of the
6699 state.
6700 (4) "Judicial Council" means the administrative body of the courts as established in
6701 Article VIII, Sec. 12, Utah Constitution and Section [~~78-3-21~~] 78A-2-104.
6702 (5) "Proposal for court rule" means the proposed language in a court rule that is
6703 submitted to the Judicial Council, the advisory committee, or the Supreme Court.
6704 (6) "Report" means a copy of the committee's findings and recommendations, any
6705 actions taken by the Supreme Court or Judicial Council in response, and any recommendation
6706 for legislation for Supreme Court or Judicial Council rulemaking action as provided in
6707 Subsection 36-20-6(3).
6708 Section 82. Section **38-1-11** is amended to read:
6709 **38-1-11. Enforcement -- Time for -- Lis pendens -- Action for debt not affected --**
6710 **Instructions and form affidavit and motion.**
6711 (1) As used in this section:
6712 (a) "Owner" is as defined in Section 38-11-102.
6713 (b) "Residence" is as defined in Section 38-11-102.
6714 (2) A lien claimant shall file an action to enforce the lien filed under this chapter within
6715 180 days from the day on which the lien claimant filed a notice of claim under Section 38-1-7.
6716 (3) (a) Within the time period provided for filing in Subsection (2) the lien claimant
6717 shall file for record with the county recorder of each county in which the lien is recorded a
6718 notice of the pendency of the action, in the manner provided in actions affecting the title or
6719 right to possession of real property, or the lien shall be void, except as to persons who have
6720 been made parties to the action and persons having actual knowledge of the commencement of
6721 the action.
6722 (b) The burden of proof is upon the lien claimant and those claiming under the lien
6723 claimant to show actual knowledge under Subsection (3)(a).

6724 (4) (a) A lien filed under this chapter is automatically and immediately void if an action
6725 to enforce the lien is not filed within the time required by this section.
6726 (b) Notwithstanding Section [~~78-12-40~~] 78B-2-111, a court has no subject matter
6727 jurisdiction to adjudicate a lien that becomes void under Subsection (4)(a).
6728 (5) This section may not be interpreted to impair or affect the right of any person to
6729 whom a debt may be due for any work done or materials furnished to maintain a personal
6730 action to recover the debt.
6731 (6) (a) If a lien claimant files an action to enforce a lien filed under this chapter
6732 involving a residence, the lien claimant shall include with the service of the complaint on the
6733 owner of the residence:
6734 (i) instructions to the owner of the residence relating to the owner's rights under Title
6735 38, Chapter 11, Residence Lien Restriction and Lien Recovery Fund Act; and
6736 (ii) a form to enable the owner of the residence to specify the grounds upon which the
6737 owner may exercise available rights under Title 38, Chapter 11, Residence Lien Restriction and
6738 Lien Recovery Fund Act.
6739 (b) The instructions and form required by Subsection (6)(a) shall meet the requirements
6740 established by rule by the Division of Occupational and Professional Licensing in accordance
6741 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
6742 (c) If a lien claimant fails to provide to the owner of the residence the instructions and
6743 form required by Subsection (6)(a), the lien claimant shall be barred from maintaining or
6744 enforcing the lien upon the residence.
6745 (d) Judicial determination of the rights and liabilities of the owner of the residence
6746 under this chapter and Title 38, Chapter 11, Residence Lien Restriction and Lien Recovery
6747 Fund Act, and Title 14, Chapter 2, Private Contracts, shall be stayed until after the owner is
6748 given a reasonable period of time to establish compliance with Subsections 38-11-204(4)(a)
6749 and (4)(b) through an informal proceeding, as set forth in Title 63, Chapter 46b, Administrative
6750 Procedures Act, commenced within 30 days of the owner being served summons in the
6751 foreclosure action, at the Division of Occupational and Professional Licensing and obtain a
6752 certificate of compliance or denial of certificate of compliance, as defined in Section
6753 38-11-102.
6754 (e) An owner applying for a certificate of compliance under Subsection (6)(d) shall

6755 send by certified mail to all lien claimants:
6756 (i) a copy of the application for a certificate of compliance; and
6757 (ii) all materials filed in connection with the application.
6758 (f) The Division of Occupational and Professional Licensing shall notify all lien
6759 claimants listed in an owner's application for a certificate of compliance under Subsection
6760 (6)(d) of the issuance or denial of a certificate of compliance.
6761 (7) The written notice requirement applies to liens filed on or after July 1, 2004.
6762 Section 83. Section **38-9-2** is amended to read:
6763 **38-9-2. Scope.**
6764 (1) (a) The provisions of Sections 38-9-1, 38-9-3, 38-9-4, and 38-9-6 apply to any
6765 recording or filing or any rejected recording or filing of a lien pursuant to this chapter on or
6766 after May 5, 1997.
6767 (b) The provisions of Sections 38-9-1 and 38-9-7 apply to all liens of record regardless
6768 of the date the lien was recorded or filed.
6769 (2) The provisions of this chapter shall not prevent a person from filing a lis pendens in
6770 accordance with Section [~~78-40-2~~] 78B-6-1303 or seeking any other relief permitted by law.
6771 (3) This chapter does not apply to a person entitled to a lien under Section 38-1-3 who
6772 files a lien pursuant to Title 38, Chapter 1, Mechanics' Liens.
6773 Section 84. Section **40-10-22** is amended to read:
6774 **40-10-22. Violation of chapter or permit conditions -- Inspection -- Cessation**
6775 **order, abatement notice, or show cause order -- Suspension or revocation of permit --**
6776 **Review -- Costs assessed against either party.**
6777 (1) (a) Whenever, on the basis of any information available, including receipt of
6778 information from any person, the division has reason to believe that any person is in violation
6779 of any requirement of this chapter or any permit condition required by this chapter, the division
6780 shall immediately order inspection of the surface coal mining operation at which the alleged
6781 violation is occurring, unless the information available to the division is a result of a previous
6782 inspection of the surface coal mining operation. When the inspection results from information
6783 provided to the division by any person, the division shall notify that person when the inspection
6784 is proposed to be carried out, and that person shall be allowed to accompany the inspector
6785 during the inspection.

6786 (b) When, on the basis of any inspection, the division determines that any condition or
6787 practices exist, or that any permittee is in violation of any requirement of this chapter or any
6788 permit condition required by this chapter, which condition, practice, or violation also creates an
6789 imminent danger to the health or safety of the public, or is causing, or can reasonably be
6790 expected to cause significant, imminent environmental harm to land, air, or water resources,
6791 the division shall immediately order a cessation of surface coal mining and reclamation
6792 operations or the portion thereof relevant to the condition, practice, or violation. The cessation
6793 order shall remain in effect until the division determines that the condition, practice, or
6794 violation has been abated, or until modified, vacated, or terminated by the division pursuant to
6795 Subsection (1)(e). Where the division finds that the ordered cessation of surface coal mining
6796 and reclamation operations, or any portion of same, will not completely abate the imminent
6797 danger to health or safety of the public or the significant imminent environmental harm to land,
6798 air, or water resources, the division shall, in addition to the cessation order, impose affirmative
6799 obligations on the operator requiring him to take whatever steps the division deems necessary
6800 to abate the imminent danger or the significant environmental harm.
6801 (c) When, on the basis of an inspection, the division determines that any permittee is in
6802 violation of any requirement of this chapter or any permit condition required by this chapter,
6803 but the violation does not create an imminent danger to the health or safety of the public or
6804 cannot be reasonably expected to cause significant, imminent environmental harm to land, air,
6805 or water resources, the division shall issue a notice to the permittee or his agent fixing a
6806 reasonable time but not more than 90 days for the abatement of the violation and providing
6807 opportunity for conference before the division. If upon expiration of the period of time as
6808 originally fixed or subsequently extended, for good cause shown, and upon the written finding
6809 of the division, the division finds that the violation has not been abated, it shall immediately
6810 order a cessation of surface coal mining and reclamation operations or the portion of same
6811 relevant to the violation. The cessation order shall remain in effect until the division
6812 determines that the violation has been abated or until modified, vacated, or terminated by the
6813 division pursuant to Subsection (1)(e). In the order of cessation issued by the division under
6814 this subsection, the division shall determine the steps necessary to abate the violation in the
6815 most expeditious manner possible and shall include the necessary measures in the order.
6816 (d) When on the basis of an inspection the division determines that a pattern of

6817 violations of any requirements of this chapter or any permit conditions required by this chapter
6818 exists or has existed, and if the division also finds that these violations are caused by the
6819 unwarranted failure of the permittee to comply with any requirements of this chapter or any
6820 permit conditions or that these violations are willfully caused by the permittee, the division
6821 shall initiate agency action by requesting the board to issue an order to show cause to the
6822 permittee as to why the permit should not be suspended or revoked and shall provide
6823 opportunity for a public hearing. If a hearing is requested, the board shall give notice in
6824 accordance with the rules of practice and procedure of the board. Upon the permittee's failure
6825 to show cause as to why the permit should not be suspended or revoked, the board shall
6826 immediately enter an order to suspend or revoke the permit.
6827 (e) Notices and orders issued under this section shall set forth with reasonable
6828 specificity the nature of the violation and the remedial action required, the period of time
6829 established for abatement, and a reasonable description of the portion of the surface coal
6830 mining and reclamation operation to which the notice or order applies. Each notice or order
6831 issued under this section shall be given promptly to the permittee or his agent by the division,
6832 and the notices and orders shall be in writing and shall be signed by the director, or his
6833 authorized representative who issues such notice or order. Any notice or order issued under
6834 this section may be modified, vacated, or terminated by the division, but any notice or order
6835 issued under this section which requires cessation of mining by the operator shall expire within
6836 30 days of actual notice to the operator unless a conference is held before the division.
6837 (2) (a) The division may request the attorney general to institute a civil action for relief,
6838 including a permanent or temporary injunction, restraining order, or any other appropriate order
6839 in the district court for the district in which the surface coal mining and reclamation operation
6840 is located or in which the permittee of the operation has his principal office, whenever such
6841 permittee or his agent:
6842 (i) violates or fails or refuses to comply with any order or decision issued under this
6843 chapter;
6844 (ii) interferes with, hinders, or delays the division or its authorized representatives in
6845 carrying out the provisions of this chapter;
6846 (iii) refuses to admit the authorized representatives to the mine;
6847 (iv) refuses to permit inspection of the mine by the authorized representative;

6848 (v) refuses to furnish any information or report requested by the division in furtherance
6849 of the provisions of this chapter; or
6850 (vi) refuses to permit access to and copying of such records as the division determines
6851 necessary in carrying out the provisions of this chapter.
6852 (b) The district court shall have jurisdiction to provide such relief as may be
6853 appropriate. Any relief granted by the district court to enforce an order under Subsection
6854 (2)(a)(i) shall continue in effect until the completion or final termination of all proceedings for
6855 review of that order under this chapter, unless, prior to this completion or termination, the Utah
6856 Supreme Court on review grants a stay of enforcement or sets aside or modifies the board's
6857 order which is being appealed.
6858 (3) (a) A permittee issued a notice or order by the division pursuant to the provisions of
6859 Subsections (1)(b) and (1)(c), or any person having an interest which may be adversely affected
6860 by the notice or order, may initiate board action by requesting a hearing for review of the notice
6861 or order within 30 days of receipt of it or within 30 days of its modification, vacation, or
6862 termination. Upon receipt of this application, the board shall cause such investigation to be
6863 made as it deems appropriate. The investigation shall provide an opportunity for a public
6864 hearing at the request of the applicant or the person having an interest which is or may be
6865 adversely affected to enable the applicant or that person to present information relating to the
6866 issuance and continuance of the notice or order or the modification, vacation, or termination of
6867 it. The filing of an application for review under this subsection shall not operate as a stay of
6868 any order or notice.
6869 (b) The permittee and other interested persons shall be given written notice of the time
6870 and place of the hearing in accordance with the rules of practice and procedure of the board,
6871 but the notice may not be less than five days prior to the hearing. This hearing shall be of
6872 record and shall be subject to judicial review.
6873 (c) Pending completion of the investigation and hearing required by this section, the
6874 applicant may file with the board a written request that the board grant temporary relief from
6875 any notice or order issued under this section, together with a detailed statement giving the
6876 reasons for granting this relief. The board shall issue an order or decision granting or denying
6877 this relief expeditiously; and where the applicant requests relief from an order for cessation of
6878 coal mining and reclamation operations issued pursuant to Subsections (1)(b) or (1)(c), the

6879 order or decision on this request shall be issued within five days of its receipt. The board may
6880 grant the relief under such conditions as it may prescribe, if a hearing has been held in the
6881 locality of the permit area on the request for temporary relief and the conditions of Subsections
6882 40-10-14(4)(a), 40-10-14(4)(b), and 40-10-14(4)(c) are met.
6883 (d) Following the issuance of an order to show cause as to why a permit should not be
6884 suspended or revoked pursuant to this section, the board shall hold a public hearing after giving
6885 notice in accordance with the rules of practice and procedure of the board. Within 60 days
6886 following the hearing, the board shall issue and furnish to the permittee and all other parties to
6887 the hearing an order containing the basis for its decision on the suspension or revocation of the
6888 permit. If the board revokes the permit, the permittee shall immediately cease surface coal
6889 mining operations on the permit area and shall complete reclamation within a period specified
6890 by the board, or the board shall declare as forfeited the performance bonds for the operation.
6891 (e) Whenever an order is entered under this section or as a result of any adjudicative
6892 proceeding under this chapter, at the request of any person, a sum equal to the aggregate
6893 amount of all costs and expenses (including attorney fees) as determined by the board to have
6894 been reasonably incurred by that person in connection with his participation in the proceedings,
6895 including any judicial review of agency actions, may be assessed against either party as the
6896 court, resulting from judicial review, or the board, resulting from adjudicative proceedings,
6897 deems proper.
6898 (f) Action by the board taken under this section or any other provision of the state
6899 program shall be subject to judicial review by the Utah Supreme Court as prescribed in Section
6900 [~~78-2-2~~] 78A-3-102, but the availability of this review shall not be construed to limit the
6901 operation of the citizen suit in Section 40-10-21, except as provided in this latter section.
6902 Section 85. Section **40-10-30** is amended to read:
6903 **40-10-30. Judicial review of rules or orders.**
6904 (1) Judicial review of adjudicative proceedings under this chapter is governed by Title
6905 63, Chapter 46b, Administrative Procedures Act, and provisions of this chapter consistent with
6906 the Administrative Procedures Act.
6907 (2) Judicial review of the board's rulemaking procedures and rules adopted under this
6908 chapter is governed by Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
6909 (3) An appeal from an order of the board shall be directly to the Utah Supreme Court

6910 and is not a trial de novo. The court shall set aside the board action if it is found to be:
6911 (a) unreasonable, unjust, arbitrary, capricious, or an abuse of discretion;
6912 (b) contrary to constitutional right, power, privilege, or immunity;
6913 (c) in excess of statutory jurisdiction, authority, or limitations;
6914 (d) not in compliance with procedure required by law;
6915 (e) based upon a clearly erroneous interpretation or application of the law; or
6916 (f) as to an adjudicative proceeding, unsupported by substantial evidence on the record.
6917 (4) An action or appeal involving an order of the board shall be determined as
6918 expeditiously as feasible and in accordance with Section [~~78-2-2~~] 78A-3-102. The Utah
6919 Supreme Court shall determine the issues on both questions of law and fact and shall affirm or
6920 set aside the rule or order, enjoin or stay the effective date of agency action, or remand the
6921 cause to the board for further proceedings. Judicial review of disputed issues of fact shall be
6922 confined to the agency record. The court may, in its discretion, receive additional evidence for
6923 good cause shown.
6924 (5) If the board fails to perform any act or duty under this chapter which is not
6925 discretionary, the aggrieved person may bring an action in the district court of the county in
6926 which the operation or proposed operation is located.
6927 Section 86. Section **41-6a-521** is amended to read:
6928 **41-6a-521. Revocation hearing for refusal -- Appeal.**
6929 (1) (a) A person who has been notified of the Driver License Division's intention to
6930 revoke the person's license under Section 41-6a-520 is entitled to a hearing.
6931 (b) A request for the hearing shall be made in writing within ten calendar days after the
6932 day on which notice is provided.
6933 (c) Upon request in a manner specified by the Driver License Division, the Driver
6934 License Division shall grant to the person an opportunity to be heard within 29 days after the
6935 date of arrest.
6936 (d) If the person does not make a request for a hearing before the Driver License
6937 Division under this Subsection (1), the person's privilege to operate a motor vehicle in the state
6938 is revoked beginning on the 30th day after the date of arrest for a period of:
6939 (i) 18 months unless Subsection (1)(d)(ii) applies; or
6940 (ii) 24 months if the person has had a previous:

6941 (A) license sanction for an offense that occurred within the previous ten years from the
6942 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or
6943 53-3-232; or
6944 (B) conviction for an offense that occurred within the previous ten years from the date
6945 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
6946 constitute a violation of Section 41-6a-502.
6947 (2) (a) Except as provided in Subsection (2)(b), if a hearing is requested by the person,
6948 the hearing shall be conducted by the Driver License Division in the county in which the
6949 offense occurred.
6950 (b) The Driver License Division may hold a hearing in some other county if the Driver
6951 License Division and the person both agree.
6952 (3) The hearing shall be documented and shall cover the issues of:
6953 (a) whether a peace officer had reasonable grounds to believe that a person was
6954 operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, 53-3-231,
6955 or 53-3-232; and
6956 (b) whether the person refused to submit to the test or tests under Section 41-6a-520.
6957 (4) (a) In connection with the hearing, the division or its authorized agent:
6958 (i) may administer oaths and may issue subpoenas for the attendance of witnesses and
6959 the production of relevant books and papers; and
6960 (ii) shall issue subpoenas for the attendance of necessary peace officers.
6961 (b) The Driver License Division shall pay witness fees and mileage from the
6962 Transportation Fund in accordance with the rates established in Section [~~78-46-28~~] 78B-1-119.
6963 (5) (a) If after a hearing, the Driver License Division determines that the person was
6964 requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the
6965 person fails to appear before the Driver License Division as required in the notice, the Driver
6966 License Division shall revoke the person's license or permit to operate a motor vehicle in Utah
6967 beginning on the date the hearing is held for a period of:
6968 (i) 18 months unless Subsection (5)(a)(ii) applies; or
6969 (ii) 24 months if the person has had a previous:
6970 (A) license sanction for an offense that occurred within the previous ten years from the
6971 date of arrest under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, 53-3-231, or

6972 53-3-232; or
6973 (B) conviction for an offense that occurred within the previous ten years from the date
6974 of arrest under Section 41-6a-502 or a statute previously in effect in this state that would
6975 constitute a violation of Section 41-6a-502.
6976 (b) The Driver License Division shall also assess against the person, in addition to any
6977 fee imposed under Subsection 53-3-205(13), a fee under Section 53-3-105, which shall be paid
6978 before the person's driving privilege is reinstated, to cover administrative costs.
6979 (c) The fee shall be cancelled if the person obtains an unappealed court decision
6980 following a proceeding allowed under Subsection (2) that the revocation was improper.
6981 (6) (a) Any person whose license has been revoked by the Driver License Division
6982 under this section following an administrative hearing may seek judicial review.
6983 (b) Judicial review of an informal adjudicative proceeding is a trial.
6984 (c) Venue is in the district court in the county in which the offense occurred.
6985 Section 87. Section **49-17-102** is amended to read:
6986 **49-17-102. Definitions.**
6987 As used in this chapter:
6988 (1) (a) "Compensation" means the total amount of payments which are currently
6989 includable in gross income made by a participating employer to a member of this system for
6990 services rendered to the participating employer.
6991 (b) "Compensation" includes:
6992 (i) performance-based bonuses;
6993 (ii) cost-of-living adjustments;
6994 (iii) payments subject to Social Security deductions;
6995 (iv) any payments in excess of the maximum amount subject to deduction under Social
6996 Security law;
6997 (v) amounts which the member authorizes to be deducted or reduced for salary deferral
6998 or other benefits authorized by federal law; and
6999 (vi) member contributions.
7000 (c) "Compensation" for purposes of this chapter may not exceed the amount allowed
7001 under Internal Revenue Code Section 401(a)(17).
7002 (d) "Compensation," does not include:

7003 (i) the monetary value of remuneration paid in kind, such as a residence or use of
7004 equipment;
7005 (ii) all contributions made by a participating employer under any system or plan for the
7006 benefit of a member or participant;
7007 (iii) salary paid to a temporary or exempt employee;
7008 (iv) payments upon termination or any other special payments including early
7009 retirement inducements; or
7010 (v) uniform, travel, or similar payments.
7011 (2) "Final average salary" means the amount computed by averaging the highest two
7012 years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).
7013 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
7014 compensation in any one of the years used may not exceed the previous year's compensation by
7015 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
7016 of the dollar during the previous year, as measured by a United States Bureau of Labor
7017 Statistics Consumer Price Index average as determined by the board.
7018 (b) In cases where the participating employer provides acceptable documentation to the
7019 board, the limitation in Subsection (2)(a) may be exceeded if:
7020 (i) the member has transferred from another participating employer; or
7021 (ii) the member has been promoted to a new position.
7022 (3) "Judge" means a judge or justice of the courts of record as enumerated in Section
7023 [~~78-1-1~~] 78A-1-101.
7024 (4) "Participating employer" means the state.
7025 (5) "System" means the Judges' Contributory Retirement System created under this
7026 chapter.
7027 (6) "Years of service credit" means the number of periods, each to consist of 12 full
7028 months as determined by the board, whether consecutive or not, during which a judge was
7029 employed by a participating employer.
7030 Section 88. Section **49-17-301** is amended to read:
7031 **49-17-301. Contributions by members and participating employers -- Retirement**
7032 **fees -- Deductions.**
7033 (1) In addition to the monies paid to this system under Subsection (3), participating

7034 employers and members shall jointly pay the certified contribution rates to the office to
7035 maintain this system on a financially and actuarially sound basis.
7036 (2) The participating employer may make contributions on behalf of members of this
7037 system in addition to the contribution required of the participating employer, except that 2% of
7038 compensation shall be paid by the member.
7039 (3) Fees collected under Subsection [~~78-7-35~~] 78A-2-301(1)(j)(i) shall be paid monthly
7040 to the office to maintain this system and the system established under Chapter 18, Judges'
7041 Noncontributory Retirement Act.
7042 (4) (a) All member contributions are credited by the office to the account of the
7043 individual member.
7044 (b) This amount, plus refund interest, is held in trust for the payment of benefits to the
7045 member or the member's beneficiaries.
7046 (c) All member contributions are vested and nonforfeitable.
7047 (5) (a) Each member is considered to consent to payroll deductions of the member
7048 contributions.
7049 (b) The payment of compensation less these payroll deductions is considered full
7050 payment for services rendered by the member.
7051 Section 89. Section **49-18-102** is amended to read:
7052 **49-18-102. Definitions.**
7053 As used in this chapter:
7054 (1) (a) "Compensation" means the total amount of payments which are currently
7055 includable in gross income made by a participating employer to a member of this system for
7056 services rendered to the participating employer.
7057 (b) "Compensation" includes:
7058 (i) performance-based bonuses;
7059 (ii) cost-of-living adjustments;
7060 (iii) payments subject to Social Security deductions;
7061 (iv) any payments in excess of the maximum amount subject to deduction under Social
7062 Security law; and
7063 (v) amounts which the member authorizes to be deducted or reduced for salary deferral
7064 or other benefits authorized by federal law.

7065 (c) "Compensation" for purposes of this chapter may not exceed the amount allowed
7066 under Internal Revenue Code Section 401(a)(17).
7067 (d) "Compensation" does not include:
7068 (i) the monetary value of remuneration paid in kind, such as a residence or use of
7069 equipment;
7070 (ii) all contributions made by a participating employer under a system or plan for the
7071 benefit of a member or participant;
7072 (iii) salary paid to a temporary or exempt employee;
7073 (iv) payments upon termination or any other special payments including early
7074 retirement inducements; or
7075 (v) uniform, travel, or similar payments.
7076 (2) "Final average salary" means the amount computed by averaging the highest two
7077 years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).
7078 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
7079 compensation in any one of the years used may not exceed the previous year's compensation by
7080 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
7081 of the dollar during the previous year, as measured by a United States Bureau of Labor
7082 Statistics Consumer Price Index average as determined by the board.
7083 (b) In cases where the participating employer provides acceptable documentation to the
7084 board, the limitation in Subsection (2)(a) may be exceeded if:
7085 (i) the member has transferred from another agency; or
7086 (ii) the member has been promoted to a new position.
7087 (3) "Judge" means a judge or justice of the courts of record as enumerated in Section
7088 [~~78-1-1~~] 78A-1-101.
7089 (4) "Participating employer" means the state.
7090 (5) "System" means the Judges' Noncontributory Retirement System created under this
7091 chapter.
7092 (6) "Years of service credit" means the number of periods, each to consist of 12 full
7093 months or as determined by the board, whether consecutive or not, during which a judge was
7094 employed by a participating employer.
7095 Section 90. Section **49-18-301** is amended to read:

7096 **49-18-301. Contributions by employees and employers -- Retirement fees.**
7097 (1) In addition to the monies paid to this system under Subsection (2), participating
7098 employers shall pay the certified contribution rates to the office to maintain this system on a
7099 financially and actuarially sound basis.
7100 (2) Fees collected under Subsection [~~78-7-35~~] 78A-2-301(1)(j)(i) shall be paid monthly
7101 to the office to maintain this system and the system established under Chapter 17, Judges'
7102 Contributory Retirement Act.
7103 Section 91. Section **53-3-204** is amended to read:
7104 **53-3-204. Persons who may not be licensed.**
7105 (1) (a) The division may not license a person who:
7106 (i) is younger than 16 years of age;
7107 (ii) has not completed a course in driver training approved by the commissioner;
7108 (iii) if the person is a minor, has not completed the driving requirement under Section
7109 53-3-211;
7110 (iv) is not a resident of the state, unless the person is issued a temporary CDL under
7111 Subsection 53-3-407(2)(b); or
7112 (v) if the person is 17 years of age or younger, has not held a learner permit issued
7113 under Section 53-3-210.5 for six months.
7114 (b) Subsections (1)(a)(i), (ii), and (iii) do not apply to a person:
7115 (i) who has been licensed before July 1, 1967;
7116 (ii) who is 16 years of age or older making application for a license who has been
7117 licensed in another state or country; or
7118 (iii) who is applying for a permit under Section 53-3-210 or 53A-13-208.
7119 (c) Subsection (1)(a)(v) does not apply to a person applying for a provisional class D
7120 license certificate before February 1, 2007 if the person has been issued a temporary learner
7121 permit or practice permit under Section 53-3-210.
7122 (2) The division may not issue a license certificate to a person:
7123 (a) whose license has been suspended, denied, cancelled, or disqualified during the
7124 period of suspension, denial, cancellation, or disqualification;
7125 (b) whose privilege has been revoked, except as provided in Section 53-3-225;
7126 (c) who has previously been adjudged mentally incompetent and who has not at the

7127 time of application been restored to competency as provided by law;
7128 (d) who is required by this chapter to take an examination unless the person
7129 successfully passes the examination; or
7130 (e) whose driving privileges have been denied or suspended under:
7131 (i) Section [~~78-3a-506~~] 78A-6-606 by an order of the juvenile court; or
7132 (ii) Section 53-3-231.
7133 (3) The division may grant a class D or M license to a person whose commercial
7134 license is disqualified under Part 4, Uniform Commercial Driver License Act, if the person is
7135 not otherwise sanctioned under this chapter.
7136 Section 92. Section **53-3-219** is amended to read:
7137 **53-3-219. Suspension of minor's driving privileges.**
7138 (1) The division shall immediately suspend all driving privileges of any person upon
7139 receipt of an order suspending driving privileges under Section 32A-12-209, Section
7140 32A-12-209.5, Subsection 76-9-701(1), or Section [~~78-3a-506~~] 78A-6-606.
7141 (a) Upon receipt of the first order suspending a person's driving privileges, the division
7142 shall impose a suspension for 90 days or, if the person is under the age of eligibility for a driver
7143 license, the suspension shall begin on the date of conviction and continue for the first 90 days
7144 following the date of eligibility.
7145 (b) Upon receipt of a second order suspending a person's driving privileges, the
7146 division shall impose a suspension for six months or, if the person is under the age of eligibility
7147 for a driver license, the suspension shall begin on the date of conviction and continue for the
7148 first six months following the date of eligibility.
7149 (c) Upon receipt of a third or subsequent order suspending a person's driving
7150 privileges, the division shall impose a suspension for one year or, if the person is under the age
7151 of eligibility for a driver license, the suspension shall begin on the date of conviction and
7152 continue for one year beginning on the date of eligibility.
7153 (2) After reinstatement of the license under Subsection (1)(a), a report authorized under
7154 Section 53-3-104 may not contain evidence of the suspension of a minor's license under this
7155 section if the minor has not been convicted of any other offense for which the suspension under
7156 Subsection (1)(a) may be extended.
7157 Section 93. Section **53-3-220** is amended to read:

7158 **53-3-220. Offenses requiring mandatory revocation, denial, suspension, or**
7159 **disqualification of license -- Offense requiring an extension of period -- Hearing --**
7160 **Limited driving privileges.**
7161 (1) (a) The division shall immediately revoke or, when this chapter or Title 41, Chapter
7162 6a, Traffic Code, specifically provides for denial, suspension, or disqualification, the division
7163 shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's
7164 conviction for any of the following offenses:
7165 (i) manslaughter or negligent homicide resulting from driving a motor vehicle, or
7166 automobile homicide under Section 76-5-207;
7167 (ii) driving or being in actual physical control of a motor vehicle while under the
7168 influence of alcohol, any drug, or combination of them to a degree that renders the person
7169 incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited
7170 in an ordinance that complies with the requirements of Subsection 41-6a-510(1);
7171 (iii) driving or being in actual physical control of a motor vehicle while having a blood
7172 or breath alcohol content prohibited in Section 41-6a-502 or as prohibited in an ordinance that
7173 complies with the requirements of Subsection 41-6a-510(1);
7174 (iv) perjury or the making of a false affidavit to the division under this chapter, Title
7175 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or
7176 regulating driving on highways;
7177 (v) any felony under the motor vehicle laws of this state;
7178 (vi) any other felony in which a motor vehicle is used to facilitate the offense;
7179 (vii) failure to stop and render aid as required under the laws of this state if a motor
7180 vehicle accident results in the death or personal injury of another;
7181 (viii) two charges of reckless driving committed within a period of 12 months; but if
7182 upon a first conviction of reckless driving the judge or justice recommends suspension of the
7183 convicted person's license, the division may after a hearing suspend the license for a period of
7184 three months;
7185 (ix) failure to bring a motor vehicle to a stop at the command of a peace officer as
7186 required in Section 41-6a-210;
7187 (x) any offense specified in Part 4, Uniform Commercial Driver License Act, that
7188 requires disqualification;

7189 (xi) discharging or allowing the discharge of a firearm from a vehicle in violation of
7190 Subsection 76-10-508(2);
7191 (xii) using, allowing the use of, or causing to be used any explosive, chemical, or
7192 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);
7193 (xiii) operating or being in actual physical control of a motor vehicle while having any
7194 measurable controlled substance or metabolite of a controlled substance in the person's body in
7195 violation of Section 41-6a-517;
7196 (xiv) until July 30, 2015, operating or being in actual physical control of a motor
7197 vehicle while having any alcohol in the person's body in violation of Section 53-3-232;
7198 (xv) operating or being in actual physical control of a motor vehicle while having any
7199 measurable or detectable amount of alcohol in the person's body in violation of Section
7200 41-6a-530;
7201 (xvi) engaging in a motor vehicle speed contest or exhibition of speed on a highway in
7202 violation of Section 41-6a-606; and
7203 (xvii) operating or being in actual physical control of a motor vehicle in this state
7204 without an ignition interlock system in violation of Section 41-6a-518.2.
7205 (b) The division shall immediately revoke the license of a person upon receiving a
7206 record of an adjudication under Title [~~78~~] 78A, Chapter [~~3a~~] 6, Juvenile Court Act of 1996, for
7207 any of the following offenses:
7208 (i) discharging or allowing the discharge of a firearm from a vehicle in violation of
7209 Subsection 76-10-508(2); and
7210 (ii) using, allowing the use of, or causing to be used any explosive, chemical, or
7211 incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).
7212 (c) Except when action is taken under Section 53-3-219 for the same offense, the
7213 division shall immediately suspend for six months the license of a person upon receiving a
7214 record of conviction for any of the following offenses:
7215 (i) any violation of:
7216 (A) Title 58, Chapter 37, Utah Controlled Substances Act;
7217 (B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
7218 (C) Title 58, Chapter 37b, Imitation Controlled Substances Act;
7219 (D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

7220 (E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or
7221 (ii) any criminal offense that prohibits:
7222 (A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance
7223 that is prohibited under the acts described in Subsection (1)(c)(i); or
7224 (B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or
7225 transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).
7226 (2) The division shall extend the period of the first denial, suspension, revocation, or
7227 disqualification for an additional like period, to a maximum of one year for each subsequent
7228 occurrence, upon receiving:
7229 (a) a record of the conviction of any person on a charge of driving a motor vehicle
7230 while the person's license is denied, suspended, revoked, or disqualified;
7231 (b) a record of a conviction of the person for any violation of the motor vehicle law in
7232 which the person was involved as a driver;
7233 (c) a report of an arrest of the person for any violation of the motor vehicle law in
7234 which the person was involved as a driver; or
7235 (d) a report of an accident in which the person was involved as a driver.
7236 (3) When the division receives a report under Subsection (2)(c) or (d) that a person is
7237 driving while the person's license is denied, suspended, disqualified, or revoked, the person is
7238 entitled to a hearing regarding the extension of the time of denial, suspension, disqualification,
7239 or revocation originally imposed under Section 53-3-221.
7240 (4) (a) The division may extend to a person the limited privilege of driving a motor
7241 vehicle to and from the person's place of employment or within other specified limits on
7242 recommendation of the trial judge in any case where a person is convicted of any of the
7243 offenses referred to in Subsections (1) and (2) except:
7244 (i) automobile homicide under Subsection (1)(a)(i);
7245 (ii) those offenses referred to in Subsections (1)(a)(ii), (a)(iii), (a)(xi), (a)(xii), (a)(xiii),
7246 (1)(b), and (1)(c); and
7247 (iii) those offenses referred to in Subsection (2) when the original denial, suspension,
7248 revocation, or disqualification was imposed because of a violation of Section 41-6a-502,
7249 41-6a-517, a local ordinance which complies with the requirements of Subsection
7250 41-6a-510(1), Section 41-6a-520, or Section 76-5-207, or a criminal prohibition that the person

7251 was charged with violating as a result of a plea bargain after having been originally charged
7252 with violating one or more of these sections or ordinances.
7253 (b) This discretionary privilege is limited to when undue hardship would result from a
7254 failure to grant the privilege and may be granted only once to any individual during any single
7255 period of denial, suspension, revocation, or disqualification, or extension of that denial,
7256 suspension, revocation, or disqualification.
7257 (c) A limited CDL may not be granted to an individual disqualified under Part 4,
7258 Uniform Commercial Driver License Act, or whose license has been revoked, suspended,
7259 cancelled, or denied under this chapter.
7260 Section 94. Section **53-3-223** is amended to read:
7261 **53-3-223. Chemical test for driving under the influence -- Temporary license --**
7262 **Hearing and decision -- Suspension and fee -- Judicial review.**
7263 (1) (a) If a peace officer has reasonable grounds to believe that a person may be
7264 violating or has violated Section 41-6a-502, prohibiting the operation of a vehicle with a
7265 certain blood or breath alcohol concentration and driving under the influence of any drug,
7266 alcohol, or combination of a drug and alcohol or while having any measurable controlled
7267 substance or metabolite of a controlled substance in the person's body in violation of Section
7268 41-6a-517, the peace officer may, in connection with arresting the person, request that the
7269 person submit to a chemical test or tests to be administered in compliance with the standards
7270 under Section 41-6a-520.
7271 (b) In this section, a reference to Section 41-6a-502 includes any similar local
7272 ordinance adopted in compliance with Subsection 41-6a-510(1).
7273 (2) The peace officer shall advise a person prior to the person's submission to a
7274 chemical test that a test result indicating a violation of Section 41-6a-502 or 41-6a-517 shall,
7275 and the existence of a blood alcohol content sufficient to render the person incapable of safely
7276 driving a motor vehicle may, result in suspension or revocation of the person's license to drive
7277 a motor vehicle.
7278 (3) If the person submits to a chemical test and the test results indicate a blood or
7279 breath alcohol content in violation of Section 41-6a-502 or 41-6a-517, or if a peace officer
7280 makes a determination, based on reasonable grounds, that the person is otherwise in violation
7281 of Section 41-6a-502, a peace officer shall, on behalf of the division and within 24 hours of

7282 arrest, give notice of the division's intention to suspend the person's license to drive a motor
7283 vehicle.
7284 (4) (a) When a peace officer gives notice on behalf of the division, the peace officer
7285 shall:
7286 (i) take the Utah license certificate or permit, if any, of the driver;
7287 (ii) issue a temporary license certificate effective for only 29 days from the date of
7288 arrest; and
7289 (iii) supply to the driver, in a manner specified by the division, basic information
7290 regarding how to obtain a prompt hearing before the division.
7291 (b) A citation issued by a peace officer may, if provided in a manner specified by the
7292 division, also serve as the temporary license certificate.
7293 (5) As a matter of procedure, a peace officer shall send to the division within ten
7294 calendar days after the day on which notice is provided:
7295 (a) the person's license certificate;
7296 (b) a copy of the citation issued for the offense;
7297 (c) a signed report in a manner specified by the division indicating the chemical test
7298 results, if any; and
7299 (d) any other basis for the peace officer's determination that the person has violated
7300 Section 41-6a-502 or 41-6a-517.
7301 (6) (a) Upon request in a manner specified by the division, the division shall grant to
7302 the person an opportunity to be heard within 29 days after the date of arrest. The request to be
7303 heard shall be made within ten calendar days of the day on which notice is provided under
7304 Subsection (5).
7305 (b) (i) Except as provided in Subsection (6)(b)(ii), a hearing, if held, shall be before the
7306 division in the county in which the arrest occurred.
7307 (ii) The division may hold a hearing in some other county if the division and the person
7308 both agree.
7309 (c) The hearing shall be documented and shall cover the issues of:
7310 (i) whether a peace officer had reasonable grounds to believe the person was driving a
7311 motor vehicle in violation of Section 41-6a-502 or 41-6a-517;
7312 (ii) whether the person refused to submit to the test; and

7313 (iii) the test results, if any.
7314 (d) (i) In connection with a hearing the division or its authorized agent:
7315 (A) may administer oaths and may issue subpoenas for the attendance of witnesses and
7316 the production of relevant books and papers; or
7317 (B) may issue subpoenas for the attendance of necessary peace officers.
7318 (ii) The division shall pay witness fees and mileage from the Transportation Fund in
7319 accordance with the rates established in Section [~~78-46-28~~] 78B-1-119.
7320 (e) The division may designate one or more employees to conduct the hearing.
7321 (f) Any decision made after a hearing before any designated employee is as valid as if
7322 made by the division.
7323 (7) (a) If, after a hearing, the division determines that a peace officer had reasonable
7324 grounds to believe that the person was driving a motor vehicle in violation of Section
7325 41-6a-502 or 41-6a-517, if the person failed to appear before the division as required in the
7326 notice, or if a hearing is not requested under this section, the division shall suspend the person's
7327 license or permit to operate a motor vehicle for a period of:
7328 (i) 90 days beginning on the 30th day after the date of arrest for a first suspension; or
7329 (ii) one year beginning on the 30th day after the date of arrest for a second or
7330 subsequent suspension for an offense that occurred within the previous ten years.
7331 (b) (i) Notwithstanding the provisions in Subsection (7)(a)(i), the division shall
7332 reinstate a person's license prior to completion of the 90 day suspension period imposed under
7333 Subsection (7)(a)(i) if the person's charge for a violation of Section 41-6a-502 or 41-6a-517 is
7334 reduced or dismissed prior to completion of the suspension period.
7335 (ii) The division shall immediately reinstate a person's license upon receiving written
7336 verification of the person's dismissal of a charge for a violation of Section 41-6a-502 or
7337 41-6a-517.
7338 (iii) The division shall reinstate a person's license no sooner than 60 days beginning on
7339 the 30th day after the date of arrest upon receiving written verification of the person's reduction
7340 of a charge for a violation of Section 41-6a-502 or 41-6a-517.
7341 (iv) If a person's license is reinstated under this Subsection (7)(b), the person is
7342 required to pay the license reinstatement fees under Subsections 53-3-105(29) and (30).
7343 (8) (a) The division shall assess against a person, in addition to any fee imposed under

7344 Subsection 53-3-205(13) for driving under the influence, a fee under Section 53-3-105 to cover
7345 administrative costs, which shall be paid before the person's driving privilege is reinstated. This
7346 fee shall be cancelled if the person obtains an unappealed division hearing or court decision
7347 that the suspension was not proper.
7348 (b) A person whose license has been suspended by the division under this section
7349 following an administrative hearing may file a petition within 30 days after the suspension for a
7350 hearing on the matter which, if held, is governed by Section 53-3-224.
7351 Section 95. Section **53-5-704** is amended to read:
7352 **53-5-704. Division duties -- Permit to carry concealed firearm -- Certification for**
7353 **concealed firearms instructor -- Requirements for issuance -- Violation -- Denial,**
7354 **suspension, or revocation -- Appeal procedure.**
7355 (1) (a) The division or its designated agent shall issue a permit to carry a concealed
7356 firearm for lawful self defense to an applicant who is 21 years of age or older within 60 days
7357 after receiving an application, unless during the 60-day period the division finds proof that the
7358 applicant is not of good character.
7359 (b) The permit is valid throughout the state for five years, without restriction, except as
7360 otherwise provided by Section 53-5-710.
7361 (2) (a) An applicant satisfactorily demonstrates good character if the applicant:
7362 (i) has not been convicted of a felony;
7363 (ii) has not been convicted of a crime of violence;
7364 (iii) has not been convicted of an offense involving the use of alcohol;
7365 (iv) has not been convicted of an offense involving the unlawful use of narcotics or
7366 other controlled substances;
7367 (v) has not been convicted of an offense involving moral turpitude;
7368 (vi) has not been convicted of an offense involving domestic violence;
7369 (vii) has not been adjudicated by a state or federal court as mentally incompetent,
7370 unless the adjudication has been withdrawn or reversed; and
7371 (viii) is qualified to purchase and possess a firearm pursuant to Section 76-10-503 and
7372 federal law.
7373 (b) In assessing good character under Subsection (2)(a), the licensing authority shall
7374 consider mitigating circumstances.

7375 (3) (a) The division may deny, suspend, or revoke a concealed firearm permit if it has
7376 reasonable cause to believe that the applicant has been or is a danger to self or others as
7377 demonstrated by evidence, including:
7378 (i) past pattern of behavior involving unlawful violence or threats of unlawful violence;
7379 (ii) past participation in incidents involving unlawful violence or threats of unlawful
7380 violence; or
7381 (iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.
7382 (b) The division may not deny, suspend, or revoke a concealed firearm permit solely
7383 for a single conviction for an infraction violation of Title 76, Chapter 10, Part 5, Weapons.
7384 (c) In determining whether the applicant has been or is a danger to self or others, the
7385 division may inspect:
7386 (i) expunged records of arrests and convictions of adults as provided in Section
7387 77-18-15; and
7388 (ii) juvenile court records as provided in Section [~~78-3a-206~~] 78A-6-209.
7389 (d) (i) If a person granted a permit under this part has been charged with a crime of
7390 violence in any state, the division shall suspend the permit.
7391 (ii) Upon notice of the acquittal of the person charged, or notice of the charges having
7392 been dropped, the division shall immediately reinstate the suspended permit.
7393 (4) A former peace officer who departs full-time employment as a peace officer, in an
7394 honorable manner, shall be issued a concealed firearm permit within five years of that
7395 departure if the officer meets the requirements of this section.
7396 (5) Except as provided in Subsection (6), the licensing authority shall also require the
7397 applicant to provide:
7398 (a) the address of the applicant's permanent residence;
7399 (b) one recent dated photograph;
7400 (c) one set of fingerprints; and
7401 (d) evidence of general familiarity with the types of firearms to be concealed as defined
7402 in Subsection (7).
7403 (6) An applicant who is a law enforcement officer under Section 53-13-103 may
7404 provide a letter of good standing from the officer's commanding officer in place of the evidence
7405 required by Subsection (5)(d).

7406 (7) (a) General familiarity with the types of firearms to be concealed includes training
7407 in:
7408 (i) the safe loading, unloading, storage, and carrying of the types of firearms to be
7409 concealed; and
7410 (ii) current laws defining lawful use of a firearm by a private citizen, including lawful
7411 self-defense, use of force by a private citizen, including use of deadly force, transportation, and
7412 concealment.
7413 (b) Evidence of general familiarity with the types of firearms to be concealed may be
7414 satisfied by one of the following:
7415 (i) completion of a course of instruction conducted by a national, state, or local
7416 firearms training organization approved by the division;
7417 (ii) certification of general familiarity by a person who has been certified by the
7418 division, which may include a law enforcement officer, military or civilian firearms instructor,
7419 or hunter safety instructor; or
7420 (iii) equivalent experience with a firearm through participation in an organized
7421 shooting competition, law enforcement, or military service.
7422 (c) Instruction taken by a student under Subsection (7)(b) shall be in person and not
7423 through electronic means.
7424 (8) (a) An applicant for certification as a Utah concealed firearms instructor shall:
7425 (i) be at least 21 years of age;
7426 (ii) be currently eligible to possess a firearm under Section 76-10-503 and federal law;
7427 (iii) have a current National Rifle Association certification or its equivalent as
7428 determined by the division; and
7429 (iv) for certificates issued beginning July 1, 2006, have taken a course of instruction
7430 and passed a certification test as described in Subsection (8)(c).
7431 (b) An instructor's certification is valid for three years from the date of issuance, unless
7432 revoked by the division.
7433 (c) (i) In order to obtain initial certification or renew a certification, an instructor shall
7434 attend an instructional course and pass a test under the direction of the division.
7435 (ii) (A) Beginning May 1, 2006, the division shall provide or contract to provide the
7436 course referred to in Subsection (8)(c)(i) twice every year.

7437 (B) The course shall include instruction on current Utah law related to firearms,
7438 including concealed carry statutes and rules, and the use of deadly force by private citizens.
7439 (d) (i) Each applicant for certification under this Subsection (8) shall pay a fee of
7440 $50.00 at the time of application for initial certification.
7441 (ii) The renewal fee for the certificate is $25.
7442 (iii) The fees paid under Subsections (8)(d)(i) and (ii) may be used by the division as a
7443 dedicated credit to cover the cost incurred in maintaining and improving the instruction
7444 program required for concealed firearm instructors under this Subsection (8).
7445 (9) A certified concealed firearms instructor shall provide each of the instructor's
7446 students with the required course of instruction outline approved by the division.
7447 (10) (a) (i) A concealed firearms instructor is required to provide a signed certificate to
7448 a person successfully completing the offered course of instruction.
7449 (ii) The instructor shall sign the certificate with the exact name indicated on the
7450 instructor's certification issued by the division under Subsection (8).
7451 (iii) (A) The certificate shall also have affixed to it the instructor's official seal, which
7452 is the exclusive property of the instructor and may not be used by any other person.
7453 (B) The instructor shall destroy the seal upon revocation or expiration of the
7454 instructor's certification under Subsection (8).
7455 (C) The division shall determine the design and content of the seal to include at least
7456 the following:
7457 (I) the instructor's name as it appears on the instructor's certification;
7458 (II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my
7459 certification expires on (the instructor's certification expiration date)"; and
7460 (III) the instructor's business or residence address.
7461 (D) The seal shall be affixed to each student certificate issued by the instructor in a
7462 manner that does not obscure or render illegible any information or signatures contained in the
7463 document.
7464 (b) The applicant shall provide the certificate to the division in compliance with
7465 Subsection (5)(d).
7466 (11) The division may deny, suspend, or revoke the certification of a concealed
7467 firearms instructor if it has reason to believe the applicant has:

7468 (a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or
7469 (b) knowingly and willfully provided false information to the division.
7470 (12) A concealed firearms instructor has the same appeal rights as set forth in
7471 Subsection (15).
7472 (13) In providing instruction and issuing a permit under this part, the concealed
7473 firearms instructor and the licensing authority are not vicariously liable for damages caused by
7474 the permit holder.
7475 (14) An individual who knowingly and willfully provides false information on an
7476 application filed under this part is guilty of a class B misdemeanor, and the application may be
7477 denied, or the permit may be suspended or revoked.
7478 (15) (a) In the event of a denial, suspension, or revocation of a permit, the applicant
7479 may file a petition for review with the board within 60 days from the date the denial,
7480 suspension, or revocation is received by the applicant by certified mail, return receipt
7481 requested.
7482 (b) The denial of a permit shall be in writing and shall include the general reasons for
7483 the action.
7484 (c) If an applicant appeals the denial to the review board, the applicant may have access
7485 to the evidence upon which the denial is based in accordance with Title 63, Chapter 2,
7486 Government Records Access and Management Act.
7487 (d) On appeal to the board, the agency has the burden of proof by a preponderance of
7488 the evidence.
7489 (e) (i) Upon a ruling by the board on the appeal of a denial, the division shall issue a
7490 final order within 30 days stating the board's decision.
7491 (ii) The final order shall be in the form prescribed by Subsection 63-46b-5(1)(i).
7492 (iii) The final order is final agency action for purposes of judicial review under Section
7493 63-46b-15.
7494 (16) The commissioner may make rules in accordance with Title 63, Chapter 46a, Utah
7495 Administrative Rulemaking Act, necessary to administer this chapter.
7496 Section 96. Section **53-10-108** is amended to read:
7497 **53-10-108. Restrictions on access, use, and contents of division records -- Limited**
7498 **use of records for employment purposes -- Challenging accuracy of records -- Usage fees**

7499 **-- Missing children records.**
7500 (1) Dissemination of information from a criminal history record or warrant of arrest
7501 information from division files is limited to:
7502 (a) criminal justice agencies for purposes of administration of criminal justice and for
7503 employment screening by criminal justice agencies;
7504 (b) noncriminal justice agencies or individuals for any purpose authorized by statute,
7505 executive order, court rule, court order, or local ordinance;
7506 (c) agencies or individuals for the purpose of obtaining required clearances connected
7507 with foreign travel or obtaining citizenship;
7508 (d) (i) agencies or individuals pursuant to a specific agreement with a criminal justice
7509 agency to provide services required for the administration of criminal justice; and
7510 (ii) the agreement shall specifically authorize access to data, limit the use of the data to
7511 purposes for which given, and ensure the security and confidentiality of the data;
7512 (e) agencies or individuals for the purpose of a preplacement adoptive study, in
7513 accordance with the requirements of [~~Section 78-30-3.5~~] Sections 78B-6-128 and 78B-6-130;
7514 (f) (i) agencies and individuals as the commissioner authorizes for the express purpose
7515 of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice
7516 agency; and
7517 (ii) private security agencies through guidelines established by the commissioner for
7518 employment background checks for their own employees and prospective employees;
7519 (g) a qualifying entity for employment background checks for their own employees and
7520 persons who have applied for employment with the qualifying entity; and
7521 (h) other agencies and individuals as the commissioner authorizes and finds necessary
7522 for protection of life and property and for offender identification, apprehension, and
7523 prosecution pursuant to an agreement.
7524 (2) An agreement under Subsection (1)(f) or (1)(h) shall specifically authorize access
7525 to data, limit the use of data to research, evaluative, or statistical purposes, preserve the
7526 anonymity of individuals to whom the information relates, and ensure the confidentiality and
7527 security of the data.
7528 (3) (a) Before requesting information under Subsection (1)(g), a qualifying entity must
7529 obtain a signed waiver from the person whose information is requested.

7530 (b) The waiver must notify the signee:
7531 (i) that a criminal history background check will be conducted;
7532 (ii) who will see the information; and
7533 (iii) how the information will be used.
7534 (c) Information received by a qualifying entity under Subsection (1)(g) may only be:
7535 (i) available to persons involved in the hiring or background investigation of the
7536 employee; and
7537 (ii) used for the purpose of assisting in making an employment or promotion decision.
7538 (d) A person who disseminates or uses information obtained from the division under
7539 Subsection (1)(g) for purposes other than those specified under Subsection (3)(c), in addition to
7540 any penalties provided under this section, is subject to civil liability.
7541 (e) A qualifying entity that obtains information under Subsection (1)(g) shall provide
7542 the employee or employment applicant an opportunity to:
7543 (i) review the information received as provided under Subsection (8); and
7544 (ii) respond to any information received.
7545 (f) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
7546 division may make rules to implement this Subsection (3).
7547 (g) (i) The applicant fingerprint card fee under Subsection (1)(g) is $15.
7548 (ii) The name check fee under Subsection (1)(g) is $10.
7549 (iii) These fees remain in effect until changed by the division through the process under
7550 Section 63-38-3.2.
7551 (iv) Funds generated under Subsections (3)(g)(i), (3)(g)(ii), and (8)(b) shall be
7552 deposited in the General Fund as a dedicated credit by the department to cover the costs
7553 incurred in providing the information.
7554 (h) The division or its employees are not liable for defamation, invasion of privacy,
7555 negligence, or any other claim in connection with the contents of information disseminated
7556 under Subsection (1)(g).
7557 (4) Any criminal history record information obtained from division files may be used
7558 only for the purposes for which it was provided and may not be further disseminated, except
7559 that a criminal history provided to an agency pursuant to Subsection (1)(e) may be provided by
7560 the agency to the person who is the subject of the history, another licensed child-placing

7561 agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.
7562 (5) If an individual has no prior criminal convictions, criminal history record
7563 information contained in the division's computerized criminal history files may not include
7564 arrest or disposition data concerning an individual who has been acquitted, his charges
7565 dismissed, or when no complaint against him has been filed.
7566 (6) (a) This section does not preclude the use of the division's central computing
7567 facilities for the storage and retrieval of criminal history record information.
7568 (b) This information shall be stored so it cannot be modified, destroyed, or accessed by
7569 unauthorized agencies or individuals.
7570 (7) Direct access through remote computer terminals to criminal history record
7571 information in the division's files is limited to those agencies authorized by the commissioner
7572 under procedures designed to prevent unauthorized access to this information.
7573 (8) (a) The commissioner shall establish procedures to allow an individual right of
7574 access to review and receive a copy of his criminal history report.
7575 (b) A processing fee for the right of access service, including obtaining a copy of the
7576 individual's criminal history report under Subsection (8)(a) is $10. This fee remains in effect
7577 until changed by the commissioner through the process under Section 63-38-3.2.
7578 (c) (i) The commissioner shall establish procedures for an individual to challenge the
7579 completeness and accuracy of criminal history record information contained in the division's
7580 computerized criminal history files regarding that individual.
7581 (ii) These procedures shall include provisions for amending any information found to
7582 be inaccurate or incomplete.
7583 (9) The private security agencies as provided in Subsection (1)(f)(ii):
7584 (a) shall be charged for access; and
7585 (b) shall be registered with the division according to rules made by the division under
7586 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
7587 (10) Before providing information requested under this section, the division shall give
7588 priority to criminal justice agencies needs.
7589 (11) (a) Misuse of access to criminal history record information is a class B
7590 misdemeanor.
7591 (b) The commissioner shall be informed of the misuse.

7592 Section 97. Section **53-10-208** is amended to read:
7593 **53-10-208. Definition -- Offenses included on statewide warrant system --**
7594 **Transportation fee to be included -- Statewide warrant system responsibility -- Quality**
7595 **control -- Training -- Technical support -- Transaction costs.**
7596 (1) "Statewide warrant system" means the portion of the state court computer system
7597 that is accessible by modem from the state mainframe computer and contains:
7598 (a) records of criminal warrant information; and
7599 (b) after notice and hearing, records of protective orders issued pursuant to:
7600 (i) Title [~~30~~] 78B, Chapter [~~6~~] 7, Part 1, Cohabitant Abuse Act; or
7601 (ii) Title 77, Chapter 36, Cohabitant Abuse Procedures Act.
7602 (2) (a) (i) The division shall include on the statewide warrant system all warrants
7603 issued for felony offenses and class A, B, and C misdemeanor offenses in the state.
7604 (ii) For each offense the division shall indicate whether the magistrate ordered under
7605 Section 77-7-5 and Rule 6, Utah Rules of Criminal Procedure, that the accused appear in court.
7606 (b) Infractions shall not be included on the statewide warrant system, including any
7607 subsequent failure to appear warrants issued on an infraction.
7608 (3) The division is the agency responsible for the statewide warrant system and shall:
7609 (a) ensure quality control of all warrants of arrest or commitment and protective orders
7610 contained in the statewide warrant system by conducting regular validation checks with every
7611 clerk of a court responsible for entering the information on the system;
7612 (b) upon the expiration of the protective orders and in the manner prescribed by the
7613 division, purge information regarding protective orders described in Subsection 53-10-208.1(4)
7614 within 30 days of the time after expiration;
7615 (c) establish system procedures and provide training to all criminal justice agencies
7616 having access to information contained on the state warrant system;
7617 (d) provide technical support, program development, and systems maintenance for the
7618 operation of the system; and
7619 (e) pay data processing and transaction costs for state, county, and city law
7620 enforcement agencies and criminal justice agencies having access to information contained on
7621 the state warrant system.
7622 (4) (a) Any data processing or transaction costs not funded by legislative appropriation

7623 shall be paid on a pro rata basis by all agencies using the system during the fiscal year.
7624 (b) This Subsection (4) supersedes any conflicting provision in Subsection (3)(e).
7625 Section 98. Section **53-10-208.1** is amended to read:
7626 **53-10-208.1. Magistrates and court clerks to supply information.**
7627 Every magistrate or clerk of a court responsible for court records in this state shall,
7628 within 30 days of the disposition and on forms and in the manner provided by the division,
7629 furnish the division with information pertaining to:
7630 (1) all dispositions of criminal matters, including:
7631 (a) guilty pleas;
7632 (b) convictions;
7633 (c) dismissals;
7634 (d) acquittals;
7635 (e) pleas held in abeyance;
7636 (f) judgments of not guilty by reason of insanity for a violation of:
7637 (i) a felony offense;
7638 (ii) Title 76, Chapter 5, Offenses Against the Person; or
7639 (iii) Title 76, Chapter 10, Part 5, Weapons;
7640 (g) judgments of guilty and mentally ill;
7641 (h) finding of mental incompetence to stand trial for a violation of:
7642 (i) a felony offense;
7643 (ii) Title 76, Chapter 5, Offenses Against the Person; or
7644 (iii) Title 76, Chapter 10, Part 5, Weapons; or
7645 (i) probations granted; and
7646 (2) orders of civil commitment under the terms of Section 62A-15-631;
7647 (3) the issuance, recall, cancellation, or modification of all warrants of arrest or
7648 commitment as described in Rule 6, Utah Rules of Criminal Procedure and Section [~~78-32-4~~]
7649 78B-6-303, within one day of the action and in a manner provided by the division; and
7650 (4) protective orders issued after notice and hearing, pursuant to:
7651 (a) Title [~~30~~] 78B, Chapter [~~6~~] 7, Part 1, Cohabitant Abuse Act; or
7652 (b) Title 77, Chapter 36, Cohabitant Abuse Procedures Act.
7653 Section 99. Section **53-10-404** is amended to read:

7654 **53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.**
7655 (1) As used in this section, "person" refers to any person described under Section
7656 53-10-403.
7657 (2) (a) A person under Section 53-10-403 or any person added to the sex offender
7658 register as defined in Section 77-27-21.5 shall provide a DNA specimen and shall reimburse
7659 the responsible agency $100 for the cost of obtaining the DNA specimen unless the agency
7660 determines the person lacks the ability to pay.
7661 (b) (i) The responsible agencies shall establish guidelines and procedures for
7662 determining if the person is able to pay the fee. An agency's implementation of Subsection
7663 (2)(b)(ii) meets an agency's obligation to determine an inmate's ability to pay.
7664 (ii) An agency's guidelines and procedures may provide for the assessment of $100 on
7665 the inmate's county trust fund account and may allow a negative balance in the account until
7666 the $100 is paid in full.
7667 (3) (a) All fees collected under Subsection (2) shall be deposited in the DNA Specimen
7668 Restricted Account created in Section 53-10-407, except that sheriffs collecting the fee shall
7669 deposit $80 of the fee in the DNA Specimen Restricted Account and retain the balance of $20
7670 for the costs of obtaining the saliva DNA specimen.
7671 (b) The responsible agency shall determine the method of collecting the DNA
7672 specimen. Unless the responsible agency determines there are substantial reasons for using a
7673 different method of collection or the person refuses to cooperate with the collection, the
7674 preferred method of collection shall be obtaining a saliva specimen.
7675 (c) The responsible agencies may use reasonable force, as established by their
7676 individual guidelines and procedures, to collect the DNA sample if the person refuses to
7677 cooperate with the collection.
7678 (d) If the judgment places the person on probation, the person shall submit to the
7679 obtaining of a DNA specimen as a condition of the probation.
7680 (e) Under this section a person is required to provide one DNA specimen. The person
7681 shall provide an additional DNA specimen only if the DNA specimen previously provided is
7682 not adequate for analysis.
7683 (4) (a) The responsible agency shall cause a DNA specimen to be obtained as soon as
7684 possible after conviction, plea, or finding of jurisdiction by the juvenile court, and transmitted

7685 to the Department of Public Safety.
7686 (b) If notified by the Department of Public Safety that a DNA specimen is not adequate
7687 for analysis, the agency shall obtain and transmit an additional DNA specimen.
7688 (5) (a) The Department of Corrections is the responsible agency whenever the person is
7689 committed to the custody of or is under the supervision of the Department of Corrections.
7690 (b) The juvenile court is the responsible agency regarding a minor under Subsection
7691 53-10-403(3), but if the minor has been committed to the legal custody of the Division of
7692 Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the
7693 minor has not previously been obtained by the juvenile court under Section [~~78-3a-118~~]
7694 78A-6-117.
7695 (c) The sheriff operating a county jail is the responsible agency regarding the collection
7696 of DNA specimens from persons who:
7697 (i) have pled guilty to or have been convicted of an offense listed under Subsection
7698 53-10-403(2) but who have not been committed to the custody of or are not under the
7699 supervision of the Department of Corrections; and
7700 (ii) are incarcerated in the county jail:
7701 (A) as a condition of probation for a felony offense; or
7702 (B) for a misdemeanor offense for which collection of a DNA specimen is required.
7703 (d) The sheriff under Subsection (5)(c) shall:
7704 (i) designate employees to obtain the saliva DNA specimens required under Section
7705 53-10-403; and
7706 (ii) ensure that employees designated to collect the DNA specimens receive appropriate
7707 training and that the specimens are obtained in accordance with accepted protocol.
7708 (6) (a) As used in this Subsection (6), "department" means the Department of
7709 Corrections.
7710 (b) Priority of obtaining DNA specimens by the department is:
7711 (i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody
7712 of or under the supervision of the department before these persons are released from
7713 incarceration, parole, or probation, if their release date is prior to that of persons under
7714 Subsections (6)(b)(ii), but in no case later than July 1, 2004; and
7715 (ii) second, the department shall obtain DNA specimens from persons who are

7716 committed to the custody of the department or who are placed under the supervision of the
7717 department after July 1, 2002, within 120 days after the commitment, if possible, but not later
7718 than prior to release from incarceration if the person is imprisoned, or prior to the termination
7719 of probation if the person is placed on probation.
7720 (c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii)
7721 is:
7722 (i) persons on probation;
7723 (ii) persons on parole; and
7724 (iii) incarcerated persons.
7725 (d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the
7726 priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA
7727 specimens from persons in the custody of or under the supervision of the Department of
7728 Corrections as of July 1, 2002, prior to their release.
7729 (7) (a) As used in this Subsection (7), "court" means the juvenile court and "division"
7730 means the Division of Juvenile Justice Services.
7731 (b) Priority of obtaining DNA specimens by the court from minors under Section
7732 53-10-403 who are under the jurisdiction of the court but who are not in the legal custody of
7733 the division shall be:
7734 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the court's
7735 jurisdiction, prior to termination of the court's jurisdiction over these minors; and
7736 (ii) second, to obtain specimens from minors who are found to be within the court's
7737 jurisdiction after July 1, 2002, within 120 days of the minor's being found to be within the
7738 court's jurisdiction, if possible, but not later than prior to termination of the court's jurisdiction
7739 over the minor.
7740 (c) Priority of obtaining DNA specimens by the division from minors under Section
7741 53-10-403 who are committed to the legal custody of the division shall be:
7742 (i) first, to obtain specimens from minors who as of July 1, 2002, are within the
7743 division's legal custody and who have not previously provided a DNA specimen under this
7744 section, prior to termination of the division's legal custody of these minors; and
7745 (ii) second, to obtain specimens from minors who are placed in the legal custody of the
7746 division after July 1, 2002, within 120 days of the minor's being placed in the custody of the

7747 division, jurisdiction, if possible, but not later than prior to termination of the court's
7748 jurisdiction over the minor.
7749 (8) (a) The Department of Corrections, the juvenile court, and the Division of Juvenile
7750 Justice Services shall by policy establish procedures for obtaining saliva DNA specimens, and
7751 shall provide training for employees designated to collect saliva DNA specimens.
7752 (b) The department may designate correctional officers, including those employed by
7753 the adult probation and parole section of the Department of Corrections, to obtain the saliva
7754 DNA specimens required under this section. The department shall ensure that the designated
7755 employees receive appropriate training and that the specimens are obtained in accordance with
7756 accepted protocol.
7757 (c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.
7758 Section 100. Section **53-10-407** is amended to read:
7759 **53-10-407. DNA Specimen Restricted Account.**
7760 (1) There is created the DNA Specimen Restricted Account, which is referred to in this
7761 section as "the account."
7762 (2) The sources of monies for the account are:
7763 (a) DNA collection fees paid under Section 53-10-404;
7764 (b) any appropriations made to the account by the Legislature; and
7765 (c) all federal monies provided to the state for the purpose of funding the collection or
7766 analysis of DNA specimens collected under Section 53-10-403.
7767 (3) The account shall earn interest, and this interest shall be deposited in the account.
7768 (4) The Legislature may appropriate monies from the account solely for the following
7769 purposes:
7770 (a) to the Department of Corrections for the costs of:
7771 (i) collecting DNA specimens as required under Section 53-10-403; and
7772 (ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided
7773 in Subsection [~~78-35a-301~~] 78B-9-301(8);
7774 (b) to the juvenile court for the costs of collecting DNA specimens as required under
7775 Sections 53-10-403 and [~~78-3a-118~~] 78A-6-117;
7776 (c) to the Division of Juvenile Justice Services for the costs of collecting DNA
7777 specimens as required under Sections 53-10-403 and 62A-7-104; and

7778 (d) to the Department of Public Safety for the costs of storing and analyzing DNA
7779 specimens in accordance with the requirements of this part.
7780 (5) Appropriations from the account to the Department of Corrections, the juvenile
7781 court, the Division of Juvenile Justice Services, and to the Department of Public Safety are
7782 nonlapsing.
7783 Section 101. Section **53A-1a-105.5** is amended to read:
7784 **53A-1a-105.5. Parental permission required for specified in-home programs --**
7785 **Exceptions.**
7786 (1) The State Board of Education, local school boards, school districts, and public
7787 schools are prohibited from requiring infant or preschool in-home literacy or other educational
7788 or parenting programs without obtaining parental permission in each individual case.
7789 (2) This section does not prohibit the Division of Child and Family Services, within the
7790 Department of Human Services, from providing or arranging for family preservation or other
7791 statutorily provided services in accordance with Title 62A, Chapter 4a, or any other in-home
7792 services that have been court ordered, pursuant to Title 62A, Chapter 4a, or Title [~~78~~] 78A,
7793 Chapter [~~3a~~] 6, Juvenile court Act of 1996.
7794 Section 102. Section **53A-11-103** is amended to read:
7795 **53A-11-103. Duties of a school board, local charter board, or school district in**
7796 **resolving attendance problems -- Parental involvement -- Liability not imposed.**
7797 (1) A local school board, local charter board, or school district shall make efforts to
7798 resolve the school attendance problems of each school-age minor who is, or should be, enrolled
7799 in the school district.
7800 (2) The efforts described in Subsection (1) shall include, as reasonably feasible:
7801 (a) counseling of the minor by school authorities;
7802 (b) issuing a notice of truancy to a school-age minor who is at least 12 years old, in
7803 accordance with Section 53A-11-101.7;
7804 (c) issuing a notice of compulsory education violation to a parent of a school-age child,
7805 in accordance with Section 53A-11-101.5;
7806 (d) making any necessary adjustment to the curriculum and schedule to meet special
7807 needs of the minor;
7808 (e) considering alternatives proposed by a parent;

7809 (f) monitoring school attendance of the minor;
7810 (g) voluntary participation in truancy mediation, if available; and
7811 (h) providing a school-age minor's parent, upon request, with a list of resources
7812 available to assist the parent in resolving the school-age minor's attendance problems.
7813 (3) In addition to the efforts described in Subsection (2), the local school board, local
7814 charter board, or school district may enlist the assistance of community and law enforcement
7815 agencies as appropriate and reasonably feasible.
7816 (4) This section shall not impose any civil liability on boards of education, local school
7817 boards, local charter boards, school districts, or their employees.
7818 (5) Proceedings initiated under this part do not obligate or preclude action by the
7819 Division of Child and Family Services under Section [~~78-3a-316~~] 78A-6-319.
7820 Section 103. Section **53A-11-105** is amended to read:
7821 **53A-11-105. Taking custody of a person believed to be a truant minor --**
7822 **Disposition -- Receiving centers -- Reports -- Immunity from liability.**
7823 (1) A peace officer or public school administrator may take a minor into temporary
7824 custody if there is reason to believe the minor is a truant minor.
7825 (2) An individual taking a school-age minor into custody under Subsection (1) shall,
7826 without unnecessary delay, release the minor to:
7827 (a) the principal of the minor's school;
7828 (b) a person who has been designated by the local school board or local charter board
7829 to receive and return the minor to school; or
7830 (c) a receiving center established under Subsection (5).
7831 (3) If the minor refuses to return to school or go to the receiving center, the officer or
7832 administrator shall, without unnecessary delay, notify the minor's parents and release the minor
7833 to their custody.
7834 (4) If the parents cannot be reached or are unable or unwilling to accept custody, the
7835 minor shall be referred to the Division of Child and Family Services.
7836 (5) (a) A local school board or local charter board, singly or jointly with another school
7837 board, may establish or designate receiving centers within existing school buildings and staff
7838 the centers with existing teachers or staff to provide educational guidance and counseling for
7839 truant minors. Upon receipt of a truant minor, the center shall, without unnecessary delay,

7840 notify and direct the minor's parents to come to the center, pick up the minor, and return the
7841 minor to the school in which the minor is enrolled.
7842 (b) If the parents cannot be reached or are unable or unwilling to comply with the
7843 request within a reasonable time, the center shall take such steps as are reasonably necessary to
7844 insure the safety and well being of the minor, including, when appropriate, returning the minor
7845 to school or referring the minor to the Division of Child and Family Services. A minor taken
7846 into custody under this section may not be placed in a detention center or other secure
7847 confinement facility.
7848 (6) Action taken under this section shall be reported to the appropriate school district.
7849 The district shall promptly notify the minor's parents of the action taken.
7850 (7) The Utah Governmental Immunity Act applies to all actions taken under this
7851 section.
7852 (8) Nothing in this section may be construed to grant authority to a public school
7853 administrator to place a minor in the custody of the Division of Child and Family Services,
7854 without complying with the provisions of Title 62A, Chapter 4a, Parts 2, Child Welfare
7855 Services, and 2A, Minors in Custody on Grounds Other Than Abuse or Neglect, and of Title
7856 [~~78~~] 78A, Chapter [~~3a~~] 6, Parts 3, Abuse, Neglect, and Dependency [~~Hearings~~] Proceedings,
7857 and [~~3A~~] 4, Minors in Custody on Grounds Other Than Abuse or Neglect.
7858 Section 104. Section **53A-11-806** is amended to read:
7859 **53A-11-806. Defacing or injuring school property -- Student's liability --**
7860 **Voluntary work program alternative.**
7861 (1) Any student who willfully defaces or otherwise injures any school property may be
7862 suspended or otherwise disciplined.
7863 (2) (a) Any school district whose property has been lost or willfully cut, defaced, or
7864 otherwise injured may withhold the issuance of official written grade reports, diploma, and
7865 transcripts of the student responsible for the damage or loss until the student or the student's
7866 parent or guardian has paid for the damages.
7867 (b) The student's parent or guardian is liable for damages as otherwise provided in
7868 Section [~~78-11-20~~] 78A-6-1113.
7869 (3) (a) If the student and the student's parent or guardian are unable to pay for the
7870 damages or if it is determined by the school in consultation with the student's parents that the

7871 student's interests would not be served if the parents were to pay for the damages, then, the
7872 school district shall provide for a program of voluntary work for the student in lieu of the
7873 payment.
7874 (b) The district shall release the official grades, diploma, and transcripts of the student
7875 upon completion of the voluntary work.
7876 (4) Before any penalties are assessed under this section, the local school board shall
7877 adopt procedures to insure that the student's right to due process is protected.
7878 (5) No penalty may be assessed for damages which may be reasonably attributed to
7879 normal wear and tear.
7880 (6) If the Department of Human Services or a licensed child-placing agency has been
7881 granted custody of the student, that student's records, if requested by the department or agency,
7882 may not be withheld from the department or agency for nonpayment of damages under this
7883 section.
7884 Section 105. Section **53A-11-1001** is amended to read:
7885 **53A-11-1001. Notification by juvenile court and law enforcement agencies.**
7886 (1) Notifications received from the juvenile court or law enforcement agencies by the
7887 school district pursuant to Subsections [~~78-3a-113~~] 78A-6-112(3)(b) and [~~78-3a-118~~]
7888 78A-6-117(1)(b) are governed by this part.
7889 (2) School districts may enter into agreements with law enforcement agencies for
7890 notification under Subsection (1).
7891 Section 106. Section **53A-11-1004** is amended to read:
7892 **53A-11-1004. Liability for release of information.**
7893 (1) The district superintendent, principal, and any staff member notified by the
7894 principal may not be held liable for information which may become public knowledge unless it
7895 can be shown by clear and convincing evidence that the information became public knowledge
7896 through an intentional act of the superintendent, principal, or a staff member.
7897 (2) A person receiving information under Subsection [~~78-3a-113~~] 78A-6-112(3)(b),
7898 [~~78-3a-118~~] 78A-6-117(1)(b), or Section 53A-11-1002 is immune from any liability, civil or
7899 criminal, for acting or failing to act in response to the information unless the person acts or
7900 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.
7901 Section 107. Section **53A-11-1301**, which is renumbered from Section 78-3e-1 is

7902 renumbered and amended to read:

7903 **Part 13. Reporting School-Related Controlled Substance Abuse**

7904 **[~~78-3e-1~~]. 53A-11-1301. Definitions.**

7905 (1) The definitions in Sections 58-37-2, 58-37a-3, and 58-37b-2 apply to this [~~chapter~~]
7906 part.

7907 (2) As used in this [~~chapter~~] part:

7908 (a) "Prohibited act" means an act punishable under Section 53A-3-501, Section
7909 58-37-8, Section 58-37a-5, or Title 58, Chapter 37b.

7910 (b) "School" means a public or private elementary or secondary school.

7911 Section 108. Section **53A-11-1302**, which is renumbered from Section 78-3e-2 is
7912 renumbered and amended to read:

7913 **[~~78-3e-2~~]. 53A-11-1302. Reporting of prohibited acts affecting a school --**
7914 **Confidentiality.**

7915 (1) A person who has reasonable cause to believe that an individual has committed a
7916 prohibited act shall immediately notify:

7917 (a) the nearest law enforcement agency[~~,~~];

7918 (b) the principal[~~, or~~];

7919 (c) an administrator of the affected school[~~, or~~];

7920 (d) the superintendent of the affected school district; or

7921 (e) an administrator of the affected school district.

7922 (2) If notice is given to a school official, the official may authorize an investigation
7923 into allegations involving school property, students, or school district employees.

7924 (3) School officials may refer a complaint of an alleged prohibited act reported as
7925 occurring on school grounds or in connection with school-sponsored activities to an
7926 appropriate law enforcement agency. Referrals shall be made by school officials if the
7927 complaint alleges the prohibited act occurred elsewhere.

7928 (4) The identity of persons making reports pursuant to this section shall be kept
7929 confidential.

7930 Section 109. Section **53A-11-1303**, which is renumbered from Section 78-3e-3 is
7931 renumbered and amended to read:

7932 **[~~78-3e-3~~]. 53A-11-1303. Immunity from civil or criminal liability.**

7933 Any person, official, or institution, other than a law enforcement officer or law
7934 enforcement agency, participating in good faith in making a report or conducting an
7935 investigation under the direction of school or law enforcement authorities under this [~~chapter~~]
7936 part, is immune from any liability, civil or criminal, that otherwise might result by reason of
7937 that action.
7938 Section 110. Section **53A-11-1304**, which is renumbered from Section 78-3e-4 is
7939 renumbered and amended to read:
7940 **[~~78-3e-4~~]. 53A-11-1304. Admissibility of evidence in civil and criminal actions.**
7941 (1) Evidence relating to violations of this [~~chapter~~] part which is seized by school
7942 authorities acting alone [~~and~~], on their own authority, and not in conjunction with or at the
7943 behest of law enforcement authorities is admissible in civil and criminal actions.
7944 (2) A search under this section must be based on at least a reasonable belief that the
7945 search will turn up evidence of a violation of this [~~chapter~~] part. The measures adopted for the
7946 search must be reasonably related to the objectives of the search and not excessively intrusive
7947 in light of the circumstances, including the age and sex of the person involved and the nature of
7948 the infraction.
7949 Section 111. Section **53A-11-1305**, which is renumbered from Section 78-3e-5 is
7950 renumbered and amended to read:
7951 **[~~78-3e-5~~]. 53A-11-1305. Board rules to ensure protection of individual rights.**
7952 The State Board of Education and local boards of education shall adopt rules to
7953 implement this [~~chapter~~] part. The rules shall establish procedures to ensure protection of
7954 individual rights against excessive and unreasonable intrusion.
7955 Section 112. Section **53B-8d-102** is amended to read:
7956 **53B-8d-102. Definitions.**
7957 As used in this chapter:
7958 (1) "Division" means the Division of Child and Family Services.
7959 (2) "Long-term foster care" means an individual who remains in the custody of the
7960 division, whether or not the individual resides:
7961 (a) with licensed foster parents; or
7962 (b) in independent living arrangements under the supervision of the division.
7963 (3) "State institution of higher education" means:

7964 (a) those institutions designated in Section 53B-1-102; and
7965 (b) any public institution that offers postsecondary education in consideration of the
7966 payment of tuition or fees for the attainment of educational or vocational objectives leading to
7967 a degree or certificate, including:
7968 (i) business schools;
7969 (ii) technical schools;
7970 (iii) applied technology centers;
7971 (iv) trade schools; and
7972 (v) institutions offering related apprenticeship programs.
7973 (4) "Tuition" means tuition at the rate for residents of the state.
7974 (5) "Ward of the state" means an individual:
7975 (a) who is:
7976 (i) at least 17 years of age; and
7977 (ii) not older than 26 years of age;
7978 (b) who had a permanency goal in the individual's child and family plan, as described
7979 in Sections 62A-4a-205 and [~~78-3a-312~~] 78A-6-314, of long-term foster care while in the
7980 custody of the division; and
7981 (c) for whom the custody of the division was not terminated as a result of adoption.
7982 Section 113. Section **54-8a-8.5** is amended to read:
7983 **54-8a-8.5. Alternative dispute resolution.**
7984 (1) An association formed under Section 54-8a-9 shall make available an alternative
7985 dispute resolution program to resolve disputes arising from damage to underground facilities
7986 between:
7987 (a) an operator;
7988 (b) an owner;
7989 (c) an excavator; or
7990 (d) other interested party.
7991 (2) The alternative dispute program created under this section is in addition to the
7992 ability of a party to bring a civil action under Section 54-8a-8.
7993 (3) The alternative dispute resolution program shall:
7994 (a) include mediation and arbitration;

7995 (b) require that one or more appointed mediators or arbitrators decide:
7996 (i) the issue of liability for any reimbursement; and
7997 (ii) the amount of reimbursement; and
7998 (c) shall be consistent with Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration
7999 Act.
8000 (4) Nothing in this section shall be construed to change the basis for civil liability for
8001 damages.
8002 Section 114. Section **57-3-106** is amended to read:
8003 **57-3-106. Original documents required -- Captions -- Legibility.**
8004 (1) (a) Unless otherwise provided, documents presented for recording in the office of
8005 the county recorder shall:
8006 (i) be originals;
8007 (ii) contain a brief caption on the first page of the document stating the nature of the
8008 document; and
8009 (iii) contain a legal description of the property as required under Section 57-3-105.
8010 (b) If a document is a master form, as defined in Section 57-3-201, the caption required
8011 by Subsection (1)(a)(ii) shall state that the document is a master form.
8012 (2) A court judgment or an abstract of a court judgment presented for recording in the
8013 office of the county recorder in compliance with Section [~~78-22-1~~] 78B-5-202 shall:
8014 (a) be an original or certified copy; and
8015 (b) include the information identifying the judgment debtor as referred to in Subsection
8016 [~~78-22-1.5~~] 78B-5-201(4) either:
8017 (i) in the judgment or abstract of judgment; or
8018 (ii) as a separate information statement of the judgment creditor as referred to in
8019 Subsection [~~78-22-1.5~~] 78B-5-201(5).
8020 (3) Judgments, abstracts of judgments, and separate information statements of the
8021 judgment creditor do not require an acknowledgment or a legal description to be recorded.
8022 (4) A foreign judgment or an abstract of a foreign judgment recorded in the office of a
8023 county recorder shall include the affidavit as required in Section [~~78-22a-3~~] 78B-5-303.
8024 (5) Any document recorded in the office of the county recorder to release or assign a
8025 judgment lien shall include:

8026 (a) the name of any judgment creditor, debtor, assignor, or assignee;
8027 (b) the date of recording; and
8028 (c) the entry number of the instrument creating the judgment lien.
8029 (6) Documents presented for recording shall also be sufficiently legible for the recorder
8030 to make certified copies.
8031 (7) (a) (i) A document that is of record in the office of the appropriate county recorder
8032 in compliance with this chapter may not be recorded again in that same county recorder's office
8033 unless the original document has been reexecuted by all parties who executed the document.
8034 (ii) Unless exempt by statute, original documents that are reexecuted must also contain
8035 the appropriate acknowledgment, proof of execution, jurat, or other notarial certification for all
8036 parties who are reexecuting the document as required by Title 46, Chapter 1, Notaries Public
8037 Reform Act, and Title 57, Chapter 2, Acknowledgments.
8038 (iii) Documents submitted for rerecording shall contain a brief statement explaining the
8039 reason for rerecording.
8040 (b) A county recorder may refuse to accept a document for rerecording if that
8041 document does not conform to the requirements of this section.
8042 (c) This Subsection (7) applies only to documents executed after July 1, 1998.
8043 (8) Minor typographical or clerical errors in a document of record may be corrected by
8044 the recording of an affidavit or other appropriate instrument.
8045 (9) Subject to federal bankruptcy law, neither the recordation of an affidavit under
8046 Subsection (8) nor the reexecution and rerecording of a document under Subsection (7) shall:
8047 (a) divest a grantee of any real property interest; or
8048 (b) alter an interest in real property or return to the grantor an interest in real property
8049 conveyed by statute.
8050 Section 115. Section **57-8-38** is amended to read:
8051 **57-8-38. Arbitration.**
8052 The declaration, bylaws, or association rules may provide that disputes between the
8053 parties shall be submitted to arbitration pursuant to Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah
8054 Uniform Arbitration Act.
8055 Section 116. Section **57-16-6** is amended to read:
8056 **57-16-6. Action for lease termination -- Prerequisite procedure.**

8057 A legal action to terminate a lease based upon a cause set forth in Section 57-16-5 may
8058 not be commenced except in accordance with the following procedure:
8059 (1) Before issuance of any summons and complaint, the mobile home park shall send
8060 or serve written notice to the resident or person:
8061 (a) by delivering a copy of the notice personally;
8062 (b) by sending a copy of the notice through registered or certified mail addressed to the
8063 resident or person at the person's place of residence;
8064 (c) if the resident or person is absent from the person's place of residence, by leaving a
8065 copy of the notice with some person of suitable age and discretion at the individual's residence
8066 and sending a copy through registered or certified mail addressed to the resident or person at
8067 the person's place of residence; or
8068 (d) if a person of suitable age or discretion cannot be found, by affixing a copy of the
8069 notice in a conspicuous place on the resident's or person's mobile home and also sending a copy
8070 through registered or certified mail addressed to the resident or person at the person's place of
8071 residence.
8072 (2) The notice shall set forth the cause for the notice and, if the cause is one which can
8073 be cured, the time within which the resident or person has to cure. The notice shall also set
8074 forth the time after which the mobile home park may commence legal action against the
8075 resident or person if cure is not effected, as follows:
8076 (a) In the event of failure to abide by a mobile home park rule, the notice shall provide
8077 for a cure period as provided in Subsections 57-16-5(1)(a) and (2), except in the case of
8078 repeated violations and, shall state that if a cure is not timely effected, or a written agreement
8079 made between the mobile home park and the resident allowing for a variation in the rule or
8080 cure period, eviction proceedings may be initiated immediately.
8081 (b) If a resident, a member, or invited guest or visitor of the resident's household
8082 commits repeated violations of a rule, a summons and complaint may be issued three days after
8083 a notice is served.
8084 (c) If a resident, a member, or invited guest or visitor of the resident's household
8085 behaves in a manner that threatens or substantially endangers the well-being, security, safety, or
8086 health of other persons in the park or threatens or damages property in the park, eviction
8087 proceedings may commence immediately.

8088 (d) If a resident does not pay rent, fees, or service charges, the notice shall provide a
8089 five-day cure period and, that if cure is not timely effected, or a written agreement made
8090 between the mobile home park and the resident allowing for a variation in the rule or cure
8091 period, eviction proceedings may be initiated immediately.
8092 (e) If there is a planned change in land use or condemnation of the park, the notice
8093 shall provide that the resident has 90 days after receipt of the notice to vacate the mobile home
8094 park if no governmental approval or permits incident to the planned change are required, and if
8095 governmental approval and permits are required, that the resident has 90 days to vacate the
8096 mobile home park after all permits or approvals incident to the planned change are obtained.
8097 (3) If the planned change in land use or condemnation requires the approval of a
8098 governmental agency, the mobile home park, in addition to the notice required by Subsection
8099 (2)(e), shall send written notice of the date set for the initial hearing to each resident at least
8100 seven days before the date scheduled for the initial hearing.
8101 (4) Regardless of whether the change of use requires the approval of any governmental
8102 agency, if the resident was not a resident of the mobile home park at the time the initial change
8103 of use notice was issued to residents the owner shall give notice of the change of use to the
8104 resident before he occupies the mobile home space.
8105 (5) (a) Eviction proceedings commenced under this chapter and based on causes set
8106 forth in Subsections 57-16-5(1)(a), (b), and (e) shall be brought in accordance with the Utah
8107 Rules of Civil Procedure and [~~shall~~] may not be treated as unlawful detainer actions under Title
8108 [~~78~~] 78B, Chapter [~~36~~] 6, Part 8, Forcible Entry and Detainer. Eviction proceedings
8109 commenced under this chapter and based on causes of action set forth in Subsections
8110 57-16-5(1)(c) and (d) may, at the election of the mobile home park, be treated as actions
8111 brought under this chapter and the unlawful detainer provisions of Title [~~78~~] 78B, Chapter [~~36~~]
8112 6, Part 8, Forcible Entry and Detainer.
8113 (b) If unlawful detainer is charged, the court shall endorse on the summons the number
8114 of days within which the defendant is required to appear and defend the action, which shall not
8115 be less than five days or more than 20 days from the date of service.
8116 Section 117. Section **57-16-15.1** is amended to read:
8117 **57-16-15.1. Eviction proceeding.**
8118 (1) Eviction proceedings commenced under this chapter and based on causes of action

8119 set forth in Subsections 57-16-5(1)(a), (b), and (e), and eviction proceedings commenced under
8120 this chapter based on causes of action set forth in Subsections 57-16-5(1)(c) and (d), in which a
8121 landlord elects to bring an action under this chapter and not under the unlawful detainer
8122 provisions of Title [~~78~~] 78B, Chapter [~~36~~] 6, Part 8, Forcible Entry and Detainer, shall comply
8123 with the following:
8124 (a) A judgment may be entered upon the merits or upon default. A judgment entered in
8125 favor of the plaintiff may:
8126 (i) include an order of restitution of the premises; and
8127 (ii) declare the forfeiture of the lease or agreement.
8128 (b) The jury, or the court if the proceedings are tried without a jury or upon the
8129 defendant's default, shall assess the damages resulting to the plaintiff from any of the
8130 following:
8131 (i) waste of the premises during the resident's tenancy, if waste is alleged in the
8132 complaint and proved; and
8133 (ii) the amount of rent due.
8134 (c) If the lease or agreement provides for reasonable [~~attorneys'~~] attorney fees, the court
8135 shall order reasonable [~~attorneys'~~] attorney fees to the prevailing party.
8136 (d) Whether or not the lease or agreement provides for court costs and [~~attorneys'~~]
8137 attorney fees, if the proceeding is contested, the court shall order court costs and [~~attorneys'~~]
8138 attorney fees to the prevailing party.
8139 (e) Except as provided in Subsection (1)(f), after judgment has been entered under this
8140 section, judgment and restitution may be enforced no sooner than 15 days from the date the
8141 judgment is entered. The person who commences the action shall mail through registered or
8142 certified mail a copy of the judgment to the resident or the resident's agent or attorney as
8143 required by the Utah Rules of Civil Procedure.
8144 (f) If a resident tenders to the mobile home park postjudgment rent, in the form of cash,
8145 cashier's check, or certified funds, then restitution may be delayed for the period of time
8146 covered by the postjudgment rent, which time period shall not exceed 15 days from the date of
8147 the judgment unless a longer period is agreed to in writing by the mobile home park.
8148 (2) Eviction proceedings commenced under this chapter and based on causes of action
8149 set forth in Subsections 57-16-5(1)(c) and (d), in which the mobile home park has elected to

8150 treat as actions also brought under the unlawful detainer provisions of Title [~~78~~] 78B, Chapter
8151 [~~36~~] 6, Part 8, Forcible Entry and Detainer, shall be governed by Sections [~~78-36-10~~]
8152 78B-6-811 and [~~78-36-10.5~~] 78B-6-812 with respect to judgment for restitution, damages, rent,
8153 enforcement of the judgment and restitution.
8154 (3) The provisions in Section [~~78-36-10.5~~] 78B-6-812 shall apply to this section except
8155 the enforcement time limits in Subsections (1)(e) and (f) shall govern.
8156 Section 118. Section **57-18-7** is amended to read:
8157 **57-18-7. Conservation easement not obtained through eminent domain --**
8158 **Conservation easement may not interfere with eminent domain.**
8159 (1) No conservation easement, or right-of-way or access to a conservation easement
8160 may be obtained through the use of eminent domain.
8161 (2) The existence of a conservation easement may not defeat or interfere with the
8162 otherwise proper exercise of eminent domain under Title [~~78~~] 78B, Chapter [~~34~~] 6, Part 5,
8163 Eminent Domain.
8164 Section 119. Section **57-19-19** is amended to read:
8165 **57-19-19. Subpoenas -- Evidence.**
8166 (1) For the purposes of any investigation or proceeding under this chapter, the director,
8167 or any officer designated by him, may administer oaths and affirmations, subpoena witnesses,
8168 compel their attendance, take evidence, and require the production of any books, papers,
8169 correspondence, memoranda, agreements, or other documents or records which the director
8170 considers relevant or material to the inquiry.
8171 (2) A person who disobeys any subpoena lawfully issued by the director, or who
8172 refuses to testify to any matters regarding which he may be lawfully interrogated, is subject to
8173 the provisions of Section [~~78-32-15~~] 78B-6-313.
8174 Section 120. Section **57-22-4** is amended to read:
8175 **57-22-4. Owner's duties -- Maintenance of common areas, building, and utilities**
8176 **-- Duty to correct -- No duty to correct condition caused by renter -- Owner may refuse to**
8177 **correct.**
8178 (1) To protect the physical health and safety of the ordinary renter, each owner shall:
8179 (a) not rent the premises unless they are safe, sanitary, and fit for human occupancy;
8180 (b) maintain common areas of the residential rental unit in a sanitary and safe

8181 condition;
8182 (c) maintain electrical systems, plumbing, heating, and hot and cold water;
8183 (d) maintain other appliances and facilities as specifically contracted in the lease
8184 agreement; and
8185 (e) for buildings containing more than two residential rental units, provide and
8186 maintain appropriate receptacles for garbage and other waste and arrange for its removal,
8187 except to the extent that renters and owners otherwise agree.
8188 (2) In the event the renter believes the residential rental unit does not comply with the
8189 standards for health and safety required under this chapter, the renter shall give written notice
8190 of the noncompliance to the owner. Within a reasonable time after receipt of this notice, the
8191 owner shall commence action to correct the condition of the unit. The notice required by this
8192 subsection shall be served pursuant to Section [~~78-36-6~~] 78B-6-805.
8193 (3) The owner need not correct or remedy any condition caused by the renter, the
8194 renter's family, or the renter's guests or invitees by inappropriate use or misuse of the property
8195 during the rental term or any extension of it.
8196 (4) The owner may refuse to correct the condition of the residential rental unit and
8197 terminate the rental agreement if the unit is unfit for occupancy. If the owner refuses to correct
8198 the condition and intends to terminate the rental agreement, he shall notify the renter in writing
8199 within a reasonable time after receipt of the notice of noncompliance. If the rental agreement is
8200 terminated, the rent paid shall be prorated to the date the agreement is terminated, and any
8201 balance shall be refunded to the renter along with any deposit due.
8202 (5) The owner is not liable under this chapter for claims for mental suffering or
8203 anguish.
8204 Section 121. Section **57-22-5.1** is amended to read:
8205 **57-22-5.1. Crime victim's right to new locks.**
8206 (1) For purposes of this section, "crime victim" means a victim of:
8207 (a) domestic violence, as defined in Section 77-36-1;
8208 (b) stalking as defined in Section 76-5-106.5;
8209 (c) a crime under Title 76, Chapter 5, Part 4, Sexual Offenses;
8210 (d) burglary or aggravated burglary under Section 76-6-202 or 76-6-203; or
8211 (e) dating violence, consisting of verbal, emotional, psychological, physical, or sexual

8212 abuse of one person by another in a dating relationship.
8213 (2) An acceptable form of documentation of an act listed in Subsection (1) is:
8214 (a) a protective order protecting the renter issued pursuant to Title [~~30~~] 78B, Chapter
8215 [~~6~~] 7, Part 1, Cohabitant Abuse Act, subsequent to a hearing of which the petitioner and
8216 respondent have been given notice under Title [~~30~~] 78B, Chapter [~~6~~] 7, Part 1; or
8217 (b) a copy of a police report documenting an act listed in Subsection (1).
8218 (3) (a) A renter who is a crime victim may require the renter's owner to install a new
8219 lock to the renter's residential rental unit if the renter:
8220 (i) provides the owner with an acceptable form of documentation of an act listed in
8221 Subsection (1); and
8222 (ii) pays for the cost of installing the new lock.
8223 (b) An owner may comply with Subsection (3)(a) by:
8224 (i) rekeying the lock if the lock is in good working condition; or
8225 (ii) changing the entire locking mechanism with a locking mechanism of equal or
8226 greater quality than the lock being replaced.
8227 (c) An owner who installs a new lock under Subsection (3)(a) may retain a copy of the
8228 key that opens the new lock.
8229 (d) Notwithstanding any rental agreement, an owner who installs a new lock under
8230 Subsection (3)(a) shall refuse to provide a copy of the key that opens the new lock to the
8231 perpetrator of the act listed in Subsection (1).
8232 (e) Notwithstanding Section [~~78-36-12~~] 78B-6-814, if an owner refuses to provide a
8233 copy of the key under Subsection (3)(d) to a perpetrator who is not barred from the residential
8234 rental unit by a protective order but is a renter on the rental agreement, the perpetrator may file
8235 a petition with a court of competent jurisdiction within 30 days to:
8236 (i) establish whether the perpetrator should be given a key and allowed access to the
8237 residential rental unit; or
8238 (ii) whether the perpetrator should be relieved of further liability under the rental
8239 agreement because of the owner's exclusion of the perpetrator from the residential rental unit.
8240 (f) Notwithstanding Subsection (3)(e)(ii), a perpetrator may not be relieved of further
8241 liability under the rental agreement if the perpetrator is found by the court to have committed
8242 the act upon which the landlord's exclusion of the perpetrator is based.

8243 Section 122. Section **57-22-6** is amended to read:

8244 **57-22-6. Renter's remedies -- Compliance required -- Notice to owner or**
8245 **agent-renter entitled to judicial remedy -- Attorney fees.**

8246 (1) A renter is not entitled to the remedies set forth in this section unless the renter is in
8247 compliance with all provisions of Section 57-22-5.

8248 (2) If a reasonable time has elapsed after the renter has served written notice on the
8249 owner under Section 57-22-4 and the condition described in the notice has not been corrected,
8250 the renter may cause a "notice to repair or correct condition" to be prepared and served on the
8251 owner pursuant to Section [~~78-36-6~~] 78B-6-805. This notice shall:

8252 (a) recite the previous notice served under Subsection 57-22-4 (2);

8253 (b) recite the number of days that have elapsed since the notice was served and state
8254 that under the circumstances such a period of time constitutes the reasonable time allowed
8255 under Section 57-22-4;

8256 (c) state the conditions included in the previous notice which have not been corrected;

8257 (d) make demand that the uncorrected conditions be corrected; and

8258 (e) state that in the event of failure of the owner to commence reasonable corrective
8259 action within three days the renter will seek redress in the courts.

8260 (3) (a) If the owner has not corrected or used due diligence to correct the conditions
8261 following the notice under this section, the renter is entitled to bring an action in district court.

8262 (b) The court shall endorse on the summons the number of days within which the
8263 owner is required to appear and defend the action, which shall not be less than three nor more
8264 than 20 days from the date of service.

8265 (c) Upon a showing of an unjustified refusal to correct or the failure to use due
8266 diligence to correct a condition described in this chapter, the renter is entitled to damages and
8267 injunctive relief as determined by the court.

8268 (d) The damages available to the renter include rent improperly retained or collected.
8269 Injunctive relief includes a declaration of the court terminating the rental agreement and an
8270 order for the repayment of any deposit and rent due.

8271 (e) The prevailing party shall be awarded [~~attorneys'~~] attorney fees commensurate with
8272 the cost of the action brought.

8273 (4) (a) If the renter is notified that the owner intends to terminate the rental agreement

8274 pursuant to Section 57-22-4, the renter is entitled to receive the balance of the rent due and the
8275 deposit on the rental unit within ten days of the date the agreement is terminated.
8276 (b) No renter may be required to move sooner than ten days after the date of notice.
8277 Section 123. Section **58-13-4** is amended to read:
8278 **58-13-4. Liability immunity for health care providers on committees --**
8279 **Evaluating and approving medical care.**
8280 (1) As used in this section, "health care provider" has the same meaning as in Section
8281 [~~78-14-3~~] 78B-3-403.
8282 (2) Health care providers serving in the following capacities and the organizations or
8283 entities sponsoring these activities are immune from liability with respect to deliberations,
8284 decisions, or determinations made or information furnished in good faith and without malice:
8285 (a) serving on committees:
8286 (i) established to determine if hospitals and long-term care facilities are being used
8287 properly;
8288 (ii) established to evaluate and improve the quality of health care or determine whether
8289 provided health care was necessary, appropriate, properly performed, or provided at a
8290 reasonable cost;
8291 (iii) functioning under Pub. L. No. 89-97 or as professional standards review
8292 organizations under Pub. L. No. 92-603;
8293 (iv) that are ethical standards review committees; or
8294 (v) that are similar to committees listed in this Subsection (2) and that are established
8295 by any hospital, professional association, the Utah Medical Association, or one of its
8296 component medical societies to evaluate or review the diagnosis or treatment of, or the
8297 performance of health or hospital services to, patients within this state;
8298 (b) members of licensing boards established under Title 58, Occupations and
8299 Professions, to license and regulate health care providers; and
8300 (c) health care providers or other persons furnishing information to those committees,
8301 as required by law, voluntarily, or upon official request.
8302 (3) This section does not relieve any health care provider from liability incurred in
8303 providing professional care and treatment to any patient.
8304 (4) Health care providers serving on committees or providing information described in

8305 this section are presumed to have acted in good faith and without malice, absent clear and
8306 convincing evidence to the contrary.
8307 Section 124. Section **58-13-5** is amended to read:
8308 **58-13-5. Information relating to adequacy and quality of medical care --**
8309 **Immunity from liability.**
8310 (1) As used in this section, "health care provider" has the same meaning as defined in
8311 Section [~~78-14-3~~] 78B-3-403.
8312 (2) (a) The division, and the boards within the division that act regarding the health
8313 care providers defined in this section, shall adopt rules to establish procedures to obtain
8314 information concerning the quality and adequacy of health care rendered to patients by those
8315 health care providers.
8316 (b) It is the duty of an individual licensed under Title 58, Occupations and Professions,
8317 as a health care provider to furnish information known to him with respect to health care
8318 rendered to patients by any health care provider licensed under Title 58, Occupations and
8319 Professions, as the division or a board may request during the course of the performance of its
8320 duties.
8321 (3) A health care facility as defined in Section 26-21-2 which employs, grants
8322 privileges to, or otherwise permits a licensed health care provider to engage in licensed practice
8323 within the health care facility, and any professional society of licensed health care providers,
8324 shall report any of the following events in writing to the division within sixty days after the
8325 event occurs regarding the licensed health care provider:
8326 (a) terminating employment of an employee for cause related to the employee's practice
8327 as a licensed health care provider;
8328 (b) terminating or restricting privileges for cause to engage in any act or practice
8329 related to practice as a licensed health care provider;
8330 (c) terminating, suspending, or restricting membership or privileges associated with
8331 membership in a professional association for acts of unprofessional, unlawful, incompetent, or
8332 negligent conduct related to practice as a licensed health care provider;
8333 (d) subjecting a licensed health care provider to disciplinary action for a period of more
8334 than 30 days;
8335 (e) a finding that a licensed health care provider has violated professional standards or

8336 ethics;
8337 (f) a finding of incompetence in practice as a licensed health care provider;
8338 (g) a finding of acts of moral turpitude by a licensed health care provider; or
8339 (h) a finding that a licensed health care provider is engaged in abuse of alcohol or
8340 drugs.
8341 (4) This section does not prohibit any action by a health care facility, or professional
8342 society comprised primarily of licensed health care providers to suspend, restrict, or revoke the
8343 employment, privileges, or membership of a health care provider.
8344 (5) The data and information obtained in accordance with this section is classified as a
8345 "protected" record under Title 63, Chapter 2, Government Records Access and Management
8346 Act.
8347 (6) (a) Any person or organization furnishing information in accordance with this
8348 section in response to the request of the division or a board, or voluntarily, is immune from
8349 liability with respect to information provided in good faith and without malice, which good
8350 faith and lack of malice is presumed to exist absent clear and convincing evidence to the
8351 contrary.
8352 (b) The members of the board are immune from liability for any decisions made or
8353 actions taken in response to information acquired by the board if those decisions or actions are
8354 made in good faith and without malice, which good faith and lack of malice is presumed to
8355 exist absent clear and convincing evidence to the contrary.
8356 (7) An individual who is a member of a hospital administration, board, committee,
8357 department, medical staff, or professional organization of health care providers is, and any
8358 hospital, other health care entity, or professional organization conducting or sponsoring the
8359 review, immune from liability arising from participation in a review of a health care provider's
8360 professional ethics, medical competence, moral turpitude, or substance abuse.
8361 (8) This section does not exempt a person licensed under Title 58, Occupations and
8362 Professions, from complying with any reporting requirements established under state or federal
8363 law.
8364 Section 125. Section **58-31b-701** is amended to read:
8365 **58-31b-701. Immunity from liability.**
8366 A person licensed, registered, or certified under this chapter:

8367 (1) who provides emergency care in accordance with Section [~~78-11-22~~] 78B-4-501 is
8368 entitled to the immunity from civil liability provided under that section; and
8369 (2) is considered a health care provider under Chapter 13, Health Care Providers
8370 Immunity from Liability Act, and is entitled to the immunity from civil liability provided under
8371 that chapter.
8372 Section 126. Section **58-37-6** is amended to read:
8373 **58-37-6. License to manufacture, produce, distribute, dispense, administer, or**
8374 **conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records**
8375 **required -- Prescriptions.**
8376 (1) (a) The division may adopt rules relating to the licensing and control of the
8377 manufacture, distribution, production, prescription, administration, dispensing, conducting of
8378 research with, and performing of laboratory analysis upon controlled substances within this
8379 state.
8380 (b) The division may assess reasonable fees to defray the cost of issuing original and
8381 renewal licenses under this chapter pursuant to Section 63-38-3.2.
8382 (2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses,
8383 administers, conducts research with, or performs laboratory analysis upon any controlled
8384 substance in Schedules II through V within this state, or who proposes to engage in
8385 manufacturing, producing, distributing, prescribing, dispensing, administering, conducting
8386 research with, or performing laboratory analysis upon controlled substances included in
8387 Schedules II through V within this state shall obtain a license issued by the division.
8388 (ii) The division shall issue each license under this chapter in accordance with a
8389 two-year renewal cycle established by rule. The division may by rule extend or shorten a
8390 renewal period by as much as one year to stagger the renewal cycles it administers.
8391 (b) Persons licensed to manufacture, produce, distribute, prescribe, dispense,
8392 administer, conduct research with, or perform laboratory analysis upon controlled substances in
8393 Schedules II through V within this state may possess, manufacture, produce, distribute,
8394 prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon
8395 those substances to the extent authorized by their license and in conformity with this chapter.
8396 (c) The following persons are not required to obtain a license and may lawfully possess
8397 controlled substances under this section:

8398 (i) an agent or employee, except a sales representative, of any registered manufacturer,
8399 distributor, or dispenser of any controlled substance, if the agent or employee is acting in the
8400 usual course of his business or employment; however, nothing in this subsection shall be
8401 interpreted to permit an agent, employee, sales representative, or detail man to maintain an
8402 inventory of controlled substances separate from the location of his employer's registered and
8403 licensed place of business;
8404 (ii) a motor carrier or warehouseman, or an employee of a motor carrier or
8405 warehouseman, who possesses any controlled substance in the usual course of his business or
8406 employment; and
8407 (iii) an ultimate user, or any person who possesses any controlled substance pursuant to
8408 a lawful order of a practitioner.
8409 (d) The division may enact rules waiving the license requirement for certain
8410 manufacturers, producers, distributors, prescribers, dispensers, administrators, research
8411 practitioners, or laboratories performing analysis if consistent with the public health and safety.
8412 (e) A separate license is required at each principal place of business or professional
8413 practice where the applicant manufactures, produces, distributes, dispenses, conducts research
8414 with, or performs laboratory analysis upon controlled substances.
8415 (f) The division may enact rules providing for the inspection of a licensee or applicant's
8416 establishment, and may inspect the establishment according to those rules.
8417 (3) (a) Upon proper application, the division shall license a qualified applicant to
8418 manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon
8419 controlled substances included in Schedules I through V, unless it determines that issuance of a
8420 license is inconsistent with the public interest. The division shall not issue a license to any
8421 person to prescribe, dispense, or administer a Schedule I controlled substance. In determining
8422 public interest, the division shall consider whether or not the applicant has:
8423 (i) maintained effective controls against diversion of controlled substances and any
8424 Schedule I or II substance compounded from any controlled substance into other than
8425 legitimate medical, scientific, or industrial channels;
8426 (ii) complied with applicable state and local law;
8427 (iii) been convicted under federal or state laws relating to the manufacture, distribution,
8428 or dispensing of substances;

8429 (iv) past experience in the manufacture of controlled dangerous substances;
8430 (v) established effective controls against diversion; and
8431 (vi) complied with any other factors that the division establishes that promote the
8432 public health and safety.
8433 (b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture,
8434 produce, distribute, conduct research with, or perform laboratory analysis upon controlled
8435 substances in Schedule I other than those specified in the license.
8436 (c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with
8437 substances in Schedules II through V if they are authorized to administer, dispense, or conduct
8438 research under the laws of this state.
8439 (ii) The division need not require a separate license for practitioners engaging in
8440 research with nonnarcotic controlled substances in Schedules II through V where the licensee is
8441 already licensed under this act in another capacity.
8442 (iii) With respect to research involving narcotic substances in Schedules II through V,
8443 or where the division by rule requires a separate license for research of nonnarcotic substances
8444 in Schedules II through V, a practitioner shall apply to the division prior to conducting
8445 research.
8446 (iv) Licensing for purposes of bona fide research with controlled substances by a
8447 practitioner considered qualified may be denied only on a ground specified in Subsection (4),
8448 or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard
8449 adequately his supply of substances against diversion from medical or scientific use.
8450 (v) Practitioners registered under federal law to conduct research in Schedule I
8451 substances may conduct research in Schedule I substances within this state upon furnishing the
8452 division evidence of federal registration.
8453 (d) Compliance by manufacturers, producers, and distributors with the provisions of
8454 federal law respecting registration, excluding fees, entitles them to be licensed under this
8455 chapter.
8456 (e) The division shall initially license those persons who own or operate an
8457 establishment engaged in the manufacture, production, distribution, dispensation, or
8458 administration of controlled substances prior to April 3, 1980, and who are licensed by the
8459 state.

8460 (4) (a) Any license pursuant to Subsection (2) or (3) may be denied, suspended, placed
8461 on probation, or revoked by the division upon finding that the applicant or licensee has:
8462 (i) materially falsified any application filed or required pursuant to this chapter;
8463 (ii) been convicted of an offense under this chapter or any law of the United States, or
8464 any state, relating to any substance defined as a controlled substance;
8465 (iii) been convicted of a felony under any other law of the United States or any state
8466 within five years of the date of the issuance of the license;
8467 (iv) had a federal license denied, suspended, or revoked by competent federal authority
8468 and is no longer authorized to engage in the manufacturing, distribution, or dispensing of
8469 controlled substances;
8470 (v) had his license suspended or revoked by competent authority of another state for
8471 violation of laws or regulations comparable to those of this state relating to the manufacture,
8472 distribution, or dispensing of controlled substances;
8473 (vi) violated any division rule that reflects adversely on the licensee's reliability and
8474 integrity with respect to controlled substances;
8475 (vii) refused inspection of records required to be maintained under this chapter by a
8476 person authorized to inspect them; or
8477 (viii) prescribed, dispensed, administered, or injected an anabolic steroid for the
8478 purpose of manipulating human hormonal structure so as to:
8479 (A) increase muscle mass, strength, or weight without medical necessity and without a
8480 written prescription by any practitioner in the course of his professional practice; or
8481 (B) improve performance in any form of human exercise, sport, or game.
8482 (b) The division may limit revocation or suspension of a license to a particular
8483 controlled substance with respect to which grounds for revocation or suspension exist.
8484 (c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to
8485 this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of
8486 Occupational and Professional Licensing Act, and conducted in conjunction with the
8487 appropriate representative committee designated by the director of the department.
8488 (ii) Nothing in this Subsection (4)(c) gives the Division of Occupational and
8489 Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses,
8490 except where the division is designated by law to perform those functions, or, when not

8491 designated by law, is designated by the executive director of the Department of Commerce to
8492 conduct the proceedings.
8493 (d) (i) The division may suspend any license simultaneously with the institution of
8494 proceedings under this section if it finds there is an imminent danger to the public health or
8495 safety.
8496 (ii) Suspension shall continue in effect until the conclusion of proceedings, including
8497 judicial review, unless withdrawn by the division or dissolved by a court of competent
8498 jurisdiction.
8499 (e) (i) If a license is suspended or revoked under this Subsection (4), all controlled
8500 substances owned or possessed by the licensee may be placed under seal in the discretion of the
8501 division.
8502 (ii) Disposition may not be made of substances under seal until the time for taking an
8503 appeal has lapsed, or until all appeals have been concluded, unless a court, upon application,
8504 orders the sale of perishable substances and the proceeds deposited with the court.
8505 (iii) If a revocation order becomes final, all controlled substances shall be forfeited.
8506 (f) The division shall notify promptly the Drug Enforcement Administration of all
8507 orders suspending or revoking a license and all forfeitures of controlled substances.
8508 (5) (a) Persons licensed under Subsection (2) or (3) shall maintain records and
8509 inventories in conformance with the record keeping and inventory requirements of federal and
8510 state law and any additional rules issued by the division.
8511 (b) (i) Every physician, dentist, veterinarian, practitioner, or other person who is
8512 authorized to administer or professionally use a controlled substance shall keep a record of the
8513 drugs received by him and a record of all drugs administered, dispensed, or professionally used
8514 by him otherwise than by a prescription.
8515 (ii) A person using small quantities or solutions or other preparations of those drugs for
8516 local application has complied with this Subsection (5)(b) if he keeps a record of the quantity,
8517 character, and potency of those solutions or preparations purchased or prepared by him, and of
8518 the dates when purchased or prepared.
8519 (6) Controlled substances in Schedules I through V may be distributed only by a
8520 licensee and pursuant to an order form prepared in compliance with division rules or a lawful
8521 order under the rules and regulations of the United States.

8522 (7) (a) A person may not write or authorize a prescription for a controlled substance
8523 unless he is:
8524 (i) a practitioner authorized to prescribe drugs and medicine under the laws of this state
8525 or under the laws of another state having similar standards; and
8526 (ii) licensed under this chapter or under the laws of another state having similar
8527 standards.
8528 (b) A person other than a pharmacist licensed under the laws of this state, or his
8529 licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a
8530 controlled substance.
8531 (c) (i) A controlled substance may not be dispensed without the written prescription of
8532 a practitioner, if the written prescription is required by the federal Controlled Substances Act.
8533 (ii) That written prescription shall be made in accordance with Subsection (7)(a) and in
8534 conformity with Subsection (7)(d).
8535 (iii) In emergency situations, as defined by division rule, controlled substances may be
8536 dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms
8537 designated by the division and filed by the pharmacy.
8538 (iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with
8539 Subsection (7)(d).
8540 (d) Except for emergency situations designated by the division, a person may not issue,
8541 fill, compound, or dispense a prescription for a controlled substance unless the prescription is
8542 signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of
8543 the prescriber as authorized by division rule, and contains the following information:
8544 (i) the name, address, and registry number of the prescriber;
8545 (ii) the name, address, and age of the person to whom or for whom the prescription is
8546 issued;
8547 (iii) the date of issuance of the prescription; and
8548 (iv) the name, quantity, and specific directions for use by the ultimate user of the
8549 controlled substance.
8550 (e) A prescription may not be written, issued, filled, or dispensed for a Schedule I
8551 controlled substance.
8552 (f) Except when administered directly to an ultimate user by a licensed practitioner,

8553 controlled substances are subject to the following restrictions:
8554 (i) (A) A prescription for a Schedule II substance may not be refilled.
8555 (B) A Schedule II controlled substance may not be filled in a quantity to exceed a
8556 one-month's supply, as directed on the daily dosage rate of the prescriptions.
8557 (ii) A Schedule III or IV controlled substance may be filled only within six months of
8558 issuance, and may not be refilled more than six months after the date of its original issuance or
8559 be refilled more than five times after the date of the prescription unless renewed by the
8560 practitioner.
8561 (iii) All other controlled substances in Schedule V may be refilled as the prescriber's
8562 prescription directs, but they may not be refilled one year after the date the prescription was
8563 issued unless renewed by the practitioner.
8564 (iv) Any prescription for a Schedule II substance may not be dispensed if it is not
8565 presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days
8566 after the date the prescription was issued, or 30 days after the dispensing date, if that date is
8567 specified separately from the date of issue.
8568 (v) A practitioner may issue more than one prescription at the same time for the same
8569 Schedule II controlled substance, but only under the following conditions:
8570 (A) no more than three prescriptions for the same Schedule II controlled substance may
8571 be issued at the same time;
8572 (B) no one prescription may exceed a 30-day supply;
8573 (C) a second or third prescription shall include the date of issuance and the date for
8574 dispensing; and
8575 (D) unless the practitioner determines there is a valid medical reason to the contrary,
8576 the date for dispensing a second or third prescription may not be fewer than 30 days from the
8577 dispensing date of the previous prescription.
8578 (vi) Each prescription for a controlled substance may contain only one controlled
8579 substance per prescription form and may not contain any other legend drug or prescription
8580 item.
8581 (g) An order for a controlled substance in Schedules II through V for use by an
8582 inpatient or an outpatient of a licensed hospital is exempt from all requirements of this
8583 Subsection (7) if the order is:

8584 (i) issued or made by a prescribing practitioner who holds an unrestricted registration
8585 with the federal Drug Enforcement Administration, and an active Utah controlled substance
8586 license in good standing issued by the division under this section, or a medical resident who is
8587 exempted from licensure under Subsection 58-1-307(1)(c);
8588 (ii) authorized by the prescribing practitioner treating the patient and the prescribing
8589 practitioner designates the quantity ordered;
8590 (iii) entered upon the record of the patient, the record is signed by the prescriber
8591 affirming his authorization of the order within 48 hours after filling or administering the order,
8592 and the patient's record reflects the quantity actually administered; and
8593 (iv) filled and dispensed by a pharmacist practicing his profession within the physical
8594 structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital
8595 and the amount taken from the supply is administered directly to the patient authorized to
8596 receive it.
8597 (h) A practitioner licensed under this chapter may not prescribe, administer, or
8598 dispense a controlled substance to a child, without first obtaining the consent required in
8599 Section [~~78-14-5~~] 78B-3-406 of a parent, guardian, or person standing in loco parentis of the
8600 child except in cases of an emergency. For purposes of this Subsection (7)(h), "child" has the
8601 same meaning as defined in Section [~~78-3a-103~~] 78A-6-105, and "emergency" means any
8602 physical condition requiring the administration of a controlled substance for immediate relief
8603 of pain or suffering.
8604 (i) A practitioner licensed under this chapter may not prescribe or administer dosages
8605 of a controlled substance in excess of medically recognized quantities necessary to treat the
8606 ailment, malady, or condition of the ultimate user.
8607 (j) A practitioner licensed under this chapter may not prescribe, administer, or dispense
8608 any controlled substance to another person knowing that the other person is using a false name,
8609 address, or other personal information for the purpose of securing the controlled substance.
8610 (k) A person who is licensed under this chapter to manufacture, distribute, or dispense
8611 a controlled substance may not manufacture, distribute, or dispense a controlled substance to
8612 another licensee or any other authorized person not authorized by this license.
8613 (l) A person licensed under this chapter may not omit, remove, alter, or obliterate a
8614 symbol required by this chapter or by a rule issued under this chapter.

8615 (m) A person licensed under this chapter may not refuse or fail to make, keep, or
8616 furnish any record notification, order form, statement, invoice, or information required under
8617 this chapter.
8618 (n) A person licensed under this chapter may not refuse entry into any premises for
8619 inspection as authorized by this chapter.
8620 (o) A person licensed under this chapter may not furnish false or fraudulent material
8621 information in any application, report, or other document required to be kept by this chapter or
8622 willfully make any false statement in any prescription, order, report, or record required by this
8623 chapter.
8624 (8) (a) (i) Any person licensed under this chapter who is found by the division to have
8625 violated any of the provisions of Subsections (7)(k) through (7)(o) is subject to a penalty not to
8626 exceed $5,000. The division shall determine the procedure for adjudication of any violations in
8627 accordance with Sections 58-1-106 and 58-1-108.
8628 (ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) in the
8629 General Fund as a dedicated credit to be used by the division under Subsection 58-37-7.7(1).
8630 (b) Any person who knowingly and intentionally violates Subsections (7)(h) through
8631 (7)(j) is:
8632 (i) upon first conviction, guilty of a class B misdemeanor;
8633 (ii) upon second conviction, guilty of a class A misdemeanor; and
8634 (iii) on third or subsequent conviction, guilty of a third degree felony.
8635 (c) Any person who knowingly and intentionally violates Subsections (7)(k) through
8636 (7)(o) shall upon conviction be guilty of a third degree felony.
8637 (9) Any information communicated to any licensed practitioner in an attempt to
8638 unlawfully procure, or to procure the administration of, a controlled substance is not considered
8639 to be a privileged communication.
8640 Section 127. Section **58-60-114** is amended to read:
8641 **58-60-114. Confidentiality -- Exemptions.**
8642 (1) A mental health therapist under this chapter may not disclose any confidential
8643 communication with a client or patient without the express consent of:
8644 (a) the client or patient;
8645 (b) the parent or legal guardian of a minor client or patient; or

8646 (c) the authorized agent of a client or patient.
8647 (2) A mental health therapist under this chapter is not subject to Subsection (1) if:
8648 (a) he is permitted or required by state or federal law, rule, regulation, or order to report
8649 or disclose any confidential communication, including:
8650 (i) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting
8651 Requirements;
8652 (ii) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of
8653 Disabled Adult;
8654 (iii) reporting under Title [~~78~~] 78B, Chapter [~~14a~~] 3, Part 5, Limitation of Therapist's
8655 Duty to Warn;
8656 (iv) reporting of a communicable disease as required under Section 26-6-6;
8657 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made
8658 under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or
8659 (c) the disclosure is made under a generally recognized professional or ethical standard
8660 that authorizes or requires the disclosure.
8661 Section 128. Section **58-60-509** is amended to read:
8662 **58-60-509. Confidentiality -- Exemptions.**
8663 (1) A licensee under this part may not disclose any confidential communication with a
8664 client or patient without the express consent of:
8665 (a) the client or patient;
8666 (b) the parent or legal guardian of a minor client or patient; or
8667 (c) the authorized agent of a client or patient.
8668 (2) A licensee under this part is not subject to Subsection (1) if:
8669 (a) he is permitted or required by state or federal law, rule, regulation, or order to report
8670 or disclose any confidential communication, including:
8671 (i) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting
8672 Requirements;
8673 (ii) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of
8674 Vulnerable Adults;
8675 (iii) reporting under Title [~~78~~] 78B, Chapter [~~14a~~] 3, Part 5, Limitation of Therapist's
8676 Duty to Warn; and

8677 (iv) reporting of a communicable disease as required under Section 26-6-6;
8678 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made
8679 under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or
8680 (c) the disclosure is made under a generally recognized professional or ethical standard
8681 that authorizes or requires the disclosure.
8682 Section 129. Section **58-61-602** is amended to read:
8683 **58-61-602. Confidentiality -- Exemptions.**
8684 (1) A psychologist under this chapter may not disclose any confidential communication
8685 with a client or patient without the express consent of:
8686 (a) the client or patient;
8687 (b) the parent or legal guardian of a minor client or patient; or
8688 (c) the authorized agent of a client or patient.
8689 (2) A psychologist under this chapter is not subject to Subsection (1) if:
8690 (a) he is permitted or required by state or federal law, rule, regulation, or order to report
8691 or disclose any confidential communication, including:
8692 (i) reporting under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting
8693 Requirements;
8694 (ii) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of
8695 Disabled Adult;
8696 (iii) reporting under Title [~~78~~] 78B, Chapter [~~14a~~] 3, Part 5, Limitation of Therapist's
8697 Duty to Warn;
8698 (iv) reporting of a communicable disease as required under Section 26-6-6;
8699 (b) the disclosure is part of an administrative, civil, or criminal proceeding and is made
8700 under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or
8701 (c) the disclosure is made under a generally recognized professional or ethical standard
8702 that authorizes or requires the disclosure.
8703 Section 130. Section **58-74-401** is amended to read:
8704 **58-74-401. Grounds for denial of license -- Disciplinary proceedings.**
8705 Grounds for refusing to issue a license to an applicant, for refusing to renew the license
8706 of a licensee, for revoking, suspending, restricting, or placing on probation the license of a
8707 licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and

8708 desist order shall be in accordance with Sections 58-1-401 and [~~78-56-104~~] 78A-2-404.
8709 Section 131. Section **58-74-502** is amended to read:
8710 **58-74-502. Unprofessional conduct.**
8711 "Unprofessional conduct" includes:
8712 (1) conduct unbecoming a person licensed as a certified court reporter or which is
8713 detrimental to the interests of the public;
8714 (2) willful or negligent betrayal or disclosure of confidential information about which
8715 the licensee becomes knowledgeable as a result of or incidental to his practice as a licensee;
8716 (3) false or deceptive representation of a licensee's skills, competence, capability, or
8717 resources as a certified court reporter;
8718 (4) offering, undertaking, or agreeing to undertake an assignment as a certified court
8719 reporter for which the licensee is not qualified, for which the licensee cannot complete the
8720 assignment in a timely manner, or for which the licensee does not have the resources to
8721 complete the assignment as agreed in a professional manner;
8722 (5) the use of any chemical, drug, or alcohol in any unlawful manner or in any manner
8723 which negatively affects the ability of the licensee to competently practice as a certified court
8724 reporter;
8725 (6) willfully and intentionally making any false or fraudulent record in the performance
8726 of his duties as a certified court reporter;
8727 (7) any conduct contrary to the recognized standards and ethics of the profession of a
8728 certified court reporter;
8729 (8) gross incompetence in practice as a certified court reporter;
8730 (9) violation of any provision of this chapter, Section [~~78-56-104~~] 78A-2-404, or rules
8731 promulgated to regulate the practice of court reporters;
8732 (10) conviction of a felony or any other crime which is considered by the board to
8733 represent activity detrimental to the public interest as that interest is reflected in the licensee
8734 continuing to practice as a certified court reporter; or
8735 (11) attesting to or "signing off" on the transcript of any recorded proceeding unless
8736 that proceeding was recorded by that person while physically present at the proceeding or was
8737 personally transcribed by that person from an electronically recorded process.
8738 Section 132. Section **59-1-403** is amended to read:

8739 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**
8740 (1) (a) Any of the following may not divulge or make known in any manner any
8741 information gained by that person from any return filed with the commission:
8742 (i) a tax commissioner;
8743 (ii) an agent, clerk, or other officer or employee of the commission; or
8744 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
8745 town.
8746 (b) An official charged with the custody of a return filed with the commission is not
8747 required to produce the return or evidence of anything contained in the return in any action or
8748 proceeding in any court, except:
8749 (i) in accordance with judicial order;
8750 (ii) on behalf of the commission in any action or proceeding under:
8751 (A) this title; or
8752 (B) other law under which persons are required to file returns with the commission;
8753 (iii) on behalf of the commission in any action or proceeding to which the commission
8754 is a party; or
8755 (iv) on behalf of any party to any action or proceeding under this title if the report or
8756 facts shown by the return are directly involved in the action or proceeding.
8757 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
8758 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
8759 pertinent to the action or proceeding.
8760 (2) This section does not prohibit:
8761 (a) a person or that person's duly authorized representative from receiving a copy of
8762 any return or report filed in connection with that person's own tax;
8763 (b) the publication of statistics as long as the statistics are classified to prevent the
8764 identification of particular reports or returns; and
8765 (c) the inspection by the attorney general or other legal representative of the state of the
8766 report or return of any taxpayer:
8767 (i) who brings action to set aside or review a tax based on the report or return;
8768 (ii) against whom an action or proceeding is contemplated or has been instituted under
8769 this title; or

8770 (iii) against whom the state has an unsatisfied money judgment.
8771 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
8772 commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative
8773 Rulemaking Act, provide for a reciprocal exchange of information with:
8774 (i) the United States Internal Revenue Service; or
8775 (ii) the revenue service of any other state.
8776 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
8777 corporate franchise tax, the commission may by rule, made in accordance with Title 63,
8778 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns
8779 and other written statements with the federal government, any other state, any of the political
8780 subdivisions of another state, or any political subdivision of this state, except as limited by
8781 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
8782 government grant substantially similar privileges to this state.
8783 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
8784 corporate franchise tax, the commission may by rule, in accordance with Title 63, Chapter 46a,
8785 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
8786 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
8787 due.
8788 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
8789 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
8790 requested by the executive secretary, any records, returns, or other information filed with the
8791 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
8792 regarding the environmental assurance program participation fee.
8793 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
8794 provide that person sales and purchase volume data reported to the commission on a report,
8795 return, or other information filed with the commission under:
8796 (i) Chapter 13, Part 2, Motor Fuel; or
8797 (ii) Chapter 13, Part 4, Aviation Fuel.
8798 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
8799 as defined in Section 59-22-202, the commission shall report to the manufacturer:
8800 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the

8801 manufacturer and reported to the commission for the previous calendar year under Section
8802 59-14-407; and
8803 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
8804 manufacturer for which a tax refund was granted during the previous calendar year under
8805 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).
8806 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
8807 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
8808 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).
8809 (h) Notwithstanding Subsection (1), the commission may:
8810 (i) provide to the Division of Consumer Protection within the Department of
8811 Commerce and the attorney general data:
8812 (A) reported to the commission under Section 59-14-212; or
8813 (B) related to a violation under Section 59-14-211; and
8814 (ii) upon request provide to any person data reported to the commission under
8815 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).
8816 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
8817 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning
8818 and Budget, provide to the committee or office the total amount of revenues collected by the
8819 commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
8820 specified by the committee or office.
8821 (j) Notwithstanding Subsection (1), the commission shall at the request of the
8822 Legislature provide to the Legislature the total amount of sales or uses exempt under
8823 Subsection 59-12-104(46) reported to the commission in accordance with Section 59-12-105.
8824 (k) Notwithstanding Subsection (1), the commission shall make the directory required
8825 by Section 59-14-603 available for public inspection.
8826 (l) Notwithstanding Subsection (1), the commission may share information with
8827 federal, state, or local agencies as provided in Subsection 59-14-606(3).
8828 (m) (i) Notwithstanding Subsection (1), the commission shall provide the Office of
8829 Recovery Services within the Department of Human Services any relevant information
8830 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
8831 who has become obligated to the Office of Recovery Services.

8832 (ii) The information described in Subsection (3)(m)(i) may be provided by the Office
8833 of Recovery Services to any other state's child support collection agency involved in enforcing
8834 that support obligation.
8835 (n) (i) Notwithstanding Subsection (1), upon request from the state court administrator,
8836 the commission shall provide to the state court administrator, the name, address, telephone
8837 number, county of residence, and Social Security number on resident returns filed under
8838 Chapter 10, Individual Income Tax Act.
8839 (ii) The state court administrator may use the information described in Subsection
8840 (3)(n)(i) only as a source list for the master jury list described in Section [~~78-46-10~~] 78B-1-106.
8841 (o) Notwithstanding Subsection (1), the commission shall at the request of a
8842 committee, commission, or task force of the Legislature provide to the committee, commission,
8843 or task force of the Legislature any information relating to a tax imposed under Chapter 9,
8844 Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.
8845 (p) (i) As used in this Subsection (3)(p), "office" means the:
8846 (A) Office of the Legislative Fiscal Analyst; or
8847 (B) Office of Legislative Research and General Counsel.
8848 (ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(p)(iii),
8849 the commission shall at the request of an office provide to the office all information:
8850 (A) gained by the commission; and
8851 (B) required to be attached to or included in returns filed with the commission.
8852 (iii) (A) An office may not request and the commission may not provide to an office a
8853 person's:
8854 (I) address;
8855 (II) name;
8856 (III) Social Security number; or
8857 (IV) taxpayer identification number.
8858 (B) The commission shall in all instances protect the privacy of a person as required by
8859 Subsection (3)(p)(iii)(A).
8860 (iv) An office may provide information received from the commission in accordance
8861 with this Subsection (3)(p) only:
8862 (A) as:

8863 (I) a fiscal estimate;
8864 (II) fiscal note information; or
8865 (III) statistical information; and
8866 (B) if the information is classified to prevent the identification of a particular return.
8867 (v) (A) A person may not request information from an office under Title 63, Chapter 2,
8868 Government Records Access and Management Act, or this section, if that office received the
8869 information from the commission in accordance with this Subsection (3)(p).
8870 (B) An office may not provide to a person that requests information in accordance with
8871 Subsection (3)(p)(v)(A) any information other than the information the office provides in
8872 accordance with Subsection (3)(p)(iv).
8873 (4) (a) Reports and returns shall be preserved for at least three years.
8874 (b) After the three-year period provided in Subsection (4)(a) the commission may
8875 destroy a report or return.
8876 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.
8877 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
8878 the person shall be dismissed from office and be disqualified from holding public office in this
8879 state for a period of five years thereafter.
8880 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
8881 accordance with Subsection (3)(p)(iii) or a person that requests information in accordance with
8882 Subsection (3)(p)(v):
8883 (i) is not guilty of a class A misdemeanor; and
8884 (ii) is not subject to:
8885 (A) dismissal from office in accordance with Subsection (5)(b); or
8886 (B) disqualification from holding public office in accordance with Subsection (5)(b).
8887 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.
8888 Section 133. Section **59-12-102** is amended to read:
8889 **59-12-102. Definitions.**
8890 As used in this chapter:
8891 (1) (a) "Admission or user fees" includes season passes.
8892 (b) "Admission or user fees" does not include annual membership dues to private
8893 organizations.

8894 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
8895 Section 59-12-102.1.
8896 (3) "Agreement combined tax rate" means the sum of the tax rates:
8897 (a) listed under Subsection (4); and
8898 (b) that are imposed within a local taxing jurisdiction.
8899 (4) "Agreement sales and use tax" means a tax imposed under:
8900 (a) Subsection 59-12-103(2)(a)(i);
8901 (b) Subsection 59-12-103(2)(b)(i);
8902 (c) Subsection 59-12-103(2)(c)(i);
8903 (d) Subsection 59-12-103(2)(d)(i);
8904 (e) Subsection 59-12-103(2)(e)(ii)(A);
8905 (f) Subsection 59-12-103(2)(e)(iii)(A);
8906 (g) Section 59-12-204;
8907 (h) Section 59-12-401;
8908 (i) Section 59-12-402;
8909 (j) Section 59-12-501;
8910 (k) Section 59-12-502;
8911 (l) Section 59-12-703;
8912 (m) Section 59-12-802;
8913 (n) Section 59-12-804;
8914 (o) Section 59-12-1001;
8915 (p) Section 59-12-1102;
8916 (q) Section 59-12-1302;
8917 (r) Section 59-12-1402;
8918 (s) Section 59-12-1503; or
8919 (t) Section 59-12-1703.
8920 (5) "Aircraft" is as defined in Section 72-10-102.
8921 (6) "Alcoholic beverage" means a beverage that:
8922 (a) is suitable for human consumption; and
8923 (b) contains .5% or more alcohol by volume.
8924 (7) "Area agency on aging" is as defined in Section 62A-3-101.

8925 (8) "Assisted amusement device" means an amusement device, skill device, or ride
8926 device that is started and stopped by an individual:
8927 (a) who is not the purchaser or renter of the right to use or operate the amusement
8928 device, skill device, or ride device; and
8929 (b) at the direction of the seller of the right to use the amusement device, skill device,
8930 or ride device.
8931 (9) "Assisted cleaning or washing of tangible personal property" means cleaning or
8932 washing of tangible personal property if the cleaning or washing labor is primarily performed
8933 by an individual:
8934 (a) who is not the purchaser of the cleaning or washing of the tangible personal
8935 property; and
8936 (b) at the direction of the seller of the cleaning or washing of the tangible personal
8937 property.
8938 (10) "Authorized carrier" means:
8939 (a) in the case of vehicles operated over public highways, the holder of credentials
8940 indicating that the vehicle is or will be operated pursuant to both the International Registration
8941 Plan and the International Fuel Tax Agreement;
8942 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
8943 certificate or air carrier's operating certificate; or
8944 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
8945 stock, the holder of a certificate issued by the United States Surface Transportation Board.
8946 (11) (a) Except as provided in Subsection (11)(b), "biomass energy" means any of the
8947 following that is used as the primary source of energy to produce fuel or electricity:
8948 (i) material from a plant or tree; or
8949 (ii) other organic matter that is available on a renewable basis, including:
8950 (A) slash and brush from forests and woodlands;
8951 (B) animal waste;
8952 (C) methane produced:
8953 (I) at landfills; or
8954 (II) as a byproduct of the treatment of wastewater residuals;
8955 (D) aquatic plants; and

8956 (E) agricultural products.
8957 (b) "Biomass energy" does not include:
8958 (i) black liquor;
8959 (ii) treated woods; or
8960 (iii) biomass from municipal solid waste other than methane produced:
8961 (A) at landfills; or
8962 (B) as a byproduct of the treatment of wastewater residuals.
8963 (12) (a) "Bundled transaction" means the sale of two or more items of tangible personal
8964 property if:
8965 (i) one or more of the items of tangible personal property is food and food ingredients;
8966 and
8967 (ii) the items of tangible personal property are:
8968 (A) distinct and identifiable; and
8969 (B) sold for one price that is not itemized.
8970 (b) "Bundled transaction" does not include the sale of tangible personal property if the
8971 sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of
8972 tangible personal property included in the transaction.
8973 (c) For purposes of Subsection (12)(a)(ii)(A), tangible personal property that is distinct
8974 and identifiable does not include:
8975 (i) packaging that:
8976 (A) accompanies the sale of the tangible personal property; and
8977 (B) is incidental or immaterial to the sale of the tangible personal property;
8978 (ii) tangible personal property provided free of charge with the purchase of another
8979 item of tangible personal property; or
8980 (iii) an item of tangible personal property included in the definition of "purchase
8981 price."
8982 (d) For purposes of Subsection (12)(c)(ii), an item of tangible personal property is
8983 provided free of charge with the purchase of another item of tangible personal property if the
8984 sales price of the purchased item of tangible personal property does not vary depending on the
8985 inclusion of the tangible personal property provided free of charge.
8986 (13) "Certified automated system" means software certified by the governing board of

8987 the agreement in accordance with Section 59-12-102.1 that:
8988 (a) calculates the agreement sales and use tax imposed within a local taxing
8989 jurisdiction:
8990 (i) on a transaction; and
8991 (ii) in the states that are members of the agreement;
8992 (b) determines the amount of agreement sales and use tax to remit to a state that is a
8993 member of the agreement; and
8994 (c) maintains a record of the transaction described in Subsection (13)(a)(i).
8995 (14) "Certified service provider" means an agent certified:
8996 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
8997 and
8998 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
8999 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's
9000 own purchases.
9001 (15) (a) Subject to Subsection (15)(b), "clothing" means all human wearing apparel
9002 suitable for general use.
9003 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
9004 commission shall make rules:
9005 (i) listing the items that constitute "clothing"; and
9006 (ii) that are consistent with the list of items that constitute "clothing" under the
9007 agreement.
9008 (16) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
9009 (17) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
9010 fuels that does not constitute industrial use under Subsection (42) or residential use under
9011 Subsection (80).
9012 (18) (a) "Common carrier" means a person engaged in or transacting the business of
9013 transporting passengers, freight, merchandise, or other property for hire within this state.
9014 (b) (i) "Common carrier" does not include a person who, at the time the person is
9015 traveling to or from that person's place of employment, transports a passenger to or from the
9016 passenger's place of employment.
9017 (ii) For purposes of Subsection (18)(b)(i), in accordance with Title 63, Chapter 46a,

9018 Utah Administrative Rulemaking Act, the commission may make rules defining what
9019 constitutes a person's place of employment.
9020 (19) "Component part" includes:
9021 (a) poultry, dairy, and other livestock feed, and their components;
9022 (b) baling ties and twine used in the baling of hay and straw;
9023 (c) fuel used for providing temperature control of orchards and commercial
9024 greenhouses doing a majority of their business in wholesale sales, and for providing power for
9025 off-highway type farm machinery; and
9026 (d) feed, seeds, and seedlings.
9027 (20) "Computer" means an electronic device that accepts information:
9028 (a) (i) in digital form; or
9029 (ii) in a form similar to digital form; and
9030 (b) manipulates that information for a result based on a sequence of instructions.
9031 (21) "Computer software" means a set of coded instructions designed to cause:
9032 (a) a computer to perform a task; or
9033 (b) automatic data processing equipment to perform a task.
9034 (22) "Construction materials" means any tangible personal property that will be
9035 converted into real property.
9036 (23) "Delivered electronically" means delivered to a purchaser by means other than
9037 tangible storage media.
9038 (24) (a) "Delivery charge" means a charge:
9039 (i) by a seller of:
9040 (A) tangible personal property; or
9041 (B) services; and
9042 (ii) for preparation and delivery of the tangible personal property or services described
9043 in Subsection (24)(a)(i) to a location designated by the purchaser.
9044 (b) "Delivery charge" includes a charge for the following:
9045 (i) transportation;
9046 (ii) shipping;
9047 (iii) postage;
9048 (iv) handling;

9049 (v) crating; or
9050 (vi) packing.
9051 (25) (a) "Dental prosthesis" means the following if fabricated in a laboratory:
9052 (i) a bridge;
9053 (ii) a crown if that crown covers at least 75% of a tooth structure;
9054 (iii) a denture;
9055 (iv) an implant;
9056 (v) an orthodontic device designed to:
9057 (A) retain the position or spacing of teeth; and
9058 (B) replace a missing tooth;
9059 (vi) a partial denture; or
9060 (vii) a device similar to Subsections (25)(a)(i) through (vi).
9061 (b) "Dental prosthesis" does not include an appliance or device, other than a device
9062 described in Subsection (25)(a), if that appliance or device is used in orthodontic therapy to
9063 apply force to the teeth and their supporting structures to:
9064 (i) produce changes in their relationship to each other; and
9065 (ii) control their growth and development.
9066 (26) "Dietary supplement" means a product, other than tobacco, that:
9067 (a) is intended to supplement the diet;
9068 (b) contains one or more of the following dietary ingredients:
9069 (i) a vitamin;
9070 (ii) a mineral;
9071 (iii) an herb or other botanical;
9072 (iv) an amino acid;
9073 (v) a dietary substance for use by humans to supplement the diet by increasing the total
9074 dietary intake; or
9075 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
9076 described in Subsections (26)(b)(i) through (v);
9077 (c) (i) except as provided in Subsection (26)(c)(ii), is intended for ingestion in:
9078 (A) tablet form;
9079 (B) capsule form;

9080 (C) powder form;
9081 (D) softgel form;
9082 (E) gelcap form; or
9083 (F) liquid form; or
9084 (ii) notwithstanding Subsection (26)(c)(i), if the product is not intended for ingestion in
9085 a form described in Subsections (26)(c)(i)(A) through (F), is not represented:
9086 (A) as conventional food; and
9087 (B) for use as a sole item of:
9088 (I) a meal; or
9089 (II) the diet; and
9090 (d) is required to be labeled as a dietary supplement:
9091 (i) identifiable by the "Supplemental Facts" box found on the label; and
9092 (ii) as required by 21 C.F.R. Sec. 101.36.
9093 (27) (a) "Direct mail" means printed material delivered or distributed by United States
9094 mail or other delivery service:
9095 (i) to:
9096 (A) a mass audience; or
9097 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
9098 (ii) if the cost of the printed material is not billed directly to the recipients.
9099 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a
9100 purchaser to a seller of direct mail for inclusion in a package containing the printed material.
9101 (c) "Direct mail" does not include multiple items of printed material delivered to a
9102 single address.
9103 (28) (a) "Disposable home medical equipment or supplies" means medical equipment
9104 or supplies that:
9105 (i) cannot withstand repeated use; and
9106 (ii) are purchased by, for, or on behalf of a person other than:
9107 (A) a health care facility as defined in Section 26-21-2;
9108 (B) a health care provider as defined in Section [~~78-14-3~~] 78B-3-403;
9109 (C) an office of a health care provider described in Subsection (28)(a)(ii)(B); or
9110 (D) a person similar to a person described in Subsections (28)(a)(ii)(A) through (C).

9111 (b) "Disposable home medical equipment or supplies" does not include:
9112 (i) a drug;
9113 (ii) durable medical equipment;
9114 (iii) a hearing aid;
9115 (iv) a hearing aid accessory;
9116 (v) mobility enhancing equipment; or
9117 (vi) tangible personal property used to correct impaired vision, including:
9118 (A) eyeglasses; or
9119 (B) contact lenses.
9120 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
9121 commission may by rule define what constitutes medical equipment or supplies.
9122 (29) (a) "Drug" means a compound, substance, or preparation, or a component of a
9123 compound, substance, or preparation that is:
9124 (i) recognized in:
9125 (A) the official United States Pharmacopoeia;
9126 (B) the official Homeopathic Pharmacopoeia of the United States;
9127 (C) the official National Formulary; or
9128 (D) a supplement to a publication listed in Subsections (29)(a)(i)(A) through (C);
9129 (ii) intended for use in the:
9130 (A) diagnosis of disease;
9131 (B) cure of disease;
9132 (C) mitigation of disease;
9133 (D) treatment of disease; or
9134 (E) prevention of disease; or
9135 (iii) intended to affect:
9136 (A) the structure of the body; or
9137 (B) any function of the body.
9138 (b) "Drug" does not include:
9139 (i) food and food ingredients;
9140 (ii) a dietary supplement;
9141 (iii) an alcoholic beverage; or

9142 (iv) a prosthetic device.
9143 (30) (a) Except as provided in Subsection (30)(c), "durable medical equipment" means
9144 equipment that:
9145 (i) can withstand repeated use;
9146 (ii) is primarily and customarily used to serve a medical purpose;
9147 (iii) generally is not useful to a person in the absence of illness or injury; and
9148 (iv) is not worn in or on the body.
9149 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
9150 equipment described in Subsection (30)(a).
9151 (c) Notwithstanding Subsection (30)(a), "durable medical equipment" does not include
9152 mobility enhancing equipment.
9153 (31) "Electronic" means:
9154 (a) relating to technology; and
9155 (b) having:
9156 (i) electrical capabilities;
9157 (ii) digital capabilities;
9158 (iii) magnetic capabilities;
9159 (iv) wireless capabilities;
9160 (v) optical capabilities;
9161 (vi) electromagnetic capabilities; or
9162 (vii) capabilities similar to Subsections (31)(b)(i) through (vi).
9163 (32) "Employee" is as defined in Section 59-10-401.
9164 (33) "Fixed guideway" means a public transit facility that uses and occupies:
9165 (a) rail for the use of public transit; or
9166 (b) a separate right-of-way for the use of public transit.
9167 (34) (a) "Food and food ingredients" means substances:
9168 (i) regardless of whether the substances are in:
9169 (A) liquid form;
9170 (B) concentrated form;
9171 (C) solid form;
9172 (D) frozen form;

9173 (E) dried form; or
9174 (F) dehydrated form; and
9175 (ii) that are:
9176 (A) sold for:
9177 (I) ingestion by humans; or
9178 (II) chewing by humans; and
9179 (B) consumed for the substance's:
9180 (I) taste; or
9181 (II) nutritional value.
9182 (b) "Food and food ingredients" includes an item described in Subsection (66)(b)(iii).
9183 (c) "Food and food ingredients" does not include:
9184 (i) an alcoholic beverage;
9185 (ii) tobacco; or
9186 (iii) prepared food.
9187 (35) (a) "Fundraising sales" means sales:
9188 (i) (A) made by a school; or
9189 (B) made by a school student;
9190 (ii) that are for the purpose of raising funds for the school to purchase equipment,
9191 materials, or provide transportation; and
9192 (iii) that are part of an officially sanctioned school activity.
9193 (b) For purposes of Subsection (35)(a)(iii), "officially sanctioned school activity"
9194 means a school activity:
9195 (i) that is conducted in accordance with a formal policy adopted by the school or school
9196 district governing the authorization and supervision of fundraising activities;
9197 (ii) that does not directly or indirectly compensate an individual teacher or other
9198 educational personnel by direct payment, commissions, or payment in kind; and
9199 (iii) the net or gross revenues from which are deposited in a dedicated account
9200 controlled by the school or school district.
9201 (36) "Geothermal energy" means energy contained in heat that continuously flows
9202 outward from the earth that is used as the sole source of energy to produce electricity.
9203 (37) "Governing board of the agreement" means the governing board of the agreement

9204 that is:
9205 (a) authorized to administer the agreement; and
9206 (b) established in accordance with the agreement.
9207 (38) (a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
9208 (i) the executive branch of the state, including all departments, institutions, boards,
9209 divisions, bureaus, offices, commissions, and committees;
9210 (ii) the judicial branch of the state, including the courts, the Judicial Council, the
9211 Office of the Court Administrator, and similar administrative units in the judicial branch;
9212 (iii) the legislative branch of the state, including the House of Representatives, the
9213 Senate, the Legislative Printing Office, the Office of Legislative Research and General
9214 Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal
9215 Analyst;
9216 (iv) the National Guard;
9217 (v) an independent entity as defined in Section 63E-1-102; or
9218 (vi) a political subdivision as defined in Section 17B-1-102.
9219 (b) "Governmental entity" does not include the state systems of public and higher
9220 education, including:
9221 (i) a college campus of the Utah College of Applied Technology;
9222 (ii) a school;
9223 (iii) the State Board of Education;
9224 (iv) the State Board of Regents; or
9225 (v) a state institution of higher education as defined in Section 53B-3-102.
9226 (39) (a) "Hearing aid" means:
9227 (i) an instrument or device having an electronic component that is designed to:
9228 (A) (I) improve impaired human hearing; or
9229 (II) correct impaired human hearing; and
9230 (B) (I) be worn in the human ear; or
9231 (II) affixed behind the human ear;
9232 (ii) an instrument or device that is surgically implanted into the cochlea; or
9233 (iii) a telephone amplifying device.
9234 (b) "Hearing aid" does not include:

9235 (i) except as provided in Subsection (39)(a)(i)(B) or (39)(a)(ii), an instrument or device
9236 having an electronic component that is designed to be worn on the body;
9237 (ii) except as provided in Subsection (39)(a)(iii), an assistive listening device or system
9238 designed to be used by one individual, including:
9239 (A) a personal amplifying system;
9240 (B) a personal FM system;
9241 (C) a television listening system; or
9242 (D) a device or system similar to a device or system described in Subsections
9243 (39)(b)(ii)(A) through (C); or
9244 (iii) an assistive listening device or system designed to be used by more than one
9245 individual, including:
9246 (A) a device or system installed in:
9247 (I) an auditorium;
9248 (II) a church;
9249 (III) a conference room;
9250 (IV) a synagogue; or
9251 (V) a theater; or
9252 (B) a device or system similar to a device or system described in Subsections
9253 (39)(b)(iii)(A)(I) through (V).
9254 (40) (a) "Hearing aid accessory" means a hearing aid:
9255 (i) component;
9256 (ii) attachment; or
9257 (iii) accessory.
9258 (b) "Hearing aid accessory" includes:
9259 (i) a hearing aid neck loop;
9260 (ii) a hearing aid cord;
9261 (iii) a hearing aid ear mold;
9262 (iv) hearing aid tubing;
9263 (v) a hearing aid ear hook; or
9264 (vi) a hearing aid remote control.
9265 (c) "Hearing aid accessory" does not include:

9266 (i) a component, attachment, or accessory designed to be used only with an:
9267 (A) instrument or device described in Subsection (39)(b)(i); or
9268 (B) assistive listening device or system described in Subsection (39)(b)(ii) or (iii); or
9269 (ii) a hearing aid battery.
9270 (41) "Hydroelectric energy" means water used as the sole source of energy to produce
9271 electricity.
9272 (42) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
9273 other fuels:
9274 (a) in mining or extraction of minerals;
9275 (b) in agricultural operations to produce an agricultural product up to the time of
9276 harvest or placing the agricultural product into a storage facility, including:
9277 (i) commercial greenhouses;
9278 (ii) irrigation pumps;
9279 (iii) farm machinery;
9280 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
9281 registered under Title 41, Chapter 1a, Part 2, Registration; and
9282 (v) other farming activities;
9283 (c) in manufacturing tangible personal property at an establishment described in SIC
9284 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
9285 Executive Office of the President, Office of Management and Budget;
9286 (d) by a scrap recycler if:
9287 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
9288 one or more of the following items into prepared grades of processed materials for use in new
9289 products:
9290 (A) iron;
9291 (B) steel;
9292 (C) nonferrous metal;
9293 (D) paper;
9294 (E) glass;
9295 (F) plastic;
9296 (G) textile; or

9297 (H) rubber; and
9298 (ii) the new products under Subsection (42)(d)(i) would otherwise be made with
9299 nonrecycled materials; or
9300 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a
9301 cogeneration facility as defined in Section 54-2-1.
9302 (43) (a) Except as provided in Subsection (43)(b), "installation charge" means a charge
9303 for installing tangible personal property.
9304 (b) Notwithstanding Subsection (43)(a), "installation charge" does not include a charge
9305 for repairs or renovations of tangible personal property.
9306 (44) (a) "Lease" or "rental" means a transfer of possession or control of tangible
9307 personal property for:
9308 (i) (A) a fixed term; or
9309 (B) an indeterminate term; and
9310 (ii) consideration.
9311 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
9312 amount of consideration may be increased or decreased by reference to the amount realized
9313 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
9314 Code.
9315 (c) "Lease" or "rental" does not include:
9316 (i) a transfer of possession or control of property under a security agreement or
9317 deferred payment plan that requires the transfer of title upon completion of the required
9318 payments;
9319 (ii) a transfer of possession or control of property under an agreement that requires the
9320 transfer of title:
9321 (A) upon completion of required payments; and
9322 (B) if the payment of an option price does not exceed the greater of:
9323 (I) $100; or
9324 (II) 1% of the total required payments; or
9325 (iii) providing tangible personal property along with an operator for a fixed period of
9326 time or an indeterminate period of time if the operator is necessary for equipment to perform as
9327 designed.

9328 (d) For purposes of Subsection (44)(c)(iii), an operator is necessary for equipment to
9329 perform as designed if the operator's duties exceed the:
9330 (i) set-up of tangible personal property;
9331 (ii) maintenance of tangible personal property; or
9332 (iii) inspection of tangible personal property.
9333 (45) "Load and leave" means delivery to a purchaser by use of a tangible storage media
9334 if the tangible storage media is not physically transferred to the purchaser.
9335 (46) "Local taxing jurisdiction" means a:
9336 (a) county that is authorized to impose an agreement sales and use tax;
9337 (b) city that is authorized to impose an agreement sales and use tax; or
9338 (c) town that is authorized to impose an agreement sales and use tax.
9339 (47) "Manufactured home" is as defined in Section 58-56-3.
9340 (48) For purposes of Section 59-12-104, "manufacturing facility" means:
9341 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
9342 Industrial Classification Manual of the federal Executive Office of the President, Office of
9343 Management and Budget;
9344 (b) a scrap recycler if:
9345 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
9346 one or more of the following items into prepared grades of processed materials for use in new
9347 products:
9348 (A) iron;
9349 (B) steel;
9350 (C) nonferrous metal;
9351 (D) paper;
9352 (E) glass;
9353 (F) plastic;
9354 (G) textile; or
9355 (H) rubber; and
9356 (ii) the new products under Subsection (48)(b)(i) would otherwise be made with
9357 nonrecycled materials; or
9358 (c) a cogeneration facility as defined in Section 54-2-1.

9359 (49) "Member of the immediate family of the producer" means a person who is related
9360 to a producer described in Subsection 59-12-104(20)(a) as a:
9361 (a) child or stepchild, regardless of whether the child or stepchild is:
9362 (i) an adopted child or adopted stepchild; or
9363 (ii) a foster child or foster stepchild;
9364 (b) grandchild or stepgrandchild;
9365 (c) grandparent or stepgrandparent;
9366 (d) nephew or stepnephew;
9367 (e) niece or stepniece;
9368 (f) parent or stepparent;
9369 (g) sibling or stepsibling;
9370 (h) spouse;
9371 (i) person who is the spouse of a person described in Subsections (49)(a) through (g);
9372 or
9373 (j) person similar to a person described in Subsections (49)(a) through (i) as
9374 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
9375 Administrative Rulemaking Act.
9376 (50) "Mobile home" is as defined in Section 58-56-3.
9377 (51) "Mobile telecommunications service" is as defined in the Mobile
9378 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
9379 (52) (a) Except as provided in Subsection (52)(c), "mobility enhancing equipment"
9380 means equipment that is:
9381 (i) primarily and customarily used to provide or increase the ability to move from one
9382 place to another;
9383 (ii) appropriate for use in a:
9384 (A) home; or
9385 (B) motor vehicle; and
9386 (iii) not generally used by persons with normal mobility.
9387 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
9388 the equipment described in Subsection (52)(a).
9389 (c) Notwithstanding Subsection (52)(a), "mobility enhancing equipment" does not

9390 include:
9391 (i) a motor vehicle;
9392 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
9393 vehicle manufacturer;
9394 (iii) durable medical equipment; or
9395 (iv) a prosthetic device.
9396 (53) "Model 1 seller" means a seller that has selected a certified service provider as the
9397 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and
9398 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the
9399 seller's own purchases.
9400 (54) "Model 2 seller" means a seller that:
9401 (a) except as provided in Subsection (54)(b), has selected a certified automated system
9402 to perform the seller's sales tax functions for agreement sales and use taxes; and
9403 (b) notwithstanding Subsection (54)(a), retains responsibility for remitting all of the
9404 sales tax:
9405 (i) collected by the seller; and
9406 (ii) to the appropriate local taxing jurisdiction.
9407 (55) (a) Subject to Subsection (55)(b), "model 3 seller" means a seller that has:
9408 (i) sales in at least five states that are members of the agreement;
9409 (ii) total annual sales revenues of at least $500,000,000;
9410 (iii) a proprietary system that calculates the amount of tax:
9411 (A) for an agreement sales and use tax; and
9412 (B) due to each local taxing jurisdiction; and
9413 (iv) entered into a performance agreement with the governing board of the agreement.
9414 (b) For purposes of Subsection (55)(a), "model 3 seller" includes an affiliated group of
9415 sellers using the same proprietary system.
9416 (56) "Modular home" means a modular unit as defined in Section 58-56-3.
9417 (57) "Motor vehicle" is as defined in Section 41-1a-102.
9418 (58) "Oil shale" means a group of fine black to dark brown shales containing
9419 bituminous material that yields petroleum upon distillation.
9420 (59) (a) "Other fuels" means products that burn independently to produce heat or

9421 energy.
9422 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible
9423 personal property.
9424 (60) "Pawnbroker" is as defined in Section 13-32a-102.
9425 (61) "Pawn transaction" is as defined in Section 13-32a-102.
9426 (62) (a) "Permanently attached to real property" means that for tangible personal
9427 property attached to real property:
9428 (i) the attachment of the tangible personal property to the real property:
9429 (A) is essential to the use of the tangible personal property; and
9430 (B) suggests that the tangible personal property will remain attached to the real
9431 property in the same place over the useful life of the tangible personal property; or
9432 (ii) if the tangible personal property is detached from the real property, the detachment
9433 would:
9434 (A) cause substantial damage to the tangible personal property; or
9435 (B) require substantial alteration or repair of the real property to which the tangible
9436 personal property is attached.
9437 (b) "Permanently attached to real property" includes:
9438 (i) the attachment of an accessory to the tangible personal property if the accessory is:
9439 (A) essential to the operation of the tangible personal property; and
9440 (B) attached only to facilitate the operation of the tangible personal property;
9441 (ii) a temporary detachment of tangible personal property from real property for a
9442 repair or renovation if the repair or renovation is performed where the tangible personal
9443 property and real property are located; or
9444 (iii) an attachment of the following tangible personal property to real property,
9445 regardless of whether the attachment to real property is only through a line that supplies water,
9446 electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by
9447 rule made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:
9448 (A) property attached to oil, gas, or water pipelines, other than the property listed in
9449 Subsection (62)(c)(iii);
9450 (B) a hot water heater;
9451 (C) a water softener system; or

9452 (D) a water filtration system, other than a water filtration system manufactured as part
9453 of a refrigerator.
9454 (c) "Permanently attached to real property" does not include:
9455 (i) the attachment of portable or movable tangible personal property to real property if
9456 that portable or movable tangible personal property is attached to real property only for:
9457 (A) convenience;
9458 (B) stability; or
9459 (C) for an obvious temporary purpose;
9460 (ii) the detachment of tangible personal property from real property other than the
9461 detachment described in Subsection (62)(b)(ii); or
9462 (iii) an attachment of the following tangible personal property to real property if the
9463 attachment to real property is only through a line that supplies water, electricity, gas, telephone,
9464 cable, or supplies a similar item as determined by the commission by rule made in accordance
9465 with Title 63, Chapter 46a, Utah Administrative Rulemaking Act:
9466 (A) a refrigerator;
9467 (B) a washer;
9468 (C) a dryer;
9469 (D) a stove;
9470 (E) a television;
9471 (F) a computer;
9472 (G) a telephone; or
9473 (H) tangible personal property similar to Subsections (62)(c)(iii)(A) through (G) as
9474 determined by the commission by rule made in accordance with Title 63, Chapter 46a, Utah
9475 Administrative Rulemaking Act.
9476 (63) "Person" includes any individual, firm, partnership, joint venture, association,
9477 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
9478 municipality, district, or other local governmental entity of the state, or any group or
9479 combination acting as a unit.
9480 (64) "Place of primary use":
9481 (a) for telephone service other than mobile telecommunications service, means the
9482 street address representative of where the purchaser's use of the telephone service primarily

9483 occurs, which shall be:
9484 (i) the residential street address of the purchaser; or
9485 (ii) the primary business street address of the purchaser; or
9486 (b) for mobile telecommunications service, is as defined in the Mobile
9487 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
9488 (65) "Postproduction" means an activity related to the finishing or duplication of a
9489 medium described in Subsection 59-12-104(56)(a).
9490 (66) (a) "Prepared food" means:
9491 (i) food:
9492 (A) sold in a heated state; or
9493 (B) heated by a seller;
9494 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
9495 item; or
9496 (iii) except as provided in Subsection (66)(c), food sold with an eating utensil provided
9497 by the seller, including a:
9498 (A) plate;
9499 (B) knife;
9500 (C) fork;
9501 (D) spoon;
9502 (E) glass;
9503 (F) cup;
9504 (G) napkin; or
9505 (H) straw.
9506 (b) "Prepared food" does not include:
9507 (i) food that a seller only:
9508 (A) cuts;
9509 (B) repackages; or
9510 (C) pasteurizes; or
9511 (ii) (A) the following:
9512 (I) raw egg;
9513 (II) raw fish;

9514 (III) raw meat;
9515 (IV) raw poultry; or
9516 (V) a food containing an item described in Subsections (66)(b)(ii)(A)(I) through (IV);
9517 and
9518 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
9519 Food and Drug Administration's Food Code that a consumer cook the items described in
9520 Subsection (66)(b)(ii)(A) to prevent food borne illness; or
9521 (iii) the following if sold without eating utensils provided by the seller:
9522 (A) food and food ingredients sold by a seller if the seller's proper primary
9523 classification under the 2002 North American Industry Classification System of the federal
9524 Executive Office of the President, Office of Management and Budget, is manufacturing in
9525 Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla
9526 Manufacturing;
9527 (B) food and food ingredients sold in an unheated state:
9528 (I) by weight or volume; and
9529 (II) as a single item; or
9530 (C) a bakery item, including:
9531 (I) a bagel;
9532 (II) a bar;
9533 (III) a biscuit;
9534 (IV) bread;
9535 (V) a bun;
9536 (VI) a cake;
9537 (VII) a cookie;
9538 (VIII) a croissant;
9539 (IX) a danish;
9540 (X) a donut;
9541 (XI) a muffin;
9542 (XII) a pastry;
9543 (XIII) a pie;
9544 (XIV) a roll;

9545 (XV) a tart;
9546 (XVI) a torte; or
9547 (XVII) a tortilla.
9548 (c) Notwithstanding Subsection (66)(a)(iii), an eating utensil provided by the seller
9549 does not include the following used to transport the food:
9550 (i) a container; or
9551 (ii) packaging.
9552 (67) "Prescription" means an order, formula, or recipe that is issued:
9553 (a) (i) orally;
9554 (ii) in writing;
9555 (iii) electronically; or
9556 (iv) by any other manner of transmission; and
9557 (b) by a licensed practitioner authorized by the laws of a state.
9558 (68) (a) Except as provided in Subsection (68)(b)(ii) or (iii), "prewritten computer
9559 software" means computer software that is not designed and developed:
9560 (i) by the author or other creator of the computer software; and
9561 (ii) to the specifications of a specific purchaser.
9562 (b) "Prewritten computer software" includes:
9563 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer
9564 software is not designed and developed:
9565 (A) by the author or other creator of the computer software; and
9566 (B) to the specifications of a specific purchaser;
9567 (ii) notwithstanding Subsection (68)(a), computer software designed and developed by
9568 the author or other creator of the computer software to the specifications of a specific purchaser
9569 if the computer software is sold to a person other than the purchaser; or
9570 (iii) notwithstanding Subsection (68)(a) and except as provided in Subsection (68)(c),
9571 prewritten computer software or a prewritten portion of prewritten computer software:
9572 (A) that is modified or enhanced to any degree; and
9573 (B) if the modification or enhancement described in Subsection (68)(b)(iii)(A) is
9574 designed and developed to the specifications of a specific purchaser.
9575 (c) Notwithstanding Subsection (68)(b)(iii), "prewritten computer software" does not

9576 include a modification or enhancement described in Subsection (68)(b)(iii) if the charges for
9577 the modification or enhancement are:
9578 (i) reasonable; and
9579 (ii) separately stated on the invoice or other statement of price provided to the
9580 purchaser.
9581 (69) (a) "Prosthetic device" means a device that is worn on or in the body to:
9582 (i) artificially replace a missing portion of the body;
9583 (ii) prevent or correct a physical deformity or physical malfunction; or
9584 (iii) support a weak or deformed portion of the body.
9585 (b) "Prosthetic device" includes:
9586 (i) parts used in the repairs or renovation of a prosthetic device;
9587 (ii) replacement parts for a prosthetic device; or
9588 (iii) a dental prosthesis.
9589 (c) "Prosthetic device" does not include:
9590 (i) corrective eyeglasses;
9591 (ii) contact lenses; or
9592 (iii) hearing aids.
9593 (70) (a) "Protective equipment" means an item:
9594 (i) for human wear; and
9595 (ii) that is:
9596 (A) designed as protection:
9597 (I) to the wearer against injury or disease; or
9598 (II) against damage or injury of other persons or property; and
9599 (B) not suitable for general use.
9600 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
9601 commission shall make rules:
9602 (i) listing the items that constitute "protective equipment"; and
9603 (ii) that are consistent with the list of items that constitute "protective equipment"
9604 under the agreement.
9605 (71) (a) For purposes of Subsection 59-12-104(41), "publication" means any written or
9606 printed matter, other than a photocopy:

9607 (i) regardless of:
9608 (A) characteristics;
9609 (B) copyright;
9610 (C) form;
9611 (D) format;
9612 (E) method of reproduction; or
9613 (F) source; and
9614 (ii) made available in printed or electronic format.
9615 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
9616 commission may by rule define the term "photocopy."
9617 (72) (a) "Purchase price" and "sales price" mean the total amount of consideration:
9618 (i) valued in money; and
9619 (ii) for which tangible personal property or services are:
9620 (A) sold;
9621 (B) leased; or
9622 (C) rented.
9623 (b) "Purchase price" and "sales price" include:
9624 (i) the seller's cost of the tangible personal property or services sold;
9625 (ii) expenses of the seller, including:
9626 (A) the cost of materials used;
9627 (B) a labor cost;
9628 (C) a service cost;
9629 (D) interest;
9630 (E) a loss;
9631 (F) the cost of transportation to the seller; or
9632 (G) a tax imposed on the seller; or
9633 (iii) a charge by the seller for any service necessary to complete the sale.
9634 (c) "Purchase price" and "sales price" do not include:
9635 (i) a discount:
9636 (A) in a form including:
9637 (I) cash;

9638 (II) term; or
9639 (III) coupon;
9640 (B) that is allowed by a seller;
9641 (C) taken by a purchaser on a sale; and
9642 (D) that is not reimbursed by a third party; or
9643 (ii) the following if separately stated on an invoice, bill of sale, or similar document
9644 provided to the purchaser:
9645 (A) the amount of a trade-in;
9646 (B) the following from credit extended on the sale of tangible personal property or
9647 services:
9648 (I) interest charges;
9649 (II) financing charges; or
9650 (III) carrying charges;
9651 (C) a tax or fee legally imposed directly on the consumer;
9652 (D) a delivery charge; or
9653 (E) an installation charge.
9654 (73) "Purchaser" means a person to whom:
9655 (a) a sale of tangible personal property is made; or
9656 (b) a service is furnished.
9657 (74) "Regularly rented" means:
9658 (a) rented to a guest for value three or more times during a calendar year; or
9659 (b) advertised or held out to the public as a place that is regularly rented to guests for
9660 value.
9661 (75) "Renewable energy" means:
9662 (a) biomass energy;
9663 (b) hydroelectric energy;
9664 (c) geothermal energy;
9665 (d) solar energy; or
9666 (e) wind energy.
9667 (76) (a) "Renewable energy production facility" means a facility that:
9668 (i) uses renewable energy to produce electricity; and

9669 (ii) has a production capacity of 20 kilowatts or greater.
9670 (b) A facility is a renewable energy production facility regardless of whether the
9671 facility is:
9672 (i) connected to an electric grid; or
9673 (ii) located on the premises of an electricity consumer.
9674 (77) "Rental" is as defined in Subsection (44).
9675 (78) "Repairs or renovations of tangible personal property" means:
9676 (a) a repair or renovation of tangible personal property that is not permanently attached
9677 to real property; or
9678 (b) attaching tangible personal property to other tangible personal property if the other
9679 tangible personal property to which the tangible personal property is attached is not
9680 permanently attached to real property.
9681 (79) "Research and development" means the process of inquiry or experimentation
9682 aimed at the discovery of facts, devices, technologies, or applications and the process of
9683 preparing those devices, technologies, or applications for marketing.
9684 (80) "Residential use" means the use in or around a home, apartment building, sleeping
9685 quarters, and similar facilities or accommodations.
9686 (81) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
9687 than:
9688 (a) resale;
9689 (b) sublease; or
9690 (c) subrent.
9691 (82) (a) "Retailer" means any person engaged in a regularly organized business in
9692 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
9693 who is selling to the user or consumer and not for resale.
9694 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
9695 engaged in the business of selling to users or consumers within the state.
9696 (83) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
9697 otherwise, in any manner, of tangible personal property or any other taxable transaction under
9698 Subsection 59-12-103(1), for consideration.
9699 (b) "Sale" includes:

9700 (i) installment and credit sales;
9701 (ii) any closed transaction constituting a sale;
9702 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
9703 chapter;
9704 (iv) any transaction if the possession of property is transferred but the seller retains the
9705 title as security for the payment of the price; and
9706 (v) any transaction under which right to possession, operation, or use of any article of
9707 tangible personal property is granted under a lease or contract and the transfer of possession
9708 would be taxable if an outright sale were made.
9709 (84) "Sale at retail" is as defined in Subsection (81).
9710 (85) "Sale-leaseback transaction" means a transaction by which title to tangible
9711 personal property that is subject to a tax under this chapter is transferred:
9712 (a) by a purchaser-lessee;
9713 (b) to a lessor;
9714 (c) for consideration; and
9715 (d) if:
9716 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
9717 of the tangible personal property;
9718 (ii) the sale of the tangible personal property to the lessor is intended as a form of
9719 financing:
9720 (A) for the property; and
9721 (B) to the purchaser-lessee; and
9722 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
9723 is required to:
9724 (A) capitalize the property for financial reporting purposes; and
9725 (B) account for the lease payments as payments made under a financing arrangement.
9726 (86) "Sales price" is as defined in Subsection (72).
9727 (87) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
9728 amounts charged by a school:
9729 (i) sales that are directly related to the school's educational functions or activities
9730 including:

9731 (A) the sale of:
9732 (I) textbooks;
9733 (II) textbook fees;
9734 (III) laboratory fees;
9735 (IV) laboratory supplies; or
9736 (V) safety equipment;
9737 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
9738 that:
9739 (I) a student is specifically required to wear as a condition of participation in a
9740 school-related event or school-related activity; and
9741 (II) is not readily adaptable to general or continued usage to the extent that it takes the
9742 place of ordinary clothing;
9743 (C) sales of the following if the net or gross revenues generated by the sales are
9744 deposited into a school district fund or school fund dedicated to school meals:
9745 (I) food and food ingredients; or
9746 (II) prepared food; or
9747 (D) transportation charges for official school activities; or
9748 (ii) amounts paid to or amounts charged by a school for admission to a school-related
9749 event or school-related activity.
9750 (b) "Sales relating to schools" does not include:
9751 (i) bookstore sales of items that are not educational materials or supplies;
9752 (ii) except as provided in Subsection (87)(a)(i)(B):
9753 (A) clothing;
9754 (B) clothing accessories or equipment;
9755 (C) protective equipment; or
9756 (D) sports or recreational equipment; or
9757 (iii) amounts paid to or amounts charged by a school for admission to a school-related
9758 event or school-related activity if the amounts paid or charged are passed through to a person:
9759 (A) other than a:
9760 (I) school;
9761 (II) nonprofit organization authorized by a school board or a governing body of a

9762 private school to organize and direct a competitive secondary school activity; or
9763 (III) nonprofit association authorized by a school board or a governing body of a
9764 private school to organize and direct a competitive secondary school activity; and
9765 (B) that is required to collect sales and use taxes under this chapter.
9766 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
9767 commission may make rules defining the term "passed through."
9768 (88) For purposes of this section and Section 59-12-104, "school":
9769 (a) means:
9770 (i) an elementary school or a secondary school that:
9771 (A) is a:
9772 (I) public school; or
9773 (II) private school; and
9774 (B) provides instruction for one or more grades kindergarten through 12; or
9775 (ii) a public school district; and
9776 (b) includes the Electronic High School as defined in Section 53A-15-1002.
9777 (89) "Seller" means a person that makes a sale, lease, or rental of:
9778 (a) tangible personal property; or
9779 (b) a service.
9780 (90) (a) "Semiconductor fabricating, processing, research, or development materials"
9781 means tangible personal property:
9782 (i) used primarily in the process of:
9783 (A) (I) manufacturing a semiconductor;
9784 (II) fabricating a semiconductor; or
9785 (III) research or development of a:
9786 (Aa) semiconductor; or
9787 (Bb) semiconductor manufacturing process; or
9788 (B) maintaining an environment suitable for a semiconductor; or
9789 (ii) consumed primarily in the process of:
9790 (A) (I) manufacturing a semiconductor;
9791 (II) fabricating a semiconductor; or
9792 (III) research or development of a:

9793 (Aa) semiconductor; or
9794 (Bb) semiconductor manufacturing process; or
9795 (B) maintaining an environment suitable for a semiconductor.
9796 (b) "Semiconductor fabricating, processing, research, or development materials"
9797 includes:
9798 (i) parts used in the repairs or renovations of tangible personal property described in
9799 Subsection (90)(a); or
9800 (ii) a chemical, catalyst, or other material used to:
9801 (A) produce or induce in a semiconductor a:
9802 (I) chemical change; or
9803 (II) physical change;
9804 (B) remove impurities from a semiconductor; or
9805 (C) improve the marketable condition of a semiconductor.
9806 (91) "Senior citizen center" means a facility having the primary purpose of providing
9807 services to the aged as defined in Section 62A-3-101.
9808 (92) "Simplified electronic return" means the electronic return:
9809 (a) described in Section 318(C) of the agreement; and
9810 (b) approved by the governing board of the agreement.
9811 (93) "Solar energy" means the sun used as the sole source of energy for producing
9812 electricity.
9813 (94) (a) "Sports or recreational equipment" means an item:
9814 (i) designed for human use; and
9815 (ii) that is:
9816 (A) worn in conjunction with:
9817 (I) an athletic activity; or
9818 (II) a recreational activity; and
9819 (B) not suitable for general use.
9820 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
9821 commission shall make rules:
9822 (i) listing the items that constitute "sports or recreational equipment"; and
9823 (ii) that are consistent with the list of items that constitute "sports or recreational

9824 equipment" under the agreement.
9825 (95) "State" means the state of Utah, its departments, and agencies.
9826 (96) "Storage" means any keeping or retention of tangible personal property or any
9827 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
9828 sale in the regular course of business.
9829 (97) (a) "Tangible personal property" means personal property that:
9830 (i) may be:
9831 (A) seen;
9832 (B) weighed;
9833 (C) measured;
9834 (D) felt; or
9835 (E) touched; or
9836 (ii) is in any manner perceptible to the senses.
9837 (b) "Tangible personal property" includes:
9838 (i) electricity;
9839 (ii) water;
9840 (iii) gas;
9841 (iv) steam; or
9842 (v) prewritten computer software.
9843 (98) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
9844 and require further processing other than mechanical blending before becoming finished
9845 petroleum products.
9846 (99) (a) "Telecommunications enabling or facilitating equipment, machinery, or
9847 software" means an item listed in Subsection (99)(b) if that item is purchased or leased
9848 primarily to enable or facilitate one or more of the following to function:
9849 (i) telecommunications switching or routing equipment, machinery, or software; or
9850 (ii) telecommunications transmission equipment, machinery, or software.
9851 (b) The following apply to Subsection (99)(a):
9852 (i) a pole;
9853 (ii) software;
9854 (iii) a supplementary power supply;

9855 (iv) temperature or environmental equipment or machinery;
9856 (v) test equipment;
9857 (vi) a tower; or
9858 (vii) equipment, machinery, or software that functions similarly to an item listed in
9859 Subsections (99)(b)(i) through (vi) as determined by the commission by rule made in
9860 accordance with Subsection (99)(c).
9861 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
9862 commission may by rule define what constitutes equipment, machinery, or software that
9863 functions similarly to an item listed in Subsections (99)(b)(i) through (vi).
9864 (100) "Telecommunications equipment, machinery, or software required for 911
9865 service" means equipment, machinery, or software that is required to comply with 47 C.F.R.
9866 Sec. 20.18.
9867 (101) "Telecommunications maintenance or repair equipment, machinery, or software"
9868 means equipment, machinery, or software purchased or leased primarily to maintain or repair
9869 one or more of the following, regardless of whether the equipment, machinery, or software is
9870 purchased or leased as a spare part or as an upgrade or modification to one or more of the
9871 following:
9872 (a) telecommunications enabling or facilitating equipment, machinery, or software;
9873 (b) telecommunications switching or routing equipment, machinery, or software; or
9874 (c) telecommunications transmission equipment, machinery, or software.
9875 (102) (a) "Telecommunications switching or routing equipment, machinery, or
9876 software" means an item listed in Subsection (102)(b) if that item is purchased or leased
9877 primarily for switching or routing:
9878 (i) voice communications;
9879 (ii) data communications; or
9880 (iii) telephone service.
9881 (b) The following apply to Subsection (102)(a):
9882 (i) a bridge;
9883 (ii) a computer;
9884 (iii) a cross connect;
9885 (iv) a modem;

9886 (v) a multiplexer;
9887 (vi) plug in circuitry;
9888 (vii) a router;
9889 (viii) software;
9890 (ix) a switch; or
9891 (x) equipment, machinery, or software that functions similarly to an item listed in
9892 Subsections (102)(b)(i) through (ix) as determined by the commission by rule made in
9893 accordance with Subsection (102)(c).
9894 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
9895 commission may by rule define what constitutes equipment, machinery, or software that
9896 functions similarly to an item listed in Subsections (102)(b)(i) through (ix).
9897 (103) (a) "Telecommunications transmission equipment, machinery, or software"
9898 means an item listed in Subsection (103)(b) if that item is purchased or leased primarily for
9899 sending, receiving, or transporting:
9900 (i) voice communications;
9901 (ii) data communications; or
9902 (iii) telephone service.
9903 (b) The following apply to Subsection (103)(a):
9904 (i) an amplifier;
9905 (ii) a cable;
9906 (iii) a closure;
9907 (iv) a conduit;
9908 (v) a controller;
9909 (vi) a duplexer;
9910 (vii) a filter;
9911 (viii) an input device;
9912 (ix) an input/output device;
9913 (x) an insulator;
9914 (xi) microwave machinery or equipment;
9915 (xii) an oscillator;
9916 (xiii) an output device;

9917 (xiv) a pedestal;
9918 (xv) a power converter;
9919 (xvi) a power supply;
9920 (xvii) a radio channel;
9921 (xviii) a radio receiver;
9922 (xix) a radio transmitter;
9923 (xx) a repeater;
9924 (xxi) software;
9925 (xxii) a terminal;
9926 (xxiii) a timing unit;
9927 (xxiv) a transformer;
9928 (xxv) a wire; or
9929 (xxvi) equipment, machinery, or software that functions similarly to an item listed in
9930 Subsections (103)(b)(i) through (xxv) as determined by the commission by rule made in
9931 accordance with Subsection (103)(c).
9932 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
9933 commission may by rule define what constitutes equipment, machinery, or software that
9934 functions similarly to an item listed in Subsections (103)(b)(i) through (xxv).
9935 (104) (a) "Telephone service" means a two-way transmission:
9936 (i) by:
9937 (A) wire;
9938 (B) radio;
9939 (C) lightwave; or
9940 (D) other electromagnetic means; and
9941 (ii) of one or more of the following:
9942 (A) a sign;
9943 (B) a signal;
9944 (C) writing;
9945 (D) an image;
9946 (E) sound;
9947 (F) a message;

9948 (G) data; or
9949 (H) other information of any nature.
9950 (b) "Telephone service" includes:
9951 (i) mobile telecommunications service;
9952 (ii) private communications service; or
9953 (iii) automated digital telephone answering service.
9954 (c) "Telephone service" does not include a service or a transaction that a state or a
9955 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
9956 Tax Freedom Act, Pub. L. No. 105-277.
9957 (105) Notwithstanding where a call is billed or paid, "telephone service address"
9958 means:
9959 (a) if the location described in this Subsection (105)(a) is known, the location of the
9960 telephone service equipment:
9961 (i) to which a call is charged; and
9962 (ii) from which the call originates or terminates;
9963 (b) if the location described in Subsection (105)(a) is not known but the location
9964 described in this Subsection (105)(b) is known, the location of the origination point of the
9965 signal of the telephone service first identified by:
9966 (i) the telecommunications system of the seller; or
9967 (ii) if the system used to transport the signal is not that of the seller, information
9968 received by the seller from its service provider; or
9969 (c) if the locations described in Subsection (105)(a) or (b) are not known, the location
9970 of a purchaser's primary place of use.
9971 (106) (a) "Telephone service provider" means a person that:
9972 (i) owns, controls, operates, or manages a telephone service; and
9973 (ii) engages in an activity described in Subsection (106)(a)(i) for the shared use with or
9974 resale to any person of the telephone service.
9975 (b) A person described in Subsection (106)(a) is a telephone service provider whether
9976 or not the Public Service Commission of Utah regulates:
9977 (i) that person; or
9978 (ii) the telephone service that the person owns, controls, operates, or manages.

9979 (107) "Tobacco" means:
9980 (a) a cigarette;
9981 (b) a cigar;
9982 (c) chewing tobacco;
9983 (d) pipe tobacco; or
9984 (e) any other item that contains tobacco.
9985 (108) "Unassisted amusement device" means an amusement device, skill device, or
9986 ride device that is started and stopped by the purchaser or renter of the right to use or operate
9987 the amusement device, skill device, or ride device.
9988 (109) (a) "Use" means the exercise of any right or power over tangible personal
9989 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
9990 property, item, or service.
9991 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
9992 the regular course of business and held for resale.
9993 (110) (a) Subject to Subsection (110)(b), "vehicle" means the following that are
9994 required to be titled, registered, or titled and registered:
9995 (i) an aircraft as defined in Section 72-10-102;
9996 (ii) a vehicle as defined in Section 41-1a-102;
9997 (iii) an off-highway vehicle as defined in Section 41-22-2; or
9998 (iv) a vessel as defined in Section 41-1a-102.
9999 (b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:
10000 (i) a vehicle described in Subsection (110)(a); or
10001 (ii) (A) a locomotive;
10002 (B) a freight car;
10003 (C) railroad work equipment; or
10004 (D) other railroad rolling stock.
10005 (111) "Vehicle dealer" means a person engaged in the business of buying, selling, or
10006 exchanging a vehicle as defined in Subsection (110).
10007 (112) (a) Except as provided in Subsection (112)(b), "waste energy facility" means a
10008 facility that generates electricity:
10009 (i) using as the primary source of energy waste materials that would be placed in a

10010 landfill or refuse pit if it were not used to generate electricity, including:
10011 (A) tires;
10012 (B) waste coal; or
10013 (C) oil shale; and
10014 (ii) in amounts greater than actually required for the operation of the facility.
10015 (b) "Waste energy facility" does not include a facility that incinerates:
10016 (i) municipal solid waste;
10017 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
10018 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
10019 (113) "Watercraft" means a vessel as defined in Section 73-18-2.
10020 (114) "Wind energy" means wind used as the sole source of energy to produce
10021 electricity.
10022 (115) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic
10023 location by the United States Postal Service.
10024 Section 134. Section **61-1-21.1** is amended to read:
10025 **61-1-21.1. Limitation of prosecutions.**
10026 (1) No indictment or information may be returned or civil complaint filed under this
10027 chapter more than five years after the alleged violation.
10028 (2) As to causes of action arising from violations of this chapter, the limitation of
10029 prosecutions provided in this section supersedes the limitation of actions provided in Section
10030 76-1-302 and Title [~~78~~] 78B, Chapter [~~12, Articles 1 and 2~~] 2, Statutes of Limitations.
10031 Section 135. Section **61-2-12** is amended to read:
10032 **61-2-12. Disciplinary action -- Judicial review.**
10033 (1) (a) On the basis of a violation of this chapter, the commission with the concurrence
10034 of the director, may issue an order:
10035 (i) imposing an educational requirement;
10036 (ii) imposing a civil penalty not to exceed the greater of:
10037 (A) $2,500 for each violation; or
10038 (B) the amount of any gain or economic benefit derived from each violation;
10039 (iii) taking any of the following actions related to a license or certificate:
10040 (A) revoking;

10041 (B) suspending;
10042 (C) placing on probation;
10043 (D) denying the renewal, reinstatement, or application for an original license or
10044 certificate; or
10045 (E) in the case of denial or revocation of a license or certificate, setting a waiting
10046 period for an applicant to apply for a license or certificate under this title;
10047 (iv) issuing a cease and desist order; or
10048 (v) doing any combination of Subsections (1)(a)(i) through (iv).
10049 (b) If the licensee is an active sales agent or active associate broker, the division shall
10050 inform the principal broker with whom the licensee is affiliated of the charge and of the time
10051 and place of any hearing.
10052 (2) (a) Any applicant, certificate holder, licensee, or person aggrieved, including the
10053 complainant, may obtain agency review by the executive director and judicial review of any
10054 adverse ruling, order, or decision of the division.
10055 (b) If the applicant, certificate holder, or licensee prevails in the appeal and the court
10056 finds that the state action was undertaken without substantial justification, the court may award
10057 reasonable litigation expenses to the applicant, certificate holder, or licensee as provided under
10058 Title [~~78~~] 78B, Chapter [~~27a~~] 8, Part 5, Small Business Equal Access to Justice Act.
10059 (c) (i) An order, ruling, or decision of the division shall take effect and become
10060 operative 30 days after the service of the order, ruling, or decision unless otherwise provided in
10061 the order.
10062 (ii) If an appeal is taken by a licensee, the division may stay enforcement of an order,
10063 ruling, or decision in accordance with Section 63-46b-18.
10064 (iii) The appeal shall be governed by the Utah Rules of Appellate Procedure.
10065 (3) The commission and the director shall comply with the procedures and
10066 requirements of Title 63, Chapter 46b, Administrative Procedures Act, in all adjudicative
10067 proceedings.
10068 Section 136. Section **61-2b-31** is amended to read:
10069 **61-2b-31. Disciplinary hearing process.**
10070 (1) Before disciplinary action may be taken by the board the division shall:
10071 (a) notify the person against whom the board seeks to take disciplinary action; and

10072 (b) commence an adjudicative proceeding.
10073 (2) If, after the hearing, the board determines that a person described in Subsection (1)
10074 violated this chapter, the board may impose disciplinary action by written order as provided in
10075 Section 61-2b-29.
10076 (3) The board may conduct hearings with the assistance of an administrative law judge
10077 or may delegate hearings to an administrative law judge. If the hearing is delegated by the
10078 board to an administrative law judge, the judge shall submit written findings of fact,
10079 conclusions of law, and a recommended order to the board for its consideration.
10080 (4) (a) Any applicant, licensee, certificate holder, or person aggrieved, including the
10081 complainant, may obtain judicial review of any adverse ruling, order, or decision of the board.
10082 Any appeal shall be governed by the Utah Rules of Appellate Procedure.
10083 (b) If the applicant, licensee, or certificate holder prevails in the appeal and the court
10084 finds that the state action was undertaken without substantial justification, the court may award
10085 reasonable litigation expenses to the applicant, licensee, or certificate holder as provided under
10086 Title [~~78~~] 78B, Chapter [~~27a~~] 8, Part 5, Small Business Equal Access to Justice Act.
10087 Section 137. Section **61-2c-402.1** is amended to read:
10088 **61-2c-402.1. Adjudicative proceedings -- Review.**
10089 (1) (a) Before the actions described in Section 61-2c-402 may be taken, the division
10090 shall:
10091 (i) give notice to the individual or entity; and
10092 (ii) commence an adjudicative proceeding.
10093 (b) If after the adjudicative proceeding is commenced under Subsection (1)(a) the
10094 presiding officer determines that an individual or entity required to be licensed under this
10095 chapter has violated this chapter, the division may take an action described in Section
10096 61-2c-402 by written order.
10097 (2) In accordance with Title 63, Chapter 46b, Administrative Procedures Act, an
10098 individual or entity against whom action is taken under this section may seek review by the
10099 executive director of the action.
10100 (3) If an individual or entity prevails in a judicial appeal and the court finds that the
10101 state action was undertaken without substantial justification, the court may award reasonable
10102 litigation expenses to that individual or entity as provided under Title [~~78~~] 78B, Chapter [~~27a~~]

10103 8, Part 5, Small Business Equal Access to Justice Act.
10104 (4) (a) An order issued under this section takes effect 30 days after the service of the
10105 order unless otherwise provided in the order.
10106 (b) If an appeal of an order issued under this section is taken by an individual or entity,
10107 the division may stay enforcement of the order in accordance with Section 63-46b-18.
10108 (5) If ordered by the court of competent jurisdiction, the division shall promptly take an
10109 action described in Section 61-2c-402 against a license granted under this chapter.
10110 Section 138. Section **61-2d-106** is amended to read:
10111 **61-2d-106. Arbitration clauses.**
10112 To be valid, an arbitration clause in a high-cost mortgage contract must comply with the
10113 standards set forth in Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act or the
10114 Federal Arbitration Act, or any successor acts.
10115 Section 139. Section **62A-1-111** is amended to read:
10116 **62A-1-111. Department authority.**
10117 The department may, in addition to all other authority and responsibility granted to it by
10118 law:
10119 (1) adopt rules, not inconsistent with law, as the department may consider necessary or
10120 desirable for providing social services to the people of this state;
10121 (2) establish and manage client trust accounts in the department's institutions and
10122 community programs, at the request of the client or his legal guardian or representative, or in
10123 accordance with federal law;
10124 (3) purchase, as authorized or required by law, services that the department is
10125 responsible to provide for legally eligible persons;
10126 (4) conduct adjudicative proceedings for clients and providers in accordance with the
10127 procedures of Title 63, Chapter 46b, Administrative Procedures Act;
10128 (5) establish eligibility standards for its programs, not inconsistent with state or federal
10129 law or regulations;
10130 (6) take necessary steps, including legal action, to recover money or the monetary value
10131 of services provided to a recipient who was not eligible;
10132 (7) set and collect fees for its services;
10133 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,

10134 or limited by law;
10135 (9) acquire, manage, and dispose of any real or personal property needed or owned by
10136 the department, not inconsistent with state law;
10137 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or
10138 the proceeds thereof, may be credited to the program designated by the donor, and may be used
10139 for the purposes requested by the donor, as long as the request conforms to state and federal
10140 policy; all donated funds shall be considered private, nonlapsing funds and may be invested
10141 under guidelines established by the state treasurer;
10142 (11) accept and employ volunteer labor or services; the department is authorized to
10143 reimburse volunteers for necessary expenses, when the department considers that
10144 reimbursement to be appropriate;
10145 (12) carry out the responsibility assigned in the Workforce Services Plan by the State
10146 Council on Workforce Services;
10147 (13) carry out the responsibility assigned by Section 9-4-802 with respect to
10148 coordination of services for the homeless;
10149 (14) carry out the responsibility assigned by Section 62A-5a-105 with respect to
10150 coordination of services for students with a disability;
10151 (15) provide training and educational opportunities for its staff;
10152 (16) collect child support payments and any other monies due to the department;
10153 (17) apply the provisions of Title [~~78~~] 78B, Chapter [~~45, Uniform Civil Liability for~~]
10154 12, Utah Child Support Act, to parents whose child lives out of the home in a department
10155 licensed or certified setting;
10156 (18) establish policy and procedures in cases where the department is given custody
10157 of a minor by the juvenile court pursuant to Section [~~78-3a-118~~] 78A-6-117; any policy and
10158 procedures shall include:
10159 (a) designation of interagency teams for each juvenile court district in the state;
10160 (b) delineation of assessment criteria and procedures;
10161 (c) minimum requirements, and timeframes, for the development and implementation
10162 of a collaborative service plan for each minor placed in department custody; and
10163 (d) provisions for submittal of the plan and periodic progress reports to the court;
10164 (19) carry out the responsibilities assigned to it by statute;

10165 (20) examine and audit the expenditures of any public funds provided to local
10166 substance abuse authorities, local mental health authorities, local area agencies on aging, and
10167 any person, agency, or organization that contracts with or receives funds from those authorities
10168 or agencies. Those local authorities, area agencies, and any person or entity that contracts with
10169 or receives funds from those authorities or area agencies, shall provide the department with any
10170 information the department considers necessary. The department is further authorized to issue
10171 directives resulting from any examination or audit to local authorities, area agencies, and
10172 persons or entities that contract with or receive funds from those authorities with regard to any
10173 public funds. If the department determines that it is necessary to withhold funds from a local
10174 mental health authority or local substance abuse authority based on failure to comply with state
10175 or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of
10176 services. For purposes of this Subsection (20) "public funds" means the same as that term is
10177 defined in Section 62A-15-102; and
10178 (21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and
10179 persons to provide intercountry adoption services.
10180 Section 140. Section **62A-2-117.5** is amended to read:
10181 **62A-2-117.5. Foster care by a child's relative.**
10182 (1) In accordance with state and federal law, the division shall provide for licensure of
10183 a child's relative for foster or substitute care, when the child is in the temporary custody or
10184 custody of the Division of Child and Family Services. If it is determined that, under federal
10185 law, allowance is made for an approval process requiring less than full foster parent licensure
10186 proceedings for a child's relative, the division shall establish an approval process to accomplish
10187 that purpose.
10188 (2) For purposes of this section:
10189 (a) "Custody" and "temporary custody" mean the same as those terms are defined in
10190 Section 62A-4a-101.
10191 (b) "Relative" means the same as that term is defined in Section [~~78-3a-307~~]
10192 78A-6-307.
10193 Section 141. Section **62A-2-120** is amended to read:
10194 **62A-2-120. Criminal background checks -- Direct access to children or**
10195 **vulnerable adults.**

10196 (1) (a) Except as provided in Subsection (7), an applicant for an initial license or a
10197 license renewal under this chapter shall submit to the office the names and other identifying
10198 information, which may include fingerprints, of all persons associated with the licensee, as
10199 defined in Section 62A-2-101, with direct access to children or vulnerable adults.
10200 (b) The Criminal Investigations and Technical Services Division of the Department of
10201 Public Safety, or the office as authorized under Section 53-10-108, shall process the
10202 information described in Subsection (1)(a) to determine whether the individual has been
10203 convicted of any crime.
10204 (c) Except as provided in Subsection (1)(d), if an individual has not continuously lived
10205 in Utah for the five years immediately preceding the day on which the information referred to
10206 in Subsection (1)(a) is submitted to the office, the individual shall submit fingerprints for a FBI
10207 national criminal history record check. The fingerprints shall be submitted to the FBI through
10208 the Criminal Investigations and Technical Services Division.
10209 (d) An individual is not required to comply with Subsection (1)(c) if:
10210 (i) the individual continuously lived in Utah for the five years immediately preceding
10211 the day on which the information described in Subsection (1)(a) is submitted to the office,
10212 except for time spent outside of the United States and its territories; and
10213 (ii) the background check of the individual is being conducted for a purpose other than
10214 a purpose described in Subsection (1)(f).
10215 (e) If an applicant described in Subsection (1)(a) spent time outside of the United
10216 States and its territories during the five years immediately preceding the day on which the
10217 information described in Subsection (1)(a) is submitted to the office, the office shall require the
10218 applicant to submit documentation establishing whether the applicant was convicted of a crime
10219 during the time that the applicant spent outside of the United States and its territories.
10220 (f) Notwithstanding any other provision of this Subsection (1), an applicant described
10221 in Subsection (1)(a) shall submit fingerprints for an FBI national criminal history records
10222 check, through the Criminal Investigations and Technical Services Division, if the background
10223 check of the applicant is being conducted for the purpose of:
10224 (i) licensing a prospective foster home; or
10225 (ii) approving a prospective adoptive placement of a child in state custody.
10226 (g) In addition to the other requirements of this section, if the background check of an

10227 applicant described in Subsection (1)(a) is being conducted for the purpose of licensing a
10228 prospective foster home or approving a prospective adoptive placement of a child in state
10229 custody, the office shall:
10230 (i) check the child abuse and neglect registry in each state where each prospective
10231 foster parent or prospective adoptive parent resided in the five years immediately preceding the
10232 day on which the prospective foster parent or prospective adoptive parent applied to be a foster
10233 parent or adoptive parent, to determine whether the prospective foster parent or prospective
10234 adoptive parent is listed in the registry as having a substantiated or supported finding of child
10235 abuse or neglect; and
10236 (ii) check the child abuse and neglect registry in each state where each adult living in
10237 the home of the prospective foster parent or prospective adoptive parent described in
10238 Subsection (1)(g)(i) resided in the five years immediately preceding the day on which the
10239 prospective foster parent or prospective adoptive parent applied to be a foster parent or
10240 adoptive parent, to determine whether the adult is listed in the registry as having a substantiated
10241 or supported finding of child abuse or neglect.
10242 (h) The office shall make rules, in accordance with Title 63, Chapter 46a, Utah
10243 Administrative Rulemaking Act, to implement the provisions of this Subsection (1).
10244 (2) The office shall approve a person for whom identifying information is submitted
10245 under Subsection (1) to have direct access to children or vulnerable adults in the licensee
10246 program if:
10247 (a) (i) the person is found to have no criminal history record; or
10248 (ii) (A) the only convictions in the person's criminal history record are misdemeanors
10249 or infractions not involving any of the offenses described in Subsection (3); and
10250 (B) the date of the last conviction under Subsection (2)(a)(ii)(A) is more than five years
10251 before the date of the search;
10252 (b) the person is not listed in the statewide database of the Division of Aging and Adult
10253 Services created by Section 62A-3-311.1;
10254 (c) juvenile court records do not show that a court made a substantiated finding, under
10255 Section [~~78-3a-320~~] 78A-6-323, that the person committed a severe type of child abuse or
10256 neglect;
10257 (d) the person is not listed in the Licensing Information System of the Division of

10258 Child and Family Services created by Section 62A-4a-1006;
10259 (e) the person has not pled guilty or no contest to a pending charge for any:
10260 (i) felony;
10261 (ii) misdemeanor listed in Subsection (3); or
10262 (iii) infraction listed in Subsection (3); and
10263 (f) for a person described in Subsection (1)(g), the registry check described in
10264 Subsection (1)(g) does not indicate that the person is listed in a child abuse and neglect registry
10265 of another state as having a substantiated or supported finding of child abuse or neglect.
10266 (3) Except as provided in Subsection (8), unless at least ten years have passed since the
10267 date of conviction, the office may not approve a person to have direct access to children or
10268 vulnerable adults in the licensee's human services program if that person has been convicted of
10269 an offense, whether a felony, misdemeanor, or infraction, that is:
10270 (a) identified as a sexual offense, domestic violence, lewdness, assault, or battery;
10271 (b) a violation of any pornography law, including sexual exploitation of a minor;
10272 (c) prostitution;
10273 (d) included in:
10274 (i) Title 76, Chapter 5, Offenses Against the Person;
10275 (ii) Title 76, Chapter 5a, Sexual Exploitation of Children; or
10276 (iii) Title 76, Chapter 7, Offenses Against the Family;
10277 (e) a violation of Section 76-6-103, aggravated arson;
10278 (f) a violation of Section 76-6-203, aggravated burglary;
10279 (g) a violation of Section 76-6-302, aggravated robbery; or
10280 (h) a conviction for an offense committed outside of the state that, if committed in the
10281 state, would constitute a violation of an offense described in Subsections (3)(d) through (g).
10282 (4) (a) Except as provided in Subsection (8), if a person for whom identifying
10283 information is submitted under Subsection (1) is not approved by the office under Subsection
10284 (2) or (3) to have direct access to children or vulnerable adults in the licensee program, the
10285 office shall conduct a comprehensive review of criminal and court records and related
10286 circumstances if the reason the approval is not granted is due solely to one or more of the
10287 following:
10288 (i) a conviction for:

10289 (A) any felony not listed in Subsection (3);
10290 (B) any misdemeanor or infraction, not listed in Subsection (3), within five years of the
10291 date of the search;
10292 (C) a protective order or ex parte protective order violation under Section 76-5-108 or
10293 a similar statute in another state; or
10294 (D) any felony, misdemeanor, or infraction listed in Subsection (3) if at least ten years
10295 have passed since the date of conviction;
10296 (ii) a plea of guilty or no contest to a pending:
10297 (A) felony;
10298 (B) misdemeanor listed in Subsection (3); or
10299 (C) infraction listed in Subsection (3);
10300 (iii) the person is listed in the statewide database of the Division of Aging and Adult
10301 Services created by Section 62A-3-311.1;
10302 (iv) juvenile court records show that a court made a substantiated finding, under
10303 Section [~~78-3a-320~~] 78A-6-323, that the person committed a severe type of child abuse or
10304 neglect;
10305 (v) the person is listed in the Licensing Information System of the Division of Child
10306 and Family Services created by Section 62A-4a-1006; or
10307 (vi) the person is listed in a child abuse or neglect registry of another state as having a
10308 substantiated or supported finding of child abuse or neglect.
10309 (b) The comprehensive review under Subsection (4)(a) shall include an examination of:
10310 (i) the date of the offense or incident;
10311 (ii) the nature and seriousness of the offense or incident;
10312 (iii) the circumstances under which the offense or incident occurred;
10313 (iv) the age of the perpetrator when the offense or incident occurred;
10314 (v) whether the offense or incident was an isolated or repeated incident;
10315 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable
10316 adult, including:
10317 (A) actual or threatened, nonaccidental physical or mental harm;
10318 (B) sexual abuse;
10319 (C) sexual exploitation; and

10320 (D) negligent treatment;
10321 (vii) any evidence provided by the person of rehabilitation, counseling, or psychiatric
10322 treatment received, or additional academic or vocational schooling completed, by the person;
10323 and
10324 (viii) any other pertinent information.
10325 (c) At the conclusion of the comprehensive review under Subsection (4)(a), the office
10326 shall approve the person who is the subject of the review to have direct access to children or
10327 vulnerable adults, unless it finds that approval will likely create a risk of harm to a child or
10328 vulnerable adult.
10329 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
10330 office may make rules, consistent with this chapter, defining procedures for the comprehensive
10331 review described in this Subsection (4).
10332 (5) (a) For purposes of this Subsection (5), "directly supervised" means that the person
10333 being supervised is under the uninterrupted visual and auditory surveillance of the person doing
10334 the supervising.
10335 (b) A licensee may not permit any person to have direct access to a child or a
10336 vulnerable adult unless, subject to Subsection (5)(c), that person is:
10337 (i) associated with the licensee and:
10338 (A) approved by the office to have direct access to children or vulnerable adults under
10339 this section; or
10340 (B) (I) the office has not determined whether to approve that person to have direct
10341 access to children or vulnerable adults;
10342 (II) the information described in Subsection (1)(a), relating to that person, is submitted
10343 to the department; and
10344 (III) that person is directly supervised by a person associated with the licensee who is
10345 approved by the office to have direct access to children or vulnerable adults under this section;
10346 (ii) (A) not associated with the licensee; and
10347 (B) directly supervised by a person associated with the licensee who is approved by the
10348 office to have direct access to children or vulnerable adults under this section;
10349 (iii) the parent or guardian of the child or vulnerable adult; or
10350 (iv) a person approved by the parent or guardian of the child or vulnerable adult to

10351 have direct access to the child or vulnerable adult.
10352 (c) Notwithstanding Subsection (5)(b), a person may not have direct access to a child
10353 or a vulnerable adult if that person is prohibited by court order from having that access.
10354 (6) (a) Within 30 days after receiving the identifying information for a person under
10355 Subsection (1), the office shall give written notice to the person and to the licensee or applicant
10356 with whom the person is associated of:
10357 (i) the office's decision regarding its background screening clearance and findings; and
10358 (ii) a list of any convictions found in the search.
10359 (b) With the notice described in Subsection (6)(a), the office shall also give to the
10360 person the details of any comprehensive review conducted under Subsection (4).
10361 (c) If the notice under Subsection (6)(a) states that the person is not approved to have
10362 direct access to children or vulnerable adults, the notice shall further advise the persons to
10363 whom the notice is given that either the person or the licensee or applicant with whom the
10364 person is associated, or both, may, under Subsection 62A-2-111(2), request a hearing in the
10365 department's Office of Administrative Hearings, to challenge the office's decision.
10366 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
10367 office shall make rules, consistent with this chapter:
10368 (i) defining procedures for the challenge of its background screening decision
10369 described in this Subsection (6); and
10370 (ii) expediting the process for renewal of a license under the requirements of this
10371 section and other applicable sections.
10372 (7) Notwithstanding Subsection (1)(a), this section does not apply to an applicant for
10373 an initial license, or license renewal, to operate a substance abuse program that provides
10374 services to adults only.
10375 (8) (a) Notwithstanding Subsections (2) through (4), the office may not approve or
10376 license a person as a prospective foster parent or a prospective adoptive parent if the person has
10377 been convicted of:
10378 (i) a felony involving conduct that constitutes any of the following:
10379 (A) child abuse, as described in Section 76-5-109;
10380 (B) commission of domestic violence in the presence of a child, as described in Section
10381 76-5-109.1;

10382 (C) abuse or neglect of a disabled child, as described in Section 76-5-110;
10383 (D) endangerment of a child, as described in Section 76-5-112.5;
10384 (E) aggravated murder, as described in Section 76-5-202;
10385 (F) murder, as described in Section 76-5-203;
10386 (G) manslaughter, as described in Section 76-5-205;
10387 (H) child abuse homicide, as described in Section 76-5-208;
10388 (I) homicide by assault, as described in Section 76-5-209;
10389 (J) kidnapping, as described in Section 76-5-301;
10390 (K) child kidnapping, as described in Section 76-5-301.1;
10391 (L) aggravated kidnapping, as described in Section 76-5-302;
10392 (M) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
10393 (N) an offense described in Title 76, Chapter 5a, Sexual Exploitation of Children;
10394 (O) aggravated arson, as described in Section 76-6-103;
10395 (P) aggravated burglary, as described in Section 76-6-203;
10396 (Q) aggravated robbery, as described in Section 76-6-302; or
10397 (R) domestic violence, as described in Section 77-36-1; or
10398 (ii) an offense committed outside the state that, if committed in the state, would
10399 constitute a violation of an offense described in Subsection (8)(a)(i).
10400 (b) Notwithstanding Subsections (2) through (4), the office may not approve or license
10401 a person as a prospective foster parent or a prospective adoptive parent if, within the five years
10402 immediately preceding the day on which the person would otherwise be approved or licensed,
10403 the person has been convicted of a felony involving conduct that constitutes any of the
10404 following:
10405 (i) aggravated assault, as described in Section 76-5-103;
10406 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
10407 (iii) mayhem, as described in Section 76-5-105;
10408 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
10409 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
10410 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
10411 Act;
10412 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance

10413 Precursor Act; or
10414 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
10415 Section 142. Section **62A-2-121** is amended to read:
10416 **62A-2-121. Access to abuse and neglect information.**
10417 (1) For purposes of this section:
10418 (a) "Direct service worker" is as defined in Section 62A-5-101.
10419 (b) "Personal care attendant" is as defined in Section 62A-3-101.
10420 (2) With respect to a licensee, a certified local inspector applicant, a direct service
10421 worker, or a personal care attendant, the department may access only the Licensing Information
10422 System of the Division of Child and Family Services created by Section 62A-4a-1006 and
10423 juvenile court records under Subsection [~~78-3a-320~~] 78A-6-323(6), for the purpose of:
10424 (a) (i) determining whether a person associated with a licensee, with direct access to
10425 children:
10426 (A) is listed in the Licensing Information System; or
10427 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
10428 neglect under Subsections [~~78-3a-320~~] 78A-6-323(1) and (2); and
10429 (ii) informing a licensee that a person associated with the licensee:
10430 (A) is listed in the Licensing Information System; or
10431 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
10432 neglect under Subsections [~~78-3a-320~~] 78A-6-323(1) and (2);
10433 (b) (i) determining whether a certified local inspector applicant:
10434 (A) is listed in the Licensing Information System; or
10435 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
10436 neglect under Subsections [~~78-3a-320~~] 78A-6-323(1) and (2); and
10437 (ii) informing a local government that a certified local inspector applicant:
10438 (A) is listed in the Licensing Information System; or
10439 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
10440 neglect under Subsections [~~78-3a-320~~] 78A-6-323(1) and (2);
10441 (c) (i) determining whether a direct service worker:
10442 (A) is listed in the Licensing Information System; or
10443 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or

10444 neglect under Subsections [~~78-3a-320~~] 78A-6-323(1) and (2); and
10445 (ii) informing a direct service worker or the direct service worker's employer that the
10446 direct service worker:
10447 (A) is listed in the Licensing Information System; or
10448 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
10449 neglect under Subsections [~~78-3a-320~~] 78A-6-323(1) and (2); or
10450 (d) (i) determining whether a personal care attendant:
10451 (A) is listed in the Licensing Information System; or
10452 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
10453 neglect under Subsections [~~78-3a-320~~] 78A-6-323(1) and (2); and
10454 (ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a
10455 personal care attendant:
10456 (A) is listed in the Licensing Information System; or
10457 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or
10458 neglect under Subsections [~~78-3a-320~~] 78A-6-323(1) and (2).
10459 (3) Notwithstanding Subsection (2), the department may access the Division of Child
10460 and Family Service's Management Information System under Section 62A-4a-1003:
10461 (a) for the purpose of licensing and monitoring foster parents; and
10462 (b) for the purposes described in Subsection 62A-4a-1003(1)(d).
10463 (4) After receiving identifying information for a person under Subsection
10464 62A-2-120(1), the department shall process the information for the purposes described in
10465 Subsection (2).
10466 (5) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative
10467 Rulemaking Act, consistent with this chapter, defining the circumstances under which a person
10468 may have direct access or provide services to children when:
10469 (a) the person is listed in the Licensing Information System of the Division of Child
10470 and Family Services created by Section 62A-4a-1006; or
10471 (b) juvenile court records show that a court made a substantiated finding under Section
10472 [~~78-3a-320~~] 78A-6-323, that the person committed a severe type of child abuse or neglect.
10473 Section 143. Section **62A-4a-101** is amended to read:
10474 **62A-4a-101. Definitions.**

10475 As used in this chapter:
10476 (1) (a) "Abuse" means:
10477 (i) actual or threatened nonaccidental physical or mental harm;
10478 (ii) negligent treatment;
10479 (iii) sexual exploitation; or
10480 (iv) any sexual abuse.
10481 (b) "Abuse" does not include:
10482 (i) reasonable discipline or management of a child, including withholding privileges;
10483 (ii) conduct described in Section 76-2-401; or
10484 (iii) the use of reasonable and necessary physical restraint or force on a child:
10485 (A) in self-defense;
10486 (B) in defense of others;
10487 (C) to protect the child; or
10488 (D) to remove a weapon in the possession of a child for any of the reasons described in
10489 Subsections (1)(b)(iii)(A) through (C).
10490 (2) "Adoption services" means:
10491 (a) placing children for adoption;
10492 (b) subsidizing adoptions under Section 62A-4a-105;
10493 (c) supervising adoption placements until the adoption is finalized by the court;
10494 (d) conducting adoption studies;
10495 (e) preparing adoption reports upon request of the court; and
10496 (f) providing postadoptive placement services, upon request of a family, for the
10497 purpose of stabilizing a possible disruptive placement.
10498 (3) "Board" means the Board of Child and Family Services established in accordance
10499 with Sections 62A-1-105, 62A-1-107, and 62A-4a-102.
10500 (4) "Child" means, except as provided in Part 7, Interstate Compact on Placement of
10501 Children, a person under 18 years of age.
10502 (5) "Consumer" means a person who receives services offered by the division in
10503 accordance with this chapter.
10504 (6) "Chronic physical abuse" means repeated or patterned physical abuse.
10505 (7) "Chronic neglect" means a repeated or patterned failure or refusal by a parent,

10506 guardian, or custodian to provide necessary care for a child's safety, morals, or well-being.
10507 (8) "Chronic emotional abuse" means repeated or patterned emotional abuse.
10508 (9) "Custody," with regard to the division, means the custody of a minor in the division
10509 as of the date of disposition.
10510 (10) "Day-care services" means care of a child for a portion of the day which is less
10511 than 24 hours:
10512 (a) in the child's own home by a responsible person; or
10513 (b) outside of the child's home in a:
10514 (i) day-care center;
10515 (ii) family group home; or
10516 (iii) family child care home.
10517 (11) "Dependent child" or "dependency" means a child, or the condition of a child, who
10518 is homeless or without proper care through no fault of the child's parent, guardian, or custodian.
10519 (12) "Director" means the director of the Division of Child and Family Services.
10520 (13) "Division" means the Division of Child and Family Services.
10521 (14) (a) "Domestic violence services" means:
10522 (i) temporary shelter, treatment, and related services to persons who are victims of
10523 abuse and their dependent children; and
10524 (ii) treatment services for domestic violence perpetrators.
10525 (b) As used in this Subsection (14):
10526 (i) "abuse" means the same as that term is defined in Section [~~30-6-1~~] 78B-7-102; and
10527 (ii) "domestic violence perpetrator" means a person who is alleged to have committed,
10528 has been convicted of, or has pled guilty to an act of domestic violence as defined in Section
10529 77-36-1.
10530 (15) "Homemaking service" means the care of individuals in their domiciles, and help
10531 given to individual caretaker relatives to achieve improved household and family management
10532 through the services of a trained homemaker.
10533 (16) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of
10534 Children:
10535 (a) a child; or
10536 (b) a person:

10537 (i) who is at least 18 years of age and younger than 21 years of age; and
10538 (ii) for whom the division has been specifically ordered by the juvenile court to provide
10539 services.
10540 (17) "Natural parent" means a minor's biological or adoptive parent, and includes a
10541 minor's noncustodial parent.
10542 (18) (a) "Neglect" means:
10543 (i) abandonment of a child, except as provided in Part 8, Safe Relinquishment of a
10544 Newborn Child;
10545 (ii) subjecting a child to mistreatment or abuse;
10546 (iii) lack of proper parental care by reason of the fault or habits of the parent, guardian,
10547 or custodian;
10548 (iv) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
10549 subsistence, education, or medical care, including surgery or psychiatric services when
10550 required, or any other care necessary for the child's health, safety, morals, or well-being; or
10551 (v) a child at risk of being neglected or abused because another child in the same home
10552 is neglected or abused.
10553 (b) The aspect of neglect relating to education, described in Subsection (18)(a)(iv),
10554 means that, after receiving notice that a child has been frequently absent from school without
10555 good cause, or that the child has failed to cooperate with school authorities in a reasonable
10556 manner, a parent or guardian fails to make a good faith effort to ensure that the child receives
10557 an appropriate education.
10558 (c) A parent or guardian legitimately practicing religious beliefs and who, for that
10559 reason, does not provide specified medical treatment for a child, is not guilty of neglect.
10560 (d) (i) Notwithstanding Subsection (18)(a), a health care decision made for a child by
10561 the child's parent or guardian does not constitute neglect unless the state or other party to the
10562 proceeding shows, by clear and convincing evidence, that the health care decision is not
10563 reasonable and informed.
10564 (ii) Nothing in Subsection (18)(d)(i) may prohibit a parent or guardian from exercising
10565 the right to obtain a second health care opinion.
10566 (19) "Protective custody," with regard to the division, means the shelter of a child by
10567 the division from the time the child is removed from the child's home until the earlier of:

10568 (a) the shelter hearing; or
10569 (b) the child's return home.
10570 (20) "Protective services" means expedited services that are provided:
10571 (a) in response to evidence of neglect, abuse, or dependency of a child;
10572 (b) to a cohabitant who is neglecting or abusing a child, in order to:
10573 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
10574 causes of neglect or abuse; and
10575 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
10576 (c) in cases where the child's welfare is endangered:
10577 (i) to bring the situation to the attention of the appropriate juvenile court and law
10578 enforcement agency;
10579 (ii) to cause a protective order to be issued for the protection of the child, when
10580 appropriate; and
10581 (iii) to protect the child from the circumstances that endanger the child's welfare
10582 including, when appropriate:
10583 (A) removal from the child's home;
10584 (B) placement in substitute care; and
10585 (C) petitioning the court for termination of parental rights.
10586 (21) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
10587 child.
10588 (22) "Shelter care" means the temporary care of a minor in a nonsecure facility.
10589 (23) "State" means:
10590 (a) a state of the United States;
10591 (b) the District of Columbia;
10592 (c) the Commonwealth of Puerto Rico;
10593 (d) the Virgin Islands;
10594 (e) Guam;
10595 (f) the Commonwealth of the Northern Mariana Islands; or
10596 (g) a territory or possession administered by the United States.
10597 (24) "Severe emotional abuse" means emotional abuse that causes or threatens to cause
10598 serious harm to a child.

10599 (25) "Severe physical abuse" means physical abuse that causes or threatens to cause
10600 serious harm to a child.
10601 (26) "State plan" means the written description of the programs for children, youth, and
10602 family services administered by the division in accordance with federal law.
10603 (27) "Status offense" means a violation of the law that would not be a violation but for
10604 the age of the offender.
10605 (28) "Substantiated" or "substantiation" means a judicial finding based on a
10606 preponderance of the evidence that abuse or neglect occurred. Each allegation made or
10607 identified in a given case shall be considered separately in determining whether there should be
10608 a finding of substantiated.
10609 (29) "Substitute care" means:
10610 (a) the placement of a minor in a family home, group care facility, or other placement
10611 outside the minor's own home, either at the request of a parent or other responsible relative, or
10612 upon court order, when it is determined that continuation of care in the minor's own home
10613 would be contrary to the minor's welfare;
10614 (b) services provided for a minor awaiting placement; and
10615 (c) the licensing and supervision of a substitute care facility.
10616 (30) "Supported" means a finding by the division based on the evidence available at the
10617 completion of an investigation that there is a reasonable basis to conclude that abuse, neglect,
10618 or dependency occurred. Each allegation made or identified during the course of the
10619 investigation shall be considered separately in determining whether there should be a finding of
10620 supported.
10621 (31) "Temporary custody," with regard to the division, means the custody of a child in
10622 the division from the date of the shelter hearing until disposition.
10623 (32) "Transportation services" means travel assistance given to an individual with
10624 escort service, if necessary, to and from community facilities and resources as part of a service
10625 plan.
10626 (33) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
10627 conclude that abuse or neglect occurred.
10628 (34) "Unsupported" means a finding at the completion of an investigation that there is
10629 insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a

10630 finding of unsupported means also that the division worker did not conclude that the allegation
10631 was without merit.
10632 (35) "Without merit" means a finding at the completion of an investigation by the
10633 division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or
10634 that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.
10635 Section 144. Section **62A-4a-102** is amended to read:
10636 **62A-4a-102. Board of Child and Family Services.**
10637 (1) (a) The Board of Child and Family Services, created in accordance with this section
10638 and with Sections 62A-1-105 and 62A-1-107, is responsible for establishing by rule, under
10639 Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the policy of the division in
10640 accordance with the requirements of this chapter and Title [~~78~~] 78A, Chapter [~~3a~~] 6, Juvenile
10641 Court Act of 1996, regarding abuse, neglect, and dependency proceedings, and domestic
10642 violence services. The board is responsible to see that the legislative purposes for the division
10643 are carried out.
10644 (b) (i) The governor shall appoint, with the consent of the Senate, 12 members to the
10645 Board of Child and Family Services.
10646 (ii) Except as required by Subsection (1)(b)(iii), as terms of current board members
10647 expire, the governor shall appoint each new member or reappointed member to a four-year
10648 term.
10649 (iii) Notwithstanding the requirements of Subsection (1)(b)(ii), the governor shall, at
10650 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
10651 board members are staggered so that approximately half of the board is appointed every two
10652 years.
10653 (c) The board shall include:
10654 (i) two members who are or have been consumers;
10655 (ii) two members who are actively involved in children's issues specifically related to
10656 abuse and neglect;
10657 (iii) a licensed foster parent;
10658 (iv) a recognized expert in the social, developmental, and mental health needs of
10659 children;
10660 (v) a physician licensed to practice medicine in this state who is:

10661 (A) a board certified pediatrician; and
10662 (B) an expert in child abuse and neglect;
10663 (vi) a representative of private residential treatment facilities; and
10664 (vii) an adult relative of a child who is or has been in the foster care system.
10665 (d) Seven members of the board are necessary to constitute a quorum at any meeting.
10666 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
10667 appointed for the unexpired term.
10668 (2) (a) A member shall receive no compensation or benefits for the member's services,
10669 but may receive per diem and expenses incurred in the performance of the member's official
10670 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
10671 63A-3-107.
10672 (b) A member may decline to receive per diem and expenses for the member's service.
10673 (3) The board shall:
10674 (a) approve fee schedules for programs within the division;
10675 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
10676 establish, by rule, policies to ensure that private citizens, consumers, foster parents, private
10677 contract providers, allied state and local agencies, and others are provided with an opportunity
10678 to comment and provide input regarding any new policy or proposed revision of an existing
10679 policy; and
10680 (c) provide a mechanism for:
10681 (i) systematic and regular review of existing policy; and
10682 (ii) consideration of policy changes proposed by the persons and agencies described in
10683 Subsection (3)(b).
10684 (4) (a) The board shall establish policies for the determination of eligibility for services
10685 offered by the division in accordance with this chapter.
10686 (b) The division may, by rule, establish eligibility standards for consumers.
10687 (5) The board shall adopt and maintain rules and policies regarding placement for
10688 adoption or foster care that are consistent with, and no more restrictive than, applicable
10689 statutory provisions.
10690 Section 145. Section **62A-4a-103** is amended to read:
10691 **62A-4a-103. Division -- Creation -- Purpose.**

10692 (1) There is created the Division of Child and Family Services within the department,
10693 under the administration and general supervision of the executive director, and under the policy
10694 direction of the board. The division is the child, youth, and family services authority of the
10695 state and has all functions, powers, duties, rights, and responsibilities created in accordance
10696 with this chapter, except those assumed by the board and the department.
10697 (2) (a) The primary purpose of the division is to provide child welfare services.
10698 (b) The division shall, when possible and appropriate, provide preventive services and
10699 family preservation services in an effort to protect the child from the trauma of separation from
10700 his family, protect the integrity of the family, and the constitutional rights of parents. In
10701 keeping with its ultimate goal and purpose of protecting children, however, when a child's
10702 welfare is endangered or reasonable efforts to maintain or reunify a child with his family have
10703 failed, the division shall act in a timely fashion in accordance with the requirements of this
10704 chapter and Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part 3, Abuse, Neglect, and Dependency
10705 Proceedings, to provide the child with a stable, permanent environment.
10706 (3) The division shall also provide domestic violence services in accordance with
10707 federal law.
10708 Section 146. Section **62A-4a-105** is amended to read:
10709 **62A-4a-105. Division responsibilities.**
10710 The division shall:
10711 (1) administer services to minors and families, including child welfare services,
10712 domestic violence services, and all other responsibilities that the Legislature or the executive
10713 director may assign to the division;
10714 (2) establish standards for all contract providers of out-of-home care for minors and
10715 families;
10716 (3) cooperate with the federal government in the administration of child welfare and
10717 domestic violence programs and other human service activities assigned by the department;
10718 (4) provide for the compilation of relevant information, statistics, and reports on child
10719 and family service matters in the state;
10720 (5) prepare and submit to the department, the governor, and the Legislature reports of
10721 the operation and administration of the division in accordance with the requirements of
10722 Sections 62A-4a-117 and 62A-4a-118;

10723 (6) promote and enforce state and federal laws enacted for the protection of abused,
10724 neglected, dependent, delinquent, ungovernable, and runaway children, and status offenders, in
10725 accordance with the requirements of this chapter, unless administration is expressly vested in
10726 another division or department of the state. In carrying out the provisions of this Subsection
10727 (6), the division shall cooperate with the juvenile courts, the Division of Juvenile Justice
10728 Services, and with all public and private licensed child welfare agencies and institutions to
10729 develop and administer a broad range of services and supports. The division shall take the
10730 initiative in all matters involving the protection of abused or neglected children if adequate
10731 provisions have not been made or are not likely to be made, and shall make expenditures
10732 necessary for the care and protection of those children, within the division's budget;
10733 (7) provide substitute care for dependent, abused, neglected, and delinquent children,
10734 establish standards for substitute care facilities, and approve those facilities;
10735 (8) provide adoption assistance to persons adopting children with special needs under
10736 Part 9, Adoption Assistance, of this chapter. The financial support provided under this
10737 Subsection (8) may not exceed the amounts the division would provide for the child as a legal
10738 ward of the state;
10739 (9) cooperate with the Employment Development Division in the Department of
10740 Workforce Services in meeting social and economic needs of individuals eligible for public
10741 assistance;
10742 (10) conduct court-ordered home evaluations for the district and juvenile courts with
10743 regard to child custody issues. The court shall order either or both parties to reimburse the
10744 division for the cost of that evaluation, in accordance with the community rate for that service
10745 or with the department's fee schedule rate;
10746 (11) provide noncustodial and in-home preventive services, designed to prevent family
10747 breakup, family preservation services, and reunification services to families whose children are
10748 in substitute care in accordance with the requirements of this chapter and Title [~~78~~] 78A,
10749 Chapter [~~3a~~] 6, Juvenile Court Act of 1996;
10750 (12) provide protective supervision of a family, upon court order, in an effort to
10751 eliminate abuse or neglect of a child in that family;
10752 (13) establish programs and provide services to minors who have been placed in the
10753 custody of the division for reasons other than abuse or neglect, pursuant to Section

10754 62A-4a-250;
10755 (14) provide shelter care in accordance with the requirements of this chapter and Title
10756 [~~78~~] 78A, Chapter [~~3a~~] 6, Juvenile Court Act of 1996;
10757 (15) provide social studies and reports for the juvenile court in accordance with Section
10758 [~~78-3a-505~~] 78A-6-605;
10759 (16) arrange for and provide training for staff and providers involved in the
10760 administration and delivery of services offered by the division in accordance with this chapter;
10761 (17) provide domestic violence services in accordance with the requirements of federal
10762 law, and establish standards for all direct or contract providers of domestic violence services.
10763 Within appropriations from the Legislature, the division shall provide or contract for a variety
10764 of domestic violence services and treatment methods;
10765 (18) ensure regular, periodic publication, including electronic publication, regarding
10766 the number of children in the custody of the division who have a permanency goal of adoption,
10767 or for whom a final plan of termination of parental rights has been approved, pursuant to
10768 Section [~~78-3a-312~~] 78A-6-314, and promote adoption of those children;
10769 (19) provide protective services to victims of domestic violence, as defined in Section
10770 77-36-1, and their children, in accordance with the provisions of this chapter and of Title [~~78~~]
10771 78A, Chapter [~~3a~~] 6, Part 3, Abuse, Neglect, and Dependency Proceedings;
10772 (20) refer an individual receiving services from the division to the local substance
10773 abuse authority or other private or public resource for court-ordered drug screening test. The
10774 court shall order the individual to pay all costs of the tests unless:
10775 (a) the cost of the drug screening is specifically funded or provided for by other federal
10776 or state programs;
10777 (b) the individual is a participant in a drug court; or
10778 (c) the court finds that the individual is impecunious;
10779 (21) have authority to contract with a private, nonprofit organization to recruit and train
10780 foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and
10781 (22) perform such other duties and functions as required by law.
10782 Section 147. Section **62A-4a-113** is amended to read:
10783 **62A-4a-113. Division's enforcement authority -- Responsibility of attorney**
10784 **general to represent division.**

10785 (1) The division shall take legal action that is necessary to enforce the provisions of
10786 this chapter.
10787 (2) (a) Subject to the provisions of Section 67-5-17, the attorney general shall enforce
10788 all provisions of this chapter, in addition to the requirements of Title [~~78~~] 78A, Chapter [~~3a~~] 6,
10789 Juvenile Court Act of 1996, relating to protection and custody of abused, neglected, or
10790 dependent minors. The attorney general may contract with the local county attorney to enforce
10791 the provisions of this chapter and Title [~~78~~] 78A, Chapter [~~3a~~] 6, Juvenile Court Act of 1996.
10792 (b) It is the responsibility of the attorney general's office to:
10793 (i) advise the division regarding decisions to remove a minor from the minor's home;
10794 (ii) represent the division in all court and administrative proceedings related to child
10795 abuse, neglect, and dependency including, but not limited to, shelter hearings, dispositional
10796 hearings, dispositional review hearings, periodic review hearings, and petitions for termination
10797 of parental rights; and
10798 (iii) be available to and advise caseworkers on an ongoing basis.
10799 (c) The attorney general shall designate no less than 16 full-time attorneys to advise
10800 and represent the division in abuse, neglect, and dependency proceedings, including petitions
10801 for termination of parental rights. Those attorneys shall devote their full time and attention to
10802 that representation and, insofar as it is practicable, shall be housed in or near various offices of
10803 the division statewide.
10804 (3) As of July 1, 1998, the attorney general's office shall represent the division with
10805 regard to actions involving minors who have not been adjudicated as abused or neglected, but
10806 who are otherwise committed to the custody of the division by the juvenile court, and who are
10807 classified in the division's management information system as having been placed in custody
10808 primarily on the basis of delinquent behavior or a status offense. Nothing in this section may
10809 be construed to affect the responsibility of the county attorney or district attorney to represent
10810 the state in those matters, in accordance with Section [~~78-3a-116~~] 78A-6-115.
10811 Section 148. Section **62A-4a-114** is amended to read:
10812 **62A-4a-114. Financial reimbursement by parent or legal guardian.**
10813 (1) The division shall seek reimbursement of funds it has expended on behalf of a child
10814 in the protective custody, temporary custody, or custody of the division, from the child's
10815 parents or legal guardians in accordance with an order for child support under Section

10816 [~~78-3a-906~~] 78A-6-1106.
10817 (2) A parent or any other obligated person is not responsible for support for periods of
10818 time that a child is removed upon a finding by the Juvenile Court that there were insufficient
10819 grounds for that removal and that child is returned to the home of the parent, parents, or legal
10820 guardians based upon that finding.
10821 (3) In the event that the Juvenile Court finds that there were insufficient grounds for
10822 the initial removal, but that the child is to remain in the custody of the state, the Juvenile Court
10823 shall order that the parents or any other obligated persons are responsible for support from the
10824 point at which it became improper to return the child to the home of his or her parent, parents,
10825 or legal guardians.
10826 (4) The attorney general shall represent the division in any legal action taken to enforce
10827 this section.
10828 Section 149. Section **62A-4a-118** is amended to read:
10829 **62A-4a-118. Annual review of child welfare referrals and cases by executive**
10830 **director -- Accountability to the Legislature -- Review by legislative auditor general.**
10831 (1) The division shall use principles of quality management systems, including
10832 statistical measures of processes of service, and the routine reporting of performance data to
10833 employees.
10834 (2) (a) In addition to development of quantifiable outcome measures and performance
10835 measures in accordance with Section 62A-4a-117, the executive director, or his designee, shall
10836 annually review a randomly selected sample of child welfare referrals to and cases handled by
10837 the division. The purpose of that review shall be to assess whether the division is adequately
10838 protecting children and providing appropriate services to families, in accordance with the
10839 provisions of Title 62A, Chapter 4a, Child and Family Services, and Title [~~78~~] 78A, Chapter
10840 [~~3a~~] 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part [~~4~~] 5, Termination of
10841 Parental Rights Act. The review shall focus directly on the outcome of cases to children and
10842 families, and not simply on procedural compliance with specified criteria.
10843 (b) The executive director shall report, regarding his review of those cases, to the
10844 legislative auditor general and the Child Welfare Legislative Oversight Panel.
10845 (c) Information obtained as a result of the review shall be provided to caseworkers,
10846 supervisors, and division personnel involved in the respective cases, for purposes of education,

10847 training, and performance evaluation.
10848 (3) The executive director's review and report to the Legislature shall include:
10849 (a) the criteria used by the executive director, or his designee, in making the
10850 evaluation;
10851 (b) findings regarding whether state statutes, division policy, and legislative policy
10852 were followed in each sample case;
10853 (c) findings regarding whether, in each sample case, referrals, removals, or cases were
10854 appropriately handled by the division and its employees, and whether children were adequately
10855 and appropriately protected and appropriate services provided to families, in accordance with
10856 the provisions of Title 62A, Chapter 4a, Child and Family Services, Title [~~78~~] 78A, Chapter
10857 [~~3a~~] 6, Part 3, Abuse, Neglect, and Dependency Proceedings, and Part [~~4~~] 5, Termination of
10858 Parental Rights Act, and division policy;
10859 (d) an assessment of the division's intake procedures and decisions, including an
10860 assessment of the appropriateness of decisions not to accept referrals; and
10861 (e) an assessment of the appropriateness of the division's assignment of priority.
10862 (4) (a) In addition to the review conducted by the executive director, beginning July 1,
10863 2004, the legislative auditor general shall audit a sample of child welfare referrals to and cases
10864 handled by the division and report his findings to the Child Welfare Legislative Oversight
10865 Panel.
10866 (b) An audit under Subsection (4)(a) shall be conducted at least once every three years,
10867 but may be conducted more frequently pursuant to Subsection (4)(d).
10868 (c) With regard to the sample of referrals, removals, and cases, the Legislative Auditor
10869 General's report may include:
10870 (i) findings regarding whether state statutes, division policy, and legislative policy were
10871 followed by the division and its employees;
10872 (ii) a determination regarding whether referrals, removals, and cases were appropriately
10873 handled by the division and its employees, and whether children were adequately and
10874 appropriately protected and appropriate services provided for families, in accordance with the
10875 provisions of Title 62A, Chapter 4a, Child and Family Services, Title [~~78~~] 78A, Chapter [~~3a~~] 6,
10876 Part 3, Abuse, Neglect, and Dependency Proceedings, and Part [~~4~~] 5, Termination of Parental
10877 Rights Act, and division policy;

10878 (iii) an assessment of the division's intake procedures and decisions, including an
10879 assessment of the appropriateness of decisions not to accept referrals;
10880 (iv) an assessment of the appropriateness of the division's assignment of priority;
10881 (v) a determination regarding whether the department's review process is effecting
10882 beneficial change within the division and accomplishing the mission established by the
10883 Legislature and the department for that review process; and
10884 (vi) findings regarding any other issues identified by the auditor or others under
10885 Subsection (4)(d).
10886 (d) An audit under Subsection (4)(a) may be initiated by:
10887 (i) the Audit Subcommittee of the Legislative Management Committee;
10888 (ii) the Child Welfare Legislative Oversight Panel; or
10889 (iii) the Legislative Auditor General, based on the results of the executive director's
10890 review under Subsection (2).
10891 Section 150. Section **62A-4a-201** is amended to read:
10892 **62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of**
10893 **state.**
10894 (1) (a) Under both the United States Constitution and the constitution of this state, a
10895 parent possesses a fundamental liberty interest in the care, custody, and management of the
10896 parent's children. A fundamentally fair process must be provided to parents if the state moves
10897 to challenge or interfere with parental rights. A governmental entity must support any actions
10898 or allegations made in opposition to the rights and desires of a parent regarding the parent's
10899 children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened
10900 protection against government interference with the parent's fundamental rights and liberty
10901 interests.
10902 (b) The fundamental liberty interest of a parent concerning the care, custody, and
10903 management of the parent's children is recognized, protected, and does not cease to exist
10904 simply because a parent may fail to be a model parent or because the parent's child is placed in
10905 the temporary custody of the state. At all times, a parent retains a vital interest in preventing
10906 the irretrievable destruction of family life. Prior to an adjudication of unfitness, government
10907 action in relation to parents and their children may not exceed the least restrictive means or
10908 alternatives available to accomplish a compelling state interest. Until the state proves parental

10909 unfitness, the child and the child's parents share a vital interest in preventing erroneous
10910 termination of their natural relationship and the state cannot presume that a child and the child's
10911 parents are adversaries.
10912 (c) It is in the best interest and welfare of a child to be raised under the care and
10913 supervision of the child's natural parents. A child's need for a normal family life in a
10914 permanent home, and for positive, nurturing family relationships will usually best be met by
10915 the child's natural parents. Additionally, the integrity of the family unit, and the right of parents
10916 to conceive and raise their children have found protection in the due process clause of the
10917 Fourteenth Amendment to the United States Constitution. The right of a fit, competent parent
10918 to raise the parent's child without undue government interference is a fundamental liberty
10919 interest that has long been protected by the laws and Constitution of this state and of the United
10920 States.
10921 (d) The state recognizes that:
10922 (i) a parent has the right, obligation, responsibility, and authority to raise, manage,
10923 train, educate, provide for, and reasonably discipline the parent's children; and
10924 (ii) the state's role is secondary and supportive to the primary role of a parent.
10925 (e) It is the public policy of this state that parents retain the fundamental right and duty
10926 to exercise primary control over the care, supervision, upbringing, and education of their
10927 children.
10928 (f) Subsections (2) through (7) shall be interpreted and applied consistent with this
10929 Subsection (1).
10930 (2) It is also the public policy of this state that children have the right to protection
10931 from abuse and neglect, and that the state retains a compelling interest in investigating,
10932 prosecuting, and punishing abuse and neglect, as defined in this chapter, and in Title [~~78~~] 78A,
10933 Chapter [~~3a~~] 6, Juvenile Court Act of 1996. Therefore, the state, as parens patriae, has an
10934 interest in and responsibility to protect children whose parents abuse them or do not adequately
10935 provide for their welfare. There may be circumstances where a parent's conduct or condition is
10936 a substantial departure from the norm and the parent is unable or unwilling to render safe and
10937 proper parental care and protection. Under those circumstances, the state may take action for
10938 the welfare and protection of the parent's children.
10939 (3) When the division intervenes on behalf of an abused, neglected, or dependent child,

10940 it shall take into account the child's need for protection from immediate harm. Throughout its
10941 involvement, the division shall utilize the least intrusive and least restrictive means available to
10942 protect a child, in an effort to ensure that children are brought up in stable, permanent families,
10943 rather than in temporary foster placements under the supervision of the state.
10944 (4) When circumstances within the family pose a threat to the child's immediate safety
10945 or welfare, the division may obtain custody of the child for a planned period and place the child
10946 in a safe environment, in accordance with the requirements of Title [~~78~~] 78A, Chapter [~~3a~~] 6,
10947 Part 3, Abuse, Neglect, and Dependency Proceedings.
10948 (5) In determining and making "reasonable efforts" with regard to a child, pursuant to
10949 the provisions of Section 62A-4a-203, both the division's and the court's paramount concern
10950 shall be the child's health, safety, and welfare. The desires of a parent for the parent's child
10951 shall be given full and serious consideration by the division and the court.
10952 (6) In cases where actual sexual abuse, abandonment, or serious physical abuse or
10953 neglect are established, the state has no duty to make "reasonable efforts" or to, in any other
10954 way, attempt to maintain a child in the child's home, provide reunification services, or to
10955 attempt to rehabilitate the offending parent or parents. This Subsection (6) does not exempt the
10956 division from providing court-ordered services.
10957 (7) (a) It is the division's obligation, under federal law, to achieve permanency for
10958 children who are abused, neglected, or dependent. If the use or continuation of "reasonable
10959 efforts," as described in Subsections (5) and (6), is determined to be inconsistent with the
10960 permanency plan for a child, then measures shall be taken, in a timely manner, to place the
10961 child in accordance with the permanency plan, and to complete whatever steps are necessary to
10962 finalize the permanent placement of the child.
10963 (b) If, because of his conduct or condition, a parent is determined to be unfit or
10964 incompetent based on the grounds for termination of parental rights described in Title [~~78~~]
10965 78A, Chapter [~~3a~~] 6, Part [~~4~~] 5, Termination of Parental Rights Act, the welfare and best
10966 interest of the child is of paramount importance, and shall govern in determining whether that
10967 parent's rights should be terminated.
10968 (8) The state's right to direct or intervene in the provision of medical or mental health
10969 care for a child is subject to Subsection [~~78-3a-118~~] 78A-6-117(2)(n).
10970 Section 151. Section **62A-4a-202.1** is amended to read:

10971 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
10972 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
10973 **emergency placement.**
10974 (1) A peace officer or child welfare worker may not enter the home of a child who is
10975 not under the jurisdiction of the court, remove a child from the child's home or school, or take a
10976 child into protective custody unless authorized under Subsection [~~78-3a-106~~] 78A-6-106(2).
10977 (2) A child welfare worker within the division may take action under Subsection (1)
10978 accompanied by a peace officer, or without a peace officer when a peace officer is not
10979 reasonably available.
10980 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
10981 into protective custody, the child welfare worker shall also determine whether there are
10982 services available that, if provided to a parent or guardian of the child, would eliminate the
10983 need to remove the child from the custody of the child's parent or guardian.
10984 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
10985 utilized.
10986 (c) In determining whether the services described in Subsection (3)(a) are reasonably
10987 available, and in making reasonable efforts to provide those services, the child's health, safety,
10988 and welfare shall be the child welfare worker's paramount concern.
10989 (4) (a) A child removed or taken into custody under this section may not be placed or
10990 kept in a secure detention facility pending court proceedings unless the child is detainable
10991 based on guidelines promulgated by the Division of Juvenile Justice Services.
10992 (b) A child removed from the custody of the child's parent or guardian but who does
10993 not require physical restriction shall be given temporary care in:
10994 (i) a shelter facility; or
10995 (ii) an emergency placement in accordance with Section 62A-4a-209.
10996 Section 152. Section **62A-4a-202.2** is amended to read:
10997 **62A-4a-202.2. Notice upon removal of child -- Locating noncustodial parent --**
10998 **Written statement of procedural rights and preliminary proceedings.**
10999 (1) (a) Any peace officer or caseworker who takes a child into protective custody
11000 pursuant to Section 62A-4a-202.1 shall immediately use reasonable efforts to locate and
11001 inform, through the most efficient means available, the parents, including a noncustodial

11002 parent, the guardian, or responsible relative:
11003 (i) that the child has been taken into protective custody;
11004 (ii) the reasons for removal and placement of the child in protective custody;
11005 (iii) that a written statement is available that explains:
11006 (A) the parent's or guardian's procedural rights; and
11007 (B) the preliminary stages of the investigation and shelter hearing;
11008 (iv) of a telephone number where the parent or guardian may access further
11009 information;
11010 (v) that the child and the child's parent or guardian are entitled to have an attorney
11011 present at the shelter hearing;
11012 (vi) that if the child's parent or guardian is impecunious and desires to have an attorney,
11013 one will be provided; and
11014 (vii) that resources are available to assist the child's parent or guardian, including:
11015 (A) a parent advocate;
11016 (B) a qualified attorney; or
11017 (C) potential expert witnesses to testify on behalf of the:
11018 (I) child;
11019 (II) child's parent;
11020 (III) child's guardian; or
11021 (IV) child's family.
11022 (b) For purposes of locating and informing the noncustodial parent as required in
11023 Subsection (1)(a), the division shall search for the noncustodial parent through the national
11024 parent locator database if the division is unable to locate the noncustodial parent through other
11025 reasonable efforts.
11026 (2) (a) The Office of the Attorney General shall adopt, print, and distribute a form for
11027 the written statement described in Subsection (1)(a)(iii).
11028 (b) The statement described in Subsections (1)(a)(iii) and (2)(a) shall:
11029 (i) be made available to the division and for distribution in:
11030 (A) schools;
11031 (B) health care facilities;
11032 (C) local police and sheriff's offices;

11033 (D) the division; and
11034 (E) any other appropriate office within the Department of Human Services;
11035 (ii) be in simple language; and
11036 (iii) include at least the following information:
11037 (A) the conditions under which a child may be released;
11038 (B) hearings that may be required;
11039 (C) the means by which the parent or guardian may access further specific information
11040 about a child's case and conditions of protective and temporary custody; and
11041 (D) the rights of a child and of the parent or guardian to legal counsel and to appeal.
11042 (3) If reasonable efforts are made by the peace officer or caseworker to notify the
11043 parent or guardian or a responsible relative in accordance with the requirements of Subsection
11044 (1), failure to notify:
11045 (a) shall be considered to be due to circumstances beyond the control of the peace
11046 officer or caseworker; and
11047 (b) may not be construed to:
11048 (i) permit a new defense to any juvenile or judicial proceeding; or
11049 (ii) interfere with any rights, procedures, or investigations provided for by this chapter
11050 or Title [~~78~~] 78A, Chapter [~~3a~~] 6, Juvenile Court Act of 1996.
11051 Section 153. Section **62A-4a-202.3** is amended to read:
11052 **62A-4a-202.3. Investigation -- Supported or unsupported reports -- Child in**
11053 **protective custody.**
11054 (1) When a child is taken into protective custody in accordance with Section
11055 62A-4a-202.1, [~~78-3a-106~~] 78A-6-106, or [~~78-3a-301~~] 78A-6-302, or when the division takes
11056 any other action which would require a shelter hearing under Subsection [~~78-3a-306~~]
11057 78A-6-306(1), the division shall immediately initiate an investigation of the:
11058 (a) circumstances of the child; and
11059 (b) grounds upon which the decision to place the child into protective custody was
11060 made.
11061 (2) The division's investigation shall conform to reasonable professional standards, and
11062 shall include:
11063 (a) a search for and review of any records of past reports of abuse or neglect involving:

11064 (i) the same child;
11065 (ii) any sibling or other child residing in the same household as the child; and
11066 (iii) the alleged perpetrator;
11067 (b) with regard to a child who is five years of age or older, a personal interview with
11068 the child:
11069 (i) outside of the presence of the alleged perpetrator; and
11070 (ii) conducted in accordance with the requirements of Subsection (7);
11071 (c) if a parent or guardian can be located, an interview with at least one of the child's
11072 parents or guardian;
11073 (d) an interview with the person who reported the abuse, unless the report was made
11074 anonymously;
11075 (e) where possible and appropriate, interviews with other third parties who have had
11076 direct contact with the child, including:
11077 (i) school personnel; and
11078 (ii) the child's health care provider;
11079 (f) an unscheduled visit to the child's home, unless:
11080 (i) there is a reasonable basis to believe that the reported abuse was committed by a
11081 person who:
11082 (A) is not the child's parent; and
11083 (B) does not:
11084 (I) live in the child's home; or
11085 (II) otherwise have access to the child in the child's home; or
11086 (ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and
11087 (g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or
11088 failure to meet the child's medical needs, a medical examination, obtained no later than 24
11089 hours after the child is placed in protective custody.
11090 (3) The division may rely on a written report of a prior interview rather than
11091 conducting an additional interview, if:
11092 (a) law enforcement:
11093 (i) previously conducted a timely and thorough investigation regarding the alleged
11094 abuse, neglect, or dependency; and

11095 (ii) produced a written report;
11096 (b) the investigation described in Subsection (3)(a)(i) included one or more of the
11097 interviews required by Subsection (2); and
11098 (c) the division finds that an additional interview is not in the best interest of the child.
11099 (4) (a) The division's determination of whether a report is supported or unsupported
11100 may be based on the child's statements alone.
11101 (b) Inability to identify or locate the perpetrator may not be used by the division as a
11102 basis for:
11103 (i) determining that a report is unsupported; or
11104 (ii) closing the case.
11105 (c) The division may not determine a case to be unsupported or identify a case as
11106 unsupported solely because the perpetrator was an out-of-home perpetrator.
11107 (d) Decisions regarding whether a report is supported, unsupported, or without merit
11108 shall be based on the facts of the case at the time the report was made.
11109 (5) The division should maintain protective custody of the child if it finds that one or
11110 more of the following conditions exist:
11111 (a) the child does not have a natural parent, guardian, or responsible relative who is
11112 able and willing to provide safe and appropriate care for the child;
11113 (b) (i) shelter of the child is a matter of necessity for the protection of the child; and
11114 (ii) there are no reasonable means by which the child can be protected in:
11115 (A) the child's home; or
11116 (B) the home of a responsible relative;
11117 (c) there is substantial evidence that the parent or guardian is likely to flee the
11118 jurisdiction of the court; or
11119 (d) the child has left a previously court ordered placement.
11120 (6) (a) Within 24 hours after receipt of a child into protective custody, excluding
11121 weekends and holidays, the division shall:
11122 (i) convene a child protection team to review the circumstances regarding removal of
11123 the child from the child's home or school; and
11124 (ii) prepare the testimony and evidence that will be required of the division at the
11125 shelter hearing, in accordance with Section [~~78-3a-306~~] 78A-6-306.

11126 (b) The child protection team described in Subsection (6)(a)(i) shall include:
11127 (i) the caseworker assigned to the case;
11128 (ii) the caseworker who made the decision to remove the child;
11129 (iii) a representative of the school or school district where the child attends school;
11130 (iv) the peace officer who removed the child from the home;
11131 (v) a representative of the appropriate Children's Justice Center, if one is established
11132 within the county where the child resides;
11133 (vi) if appropriate, and known to the division, a therapist or counselor who is familiar
11134 with the child's circumstances; and
11135 (vii) any other individuals determined appropriate and necessary by the team
11136 coordinator and chair.
11137 (c) At the 24-hour meeting, the division shall have available for review and
11138 consideration the complete child protective services and foster care history of the child and the
11139 child's parents and siblings.
11140 (7) (a) After receipt of a child into protective custody and prior to the adjudication
11141 hearing, all investigative interviews with the child that are initiated by the division shall be:
11142 (i) except as provided in Subsection (7)(b), audio or video taped; and
11143 (ii) except as provided in Subsection (7) (c), conducted with a support person of the
11144 child's choice present.
11145 (b) (i) Subject to Subsection (7)(b)(ii), an interview described in Subsection (7)(a) may
11146 be conducted without being taped if the child:
11147 (A) is at least nine years old;
11148 (B) refuses to have the interview audio taped; and
11149 (C) refuses to have the interview video taped.
11150 (ii) If, pursuant to Subsection (7)(b)(i), an interview is conducted without being taped,
11151 the child's refusal shall be documented, as follows:
11152 (A) the interviewer shall attempt to get the child's refusal on tape, including the reasons
11153 for the refusal; or
11154 (B) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the
11155 interviewer shall:
11156 (I) state on the tape that the child is present, but has refused to have the interview,

11157 refusal, or the reasons for the refusal taped; or
11158 (II) if complying with Subsection (7)(b)(ii)(B)(I) will result in the child, who would
11159 otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall
11160 document, in writing, that the child refused to allow the interview to be taped and the reasons
11161 for that refusal.
11162 (iii) The division shall track the number of interviews under this Subsection (7) that are
11163 not taped, and the number of refusals that are not taped, for each interviewer, in order to
11164 determine whether a particular interviewer has a higher incidence of refusals, or taped refusals,
11165 than other interviewers.
11166 (c) (i) Notwithstanding Subsection (7)(a)(ii), the support person who is present for an
11167 interview of a child may not be an alleged perpetrator.
11168 (ii) Subsection (7)(a)(ii) does not apply if the child refuses to have a support person
11169 present during the interview.
11170 (iii) If a child described in Subsection (7)(c)(ii) refuses to have a support person
11171 present in the interview, the interviewer shall document, in writing, the refusal and the reasons
11172 for the refusal.
11173 (iv) The division shall track the number of interviews under this Subsection (7) where
11174 a child refuses to have a support person present for each interviewer, in order to determine
11175 whether a particular interviewer has a higher incidence of refusals than other interviewers.
11176 (8) The division shall cooperate with law enforcement investigations regarding the
11177 alleged perpetrator.
11178 (9) The division may not close an investigation solely on the grounds that the division
11179 investigator is unable to locate the child until all reasonable efforts have been made to locate
11180 the child and family members including:
11181 (a) visiting the home at times other than normal work hours;
11182 (b) contacting local schools;
11183 (c) contacting local, county, and state law enforcement agencies; and
11184 (d) checking public assistance records.
11185 Section 154. Section **62A-4a-202.4** is amended to read:
11186 **62A-4a-202.4. Access to criminal background information.**
11187 (1) For purposes of background screening and investigation of child abuse under this

11188 chapter and Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part 3, Abuse, Neglect, and Dependency
11189 Proceedings, the division shall have direct access to criminal background information
11190 maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.
11191 (2) The division and the Office of the Guardian Ad Litem Director are also authorized
11192 to request the Department of Public Safety to conduct a complete Federal Bureau of
11193 Investigation criminal background check through the national criminal history system (NCIC).
11194 Section 155. Section **62A-4a-202.6** is amended to read:
11195 **62A-4a-202.6. Child protective services investigators within the Office of**
11196 **Attorney General -- Authority.**
11197 (1) (a) Pursuant to Section 67-5-16 the attorney general may employ, with the consent
11198 of the division, child protective services investigators to investigate reports of abuse or neglect
11199 of a child that occur while the child is in the custody of the division.
11200 (b) (i) Under the direction of the Board of Child and Family Services, the division
11201 shall, in accordance with Subsection 62A-4a-409(5), contract with an independent child
11202 protective service investigator to investigate reports of abuse or neglect of a child that occur
11203 while the child is in the custody of the division.
11204 (ii) The executive director of the department shall designate an entity within the
11205 department, other than the division, to monitor the contract for the investigators described in
11206 Subsection (1)(b)(i).
11207 (2) The investigators described in Subsection (1) may also investigate allegations of
11208 abuse or neglect of a child by a department employee or a licensed substitute care provider.
11209 (3) The investigators described in Subsection (1), if not peace officers, shall have the
11210 same rights, duties, and authority of a child protective services investigator employed by the
11211 division to:
11212 (a) make a thorough investigation upon receiving either an oral or written report of
11213 alleged abuse or neglect of a child, with the primary purpose of that investigation being the
11214 protection of the child;
11215 (b) make an inquiry into the child's home environment, emotional, or mental health, the
11216 nature and extent of the child's injuries, and the child's physical safety;
11217 (c) make a written report of their investigation, including determination regarding
11218 whether the alleged abuse or neglect was substantiated, unsubstantiated, or without merit, and

11219 forward a copy of that report to the division within the time mandates for investigations
11220 established by the division;
11221 (d) immediately consult with school authorities to verify the child's status in
11222 accordance with Sections 53A-11-101 through 53A-11-103 when a report is based upon or
11223 includes an allegation of educational neglect;
11224 (e) enter upon public or private premises, using appropriate legal processes, to
11225 investigate reports of alleged child abuse or neglect; and
11226 (f) take a child into protective custody, and deliver the child to a law enforcement
11227 officer, or to the division. Control and jurisdiction over the child shall be determined by the
11228 provisions of Title 62A, Chapter 4a, Part 2, Child Welfare Services, Title [~~78~~] 78A, Chapter
11229 [~~3a~~] 6, Juvenile Court Act of 1996, and as otherwise provided by law.
11230 Section 156. Section **62A-4a-202.8** is amended to read:
11231 **62A-4a-202.8. Child protection team meeting -- Timing.**
11232 (1) Subject to Subsection (2), if the division files a petition under Section [~~78-3a-305~~]
11233 78A-6-304, the division shall convene a child protection team meeting to:
11234 (a) review the circumstances of the filing of the petition; and
11235 (b) develop or review implementation of a safety plan to protect the child from further
11236 abuse, neglect, or dependency.
11237 (2) The child protection team meeting required under Subsection (1) shall be held
11238 within the shorter of:
11239 (a) 14 days of the day on which the petition is filed under Section [~~78-3a-305~~]
11240 78A-6-304 if the conditions of Subsection (2)(b) or (c) are not met;
11241 (b) 24 hours of the filing of the petition under Section [~~78-3a-305~~] 78A-6-304,
11242 excluding weekends and holidays, if the child who is the subject of the petition will likely be
11243 taken into protective custody unless there is an expedited hearing and services ordered under
11244 the protective supervision of the court; or
11245 (c) 24 hours after receipt of a child into protective custody, excluding weekends and
11246 holidays, if the child is taken into protective custody as provided in Section 62A-4a-202.3.
11247 (3) The child protection team shall include as many persons under Subsection
11248 62A-4a-202.3(6)(b) as appropriate.
11249 (4) At its meeting the child protection team shall review the complete child protective

11250 services and foster care history of the child and the child's parents and siblings.
11251 Section 157. Section **62A-4a-203** is amended to read:
11252 **62A-4a-203. Removal of a child from home -- Reasonable efforts to maintain**
11253 **child in home -- Exception -- Reasonable efforts for reunification.**
11254 (1) Because removal of a child from the child's home affects protected, constitutional
11255 rights of the parent and has a dramatic, long-term impact on a child, the division shall:
11256 (a) when possible and appropriate, without danger to the child's welfare, make
11257 reasonable efforts to prevent or eliminate the need for removal of a child from the child's home
11258 prior to placement in substitute care;
11259 (b) determine whether there is substantial cause to believe that a child has been or is in
11260 danger of abuse or neglect, in accordance with the guidelines described in Title [~~78~~] 78A,
11261 Chapter [~~3a~~] 6, Part 3, Abuse, Neglect, and Dependency Proceedings, prior to removing the
11262 child from the child's home; and
11263 (c) when it is possible and appropriate, and in accordance with the limitations and
11264 requirements of Sections [~~78-3a-311~~] 78A-6-312 and [~~78-3a-312~~] 78A-6-314, make reasonable
11265 efforts to make it possible for a child in substitute care to return to the child's home.
11266 (2) (a) In determining the reasonableness of efforts needed to maintain a child in the
11267 child's home or to return a child to the child's home, in accordance with Subsection (1)(a) or
11268 (c), the child's health, safety, and welfare shall be the paramount concern.
11269 (b) The division shall consider whether the efforts described in Subsections (1) and (2)
11270 are likely to prevent abuse or continued neglect of the child.
11271 (3) When removal and placement in substitute care is necessary to protect a child, the
11272 efforts described in Subsections (1) and (2):
11273 (a) are not reasonable or appropriate; and
11274 (b) should not be utilized.
11275 (4) Subject to Subsection (5), in cases where sexual abuse, abandonment, or serious
11276 physical abuse or neglect are involved, the state has no duty to make reasonable efforts to, in
11277 any way, attempt to:
11278 (a) maintain a child in the child's home;
11279 (b) provide reunification services; or
11280 (c) rehabilitate the offending parent or parents.

11281 (5) Nothing in Subsection (4) exempts the division from providing court ordered
11282 services.
11283 Section 158. Section **62A-4a-203.5** is amended to read:
11284 **62A-4a-203.5. Mandatory petition for termination of parental rights.**
11285 (1) For purposes of this section, "abandoned infant" means a child who is 12 months of
11286 age or younger whose parent or parents:
11287 (a) although having legal custody of the child, fail to maintain physical custody of the
11288 child without making arrangements for the care of the child;
11289 (b) have failed to maintain physical custody, and have failed to exhibit the normal
11290 interest of a natural parent without just cause; or
11291 (c) are unwilling to have physical custody of the child.
11292 (2) Except as provided in Subsection (3), notwithstanding any other provision of this
11293 chapter or of Title [~~78~~] 78A, Chapter [~~3a~~] 6, Juvenile Court Act of 1996, the division shall file
11294 a petition for termination of parental rights with regard to:
11295 (a) an abandoned infant; or
11296 (b) a parent, whenever a court has determined that the parent has:
11297 (i) committed murder or child abuse homicide of another child of that parent;
11298 (ii) committed manslaughter of another child of that parent;
11299 (iii) aided, abetted, attempted, conspired, or solicited to commit murder, child abuse
11300 homicide, or manslaughter against another child of that parent; or
11301 (iv) committed a felony assault or abuse that has resulted in serious physical injury to
11302 another child of that parent, or to the other parent of that child.
11303 (3) The division is not required to file a petition for termination of parental rights under
11304 Subsection (2) if:
11305 (a) the child is being cared for by a relative;
11306 (b) the division has:
11307 (i) documented in the child's child and family plan a compelling reason for determining
11308 that filing a petition for termination of parental rights is not in the child's best interest; and
11309 (ii) made that child and family plan available to the court for its review; or
11310 (c) (i) the court has previously determined, in accordance with the provisions and
11311 limitations of Sections 62A-4a-201, 62A-4a-203, [~~78-3a-306~~] 78A-6-306, and [~~78-3a-311~~]

11312 78A-6-312, that reasonable efforts to reunify the child with the child's parent or parents were
11313 required; and
11314 (ii) the division has not provided, within the time period specified in the child and
11315 family plan, services that had been determined to be necessary for the safe return of the child.
11316 Section 159. Section **62A-4a-205** is amended to read:
11317 **62A-4a-205. Child and family plan -- Parent-time.**
11318 (1) No more than 45 days after a child enters the temporary custody of the division, the
11319 child's child and family plan shall be finalized.
11320 (2) (a) The division shall use an interdisciplinary team approach in developing each
11321 child and family plan.
11322 (b) The interdisciplinary team described in Subsection (2)(a) shall include, but is not
11323 limited to, representatives from the following fields:
11324 (i) mental health;
11325 (ii) education; and
11326 (iii) if appropriate, law enforcement.
11327 (3) (a) The division shall involve all of the following in the development of a child's
11328 child and family plan:
11329 (i) both of the child's natural parents, unless the whereabouts of a parent are unknown;
11330 (ii) the child;
11331 (iii) the child's foster parents; and
11332 (iv) if appropriate, the child's stepparent.
11333 (b) In relation to all information considered by the division in developing a child and
11334 family plan, additional weight and attention shall be given to the input of the child's natural and
11335 foster parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii).
11336 (c) (i) The division shall make a substantial effort to develop a child and family plan
11337 with which the child's parents agree.
11338 (ii) If a parent does not agree with a child and family plan:
11339 (A) the division shall strive to resolve the disagreement between the division and the
11340 parent; and
11341 (B) if the disagreement is not resolved, the division shall inform the court of the
11342 disagreement.

11343 (4) A copy of the child and family plan shall, immediately upon completion, or as soon
11344 as reasonably possible thereafter, be provided to the:
11345 (a) guardian ad litem;
11346 (b) child's natural parents; and
11347 (c) child's foster parents.
11348 (5) Each child and family plan shall:
11349 (a) specifically provide for the safety of the child, in accordance with federal law; and
11350 (b) clearly define what actions or precautions will, or may be, necessary to provide for
11351 the health, safety, protection, and welfare of the child.
11352 (6) The child and family plan shall set forth, with specificity, at least the following:
11353 (a) the reason the child entered into the custody of the division;
11354 (b) documentation of the:
11355 (i) reasonable efforts made to prevent placement of the child in the custody of the
11356 division; or
11357 (ii) emergency situation that existed and that prevented the reasonable efforts described
11358 in Subsection (6)(b)(i), from being made;
11359 (c) the primary permanency goal for the child and the reason for selection of that goal;
11360 (d) the concurrent permanency goal for the child and the reason for the selection of that
11361 goal;
11362 (e) if the plan is for the child to return to the child's family:
11363 (i) specifically what the parents must do in order to enable the child to be returned
11364 home;
11365 (ii) specifically how the requirements described in Subsection (6)(e)(i) may be
11366 accomplished; and
11367 (iii) how the requirements described in Subsection (6)(e)(i) will be measured;
11368 (f) the specific services needed to reduce the problems that necessitated placing the
11369 child in the division's custody;
11370 (g) the name of the person who will provide for and be responsible for case
11371 management;
11372 (h) subject to Subsection (10), a parent-time schedule between the natural parent and
11373 the child;

11374 (i) subject to Subsection (7), the health and mental health care to be provided to
11375 address any known or diagnosed mental health needs of the child;
11376 (j) if residential treatment rather than a foster home is the proposed placement, a
11377 requirement for a specialized assessment of the child's health needs including an assessment of
11378 mental illness and behavior and conduct disorders; and
11379 (k) social summaries that include case history information pertinent to case planning.
11380 (7) (a) Subject to Subsection (7)(b), in addition to the information required under
11381 Subsection (6)(i), the plan shall include a specialized assessment of the medical and mental
11382 health needs of a child, if the child:
11383 (i) is placed in residential treatment; and
11384 (ii) has medical or mental health issues that need to be addressed.
11385 (b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate
11386 medical or mental health diagnosis of the parent's child from a licensed practitioner of the
11387 parent's choice.
11388 (8) (a) Each child and family plan shall be specific to each child and the child's family,
11389 rather than general.
11390 (b) The division shall train its workers to develop child and family plans that comply
11391 with:
11392 (i) federal mandates; and
11393 (ii) the specific needs of the particular child and the child's family.
11394 (c) All child and family plans and expectations shall be individualized and contain
11395 specific time frames.
11396 (d) Subject to Subsection (8)(h), child and family plans shall address problems that:
11397 (i) keep a child in placement; and
11398 (ii) keep a child from achieving permanence in the child's life.
11399 (e) Each child and family plan shall be designed to minimize disruption to the normal
11400 activities of the child's family, including employment and school.
11401 (f) In particular, the time, place, and amount of services, hearings, and other
11402 requirements ordered by the court in the child and family plan shall be designed, as much as
11403 practicable, to help the child's parents maintain or obtain employment.
11404 (g) The child's natural parents, foster parents, and where appropriate, stepparents, shall

11405 be kept informed of and supported to participate in important meetings and procedures related
11406 to the child's placement.
11407 (h) For purposes of Subsection (8)(d), a child and family plan may only include
11408 requirements that:
11409 (i) address findings made by the court; or
11410 (ii) (A) are requested or consented to by a parent or guardian of the child; and
11411 (B) are agreed to by the division and the guardian ad litem.
11412 (9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three
11413 years of age or younger, if the goal is not to return the child home, the permanency plan for that
11414 child shall be adoption.
11415 (b) Notwithstanding Subsection (9)(a), if the division documents to the court that there
11416 is a compelling reason that adoption, reunification, guardianship, and a placement described in
11417 Subsection [~~78-3a-306~~] 78A-6-306(6)(e) are not in the child's best interest, the court may order
11418 another planned permanent living arrangement in accordance with federal law.
11419 (10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a
11420 court order issued pursuant to Subsections [~~78-3a-311~~] 78A-6-312(2)(a)(ii) and (b).
11421 (b) Notwithstanding Subsection (10)(a), the person designated by the division or a
11422 court to supervise a parent-time session may deny parent-time for that session if the supervising
11423 person determines that, based on the parent's condition, it is necessary to deny parent-time in
11424 order to:
11425 (i) protect the physical safety of the child;
11426 (ii) protect the life of the child; or
11427 (iii) consistent with Subsection (10)(c), prevent the child from being traumatized by
11428 contact with the parent.
11429 (c) In determining whether the condition of the parent described in Subsection (10)(b)
11430 will traumatize a child, the person supervising the parent-time session shall consider the impact
11431 that the parent's condition will have on the child in light of:
11432 (i) the child's fear of the parent; and
11433 (ii) the nature of the alleged abuse or neglect.
11434 Section 160. Section **62A-4a-205.5** is amended to read:
11435 **62A-4a-205.5. Prohibition of discrimination based on race, ethnicity, and cultural**

11436 **heritage.**
11437 With regard to children in the custody of the division who have permanency goals of
11438 adoption or for whom a final plan for pursuing termination of parental rights has been approved
11439 in accordance with Section [~~78-3a-312~~] 78A-6-314, the division may not base its decision for
11440 placement of those children solely on the race, ethnicity, or cultural heritage of either the child
11441 or the prospective adoptive parents. The basis of a decision for placement shall be the best
11442 interest of the child.
11443 Section 161. Section **62A-4a-205.6** is amended to read:
11444 **62A-4a-205.6. Adoptive placement time frame -- Contracting with agencies.**
11445 (1) With regard to a child who has a primary permanency goal of adoption or for whom
11446 a final plan for pursuing termination of parental rights has been approved in accordance with
11447 Section [~~78-3a-312~~] 78A-6-314, the division shall make intensive efforts to place the child in
11448 an adoptive home within 30 days of the earlier of:
11449 (a) approval of the final plan; or
11450 (b) establishment of the primary permanency goal.
11451 (2) If within the time periods described in Subsection (1) the division is unable to
11452 locate a suitable adoptive home, it shall contract with licensed child placing agencies to search
11453 for an appropriate adoptive home for the child, and to place the child for adoption. The
11454 division shall comply with the requirements of Section 62A-4a-607 and contract with a variety
11455 of child placing agencies licensed under Part 6. In accordance with federal law, the division
11456 shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely
11457 adoptive or permanent placements for waiting children.
11458 (3) The division shall ensure that children who are adopted and were previously in its
11459 custody, continue to receive the medical and mental health coverage that they are entitled to
11460 under state and federal law.
11461 Section 162. Section **62A-4a-206** is amended to read:
11462 **62A-4a-206. Process for removal of a child from foster family -- Procedural due**
11463 **process.**
11464 (1) (a) The Legislature finds that, except with regard to a child's natural parent or legal
11465 guardian, a foster family has a very limited but recognized interest in its familial relationship
11466 with a foster child who has been in the care and custody of that family. In making

11467 determinations regarding removal of a child from a foster home, the division may not dismiss
11468 the foster family as a mere collection of unrelated individuals.
11469 (b) The Legislature finds that children in the temporary custody and custody of the
11470 division are experiencing multiple changes in foster care placements with little or no
11471 documentation, and that numerous studies of child growth and development emphasize the
11472 importance of stability in foster care living arrangements.
11473 (c) For the reasons described in Subsections (1)(a) and (b), the division shall provide
11474 procedural due process for a foster family prior to removal of a foster child from their home,
11475 regardless of the length of time the child has been in that home, unless removal is for the
11476 purpose of:
11477 (i) returning the child to the child's natural parent or legal guardian;
11478 (ii) immediately placing the child in an approved adoptive home;
11479 (iii) placing the child with a relative, as defined in Subsection [~~78-3a-307~~]
11480 78A-6-307(5)(d), who obtained custody or asserted an interest in the child within the
11481 preference period described in Subsection [~~78-3a-307~~] 78A-6-307(8); or
11482 (iv) placing an Indian child in accordance with preplacement preferences and other
11483 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.
11484 (2) (a) The division shall maintain and utilize due process procedures for removal of a
11485 foster child from a foster home, in accordance with the procedures and requirements of Title
11486 63, Chapter 46b, Administrative Procedures Act.
11487 (b) Those procedures shall include requirements for:
11488 (i) personal communication with and explanation to foster parents prior to removal of
11489 the child; and
11490 (ii) an opportunity for foster parents to present their information and concerns to the
11491 division and to request a review by a third party neutral fact finder prior to removal of the
11492 child.
11493 (c) If the division determines that there is a reasonable basis to believe that the child is
11494 in danger or that there is a substantial threat of danger to the health or welfare of the child, it
11495 shall place the child in emergency foster care during the pendency of the procedures described
11496 in this subsection, instead of making another foster care placement.
11497 (3) If the division removes a child from a foster home based upon the child's statement

11498 alone, the division shall initiate and expedite the processes described in Subsection (2). The
11499 division may take no formal action with regard to that foster parent's license until after those
11500 processes, in addition to any other procedure or hearing required by law, have been completed.
11501 (4) When a complaint is made to the division by a foster child against a foster parent,
11502 the division shall, within 30 business days, provide the foster parent with information regarding
11503 the specific nature of the complaint, the time and place of the alleged incident, and who was
11504 alleged to have been involved.
11505 (5) Whenever the division places a child in a foster home, it shall provide the foster
11506 parents with:
11507 (a) notification of the requirements of this section;
11508 (b) a written description of the procedures enacted by the division pursuant to
11509 Subsection (2) and how to access those processes; and
11510 (c) written notification of the foster parents' ability to petition the juvenile court
11511 directly for review of a decision to remove a foster child who has been in their custody for 12
11512 months or longer, in accordance with the limitations and requirements of Section [~~78-3a-315~~]
11513 78A-6-318.
11514 (6) The requirements of this section do not apply to the removal of a child based on a
11515 foster parent's request for that removal.
11516 Section 163. Section **62A-4a-207** is amended to read:
11517 **62A-4a-207. Legislative Oversight Panel -- Responsibilities.**
11518 (1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the
11519 following members:
11520 (i) two members of the Senate, one from the majority party and one from the minority
11521 party, appointed by the president of the Senate; and
11522 (ii) three members of the House of Representatives, two from the majority party and
11523 one from the minority party, appointed by the speaker of the House of Representatives.
11524 (b) Members of the panel shall serve for two-year terms, or until their successors are
11525 appointed.
11526 (c) A vacancy exists whenever a member ceases to be a member of the Legislature, or
11527 when a member resigns from the panel. Vacancies shall be filled by the appointing authority,
11528 and the replacement shall fill the unexpired term.

11529 (2) The president of the Senate shall designate one of the senators appointed to the
11530 panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of
11531 Representatives shall designate one of the representatives appointed to the panel under
11532 Subsection (1) as the House chair of the panel.
11533 (3) The panel shall follow the interim committee rules established by the Legislature.
11534 (4) The panel shall:
11535 (a) examine and observe the process and execution of laws governing the child welfare
11536 system by the executive branch and the judicial branch;
11537 (b) upon request, receive testimony from the public, the juvenile court, and from all
11538 state agencies involved with the child welfare system including, but not limited to, the division,
11539 other offices and agencies within the department, the attorney general's office, the Office of the
11540 Guardian Ad Litem Director, and school districts;
11541 (c) before October 1, 2002, and before October 1 of each year thereafter receive reports
11542 from the division, the attorney general, and the judicial branch identifying the cases not in
11543 compliance with the time limits established in Section [~~78-3a-308~~] 78A-6-309, regarding
11544 pretrial and adjudication hearings, Section [~~78-3a-311~~] 78A-6-312, regarding dispositional
11545 hearings and reunification services, and Section [~~78-3a-312~~] 78A-6-314, regarding permanency
11546 hearings and petitions for termination, and the reasons for the noncompliance;
11547 (d) receive recommendations from, and make recommendations to the governor, the
11548 Legislature, the attorney general, the division, the Office of the Guardian Ad Litem Director,
11549 the juvenile court, and the public;
11550 (e) (i) receive reports from the executive branch and the judicial branch on budgetary
11551 issues impacting the child welfare system; and
11552 (ii) recommend, as it considers advisable, budgetary proposals to the Health and
11553 Human Services Joint Appropriations Subcommittee, the Executive Offices and Criminal
11554 Justice Appropriations Subcommittee, and the Executive Appropriations Committee, which
11555 recommendation should be made before December 1 of each year;
11556 (f) study and recommend proposed changes to laws governing the child welfare
11557 system;
11558 (g) study actions the state can take to preserve, unify, and strengthen the child's family
11559 ties whenever possible in the child's best interest, including recognizing the constitutional

11560 rights and claims of parents whenever those family ties are severed or infringed;
11561 (h) perform such other duties related to the oversight of the child welfare system as the
11562 panel considers appropriate; and
11563 (i) annually report its findings and recommendations to the president of the Senate, the
11564 speaker of the House of Representatives, the Health and Human Services Interim Committee,
11565 and the Judiciary Interim Committee.
11566 (5) (a) The panel has authority to review and discuss individual cases.
11567 (b) When an individual case is discussed, the panel's meeting may be closed pursuant
11568 to Title 52, Chapter 4, Open and Public Meetings Act.
11569 (c) When discussing an individual case, the panel shall make reasonable efforts to
11570 identify and consider the concerns of all parties to the case.
11571 (6) (a) The panel has authority to make recommendations to the Legislature, the
11572 governor, the Board of Juvenile Court Judges, the division, and any other statutorily created
11573 entity related to the policies and procedures of the child welfare system. The panel does not
11574 have authority to make recommendations to the court, the division, or any other public or
11575 private entity regarding the disposition of any individual case.
11576 (b) The panel may hold public hearings, as it considers advisable, in various locations
11577 within the state in order to afford all interested persons an opportunity to appear and present
11578 their views regarding the child welfare system in this state.
11579 (7) (a) All records of the panel regarding individual cases shall be classified private,
11580 and may be disclosed only in accordance with federal law and the provisions of Title 63,
11581 Chapter 2, Government Records Access and Management Act.
11582 (b) The panel shall have access to all of the division's records, including those
11583 regarding individual cases. In accordance with Title 63, Chapter 2, Government Records
11584 Access Management Act, all documents and information received by the panel shall maintain
11585 the same classification that was designated by the division.
11586 (8) In order to accomplish its oversight functions, the panel has:
11587 (a) all powers granted to legislative interim committees in Section 36-12-11; and
11588 (b) legislative subpoena powers under Title 36, Chapter 14, Legislative Subpoena
11589 Powers.
11590 (9) Members of the panel shall receive salary and expenses in accordance with Section

11591 36-2-2.
11592 (10) (a) The Office of Legislative Research and General Counsel shall provide staff
11593 support to the panel.
11594 (b) The panel is authorized to employ additional professional assistance and other staff
11595 members as it considers necessary and appropriate.
11596 Section 164. Section **62A-4a-208** is amended to read:
11597 **62A-4a-208. Child protection ombudsman -- Responsibility -- Authority.**
11598 (1) As used in this section:
11599 (a) "Complainant" means a person who initiates a complaint with the ombudsman.
11600 (b) "Ombudsman" means the child protection ombudsman appointed pursuant to this
11601 section.
11602 (2) (a) There is created within the department the position of child protection
11603 ombudsman. The ombudsman shall be appointed by and serve at the pleasure of the executive
11604 director.
11605 (b) The ombudsman shall be:
11606 (i) an individual of recognized executive and administrative capacity;
11607 (ii) selected solely with regard to qualifications and fitness to discharge the duties of
11608 ombudsman; and
11609 (iii) have experience in child welfare, and in state laws and policies governing abused,
11610 neglected, and dependent children.
11611 (c) The ombudsman shall devote full time to the duties of office.
11612 (3) (a) Except as provided in Subsection (b), the ombudsman shall, upon receipt of a
11613 complaint from any person, investigate whether an act or omission of the division with respect
11614 to a particular child:
11615 (i) is contrary to statute, rule, or policy;
11616 (ii) places a child's health or safety at risk;
11617 (iii) is made without an adequate statement of reason; or
11618 (iv) is based on irrelevant, immaterial, or erroneous grounds.
11619 (b) The ombudsman may decline to investigate any complaint. If the ombudsman
11620 declines to investigate a complaint or continue an investigation, the ombudsman shall notify
11621 the complainant and the division of the decision and of the reasons for that decision.

11622 (c) The ombudsman may conduct an investigation on his own initiative.
11623 (4) The ombudsman shall:
11624 (a) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
11625 make rules that govern the following:
11626 (i) receiving and processing complaints;
11627 (ii) notifying complainants and the division regarding a decision to investigate or to
11628 decline to investigate a complaint;
11629 (iii) prioritizing workload;
11630 (iv) maximum time within which investigations shall be completed;
11631 (v) conducting investigations;
11632 (vi) notifying complainants and the division regarding the results of investigations; and
11633 (vii) making recommendations based on the findings and results of recommendations;
11634 (b) report findings and recommendations in writing to the complainant and the
11635 division, in accordance with the provisions of this section;
11636 (c) within appropriations from the Legislature, employ staff as may be necessary to
11637 carry out the ombudsman's duties under this part;
11638 (d) provide information regarding the role, duties, and functions of the ombudsman to
11639 public agencies, private entities, and individuals;
11640 (e) annually report to the:
11641 (i) Child Welfare Legislative Oversight Panel;
11642 (ii) governor;
11643 (iii) Board of Child and Family Services;
11644 (iv) executive director of the department; and
11645 (v) director of the division; and
11646 (f) as appropriate, make recommendations to the division regarding individual cases,
11647 and the rules, policies, and operations of the division.
11648 (5) (a) Upon rendering a decision to investigate a complaint, the ombudsman shall
11649 notify the complainant and the division of that decision.
11650 (b) The ombudsman may advise a complainant to pursue all administrative remedies or
11651 channels of complaint before pursuing a complaint with the ombudsman. Subsequent to
11652 processing a complaint, the ombudsman may conduct further investigations upon the request of

11653 the complainant or upon the ombudsman's own initiative. Nothing in this subsection precludes
11654 a complainant from making a complaint directly to the ombudsman before pursuing an
11655 administrative remedy.
11656 (c) If the ombudsman finds that an individual's act or omission violates state or federal
11657 criminal law, the ombudsman shall immediately report that finding to the appropriate county or
11658 district attorney or to the attorney general.
11659 (d) The ombudsman shall immediately notify the division if the ombudsman finds that
11660 a child needs protective custody, as that term is defined in Section [~~78-3a-103~~] 78A-6-105.
11661 (e) The ombudsman shall immediately comply with Part 4, Child Abuse or Neglect
11662 Reporting Requirements.
11663 (6) (a) All records of the ombudsman regarding individual cases shall be classified in
11664 accordance with federal law and the provisions of Title 63, Chapter 2, Government Records
11665 Access and Management Act. The ombudsman may make public a report prepared pursuant to
11666 this section in accordance with the provisions of Title 63, Chapter 2, Government Records
11667 Access and Management Act.
11668 (b) The ombudsman shall have access to all of the department's written and electronic
11669 records and databases, including those regarding individual cases. In accordance with Title 63,
11670 Chapter 2, Government Records Access and Management Act, all documents and information
11671 received by the ombudsman shall maintain the same classification that was designated by the
11672 department.
11673 (7) (a) The ombudsman shall prepare a written report of the findings and
11674 recommendations, if any, of each investigation.
11675 (b) The ombudsman shall make recommendations to the division if the ombudsman
11676 finds that:
11677 (i) a matter should be further considered by the division;
11678 (ii) an administrative act should be addressed, modified, or canceled;
11679 (iii) action should be taken by the division with regard to one of its employees; or
11680 (iv) any other action should be taken by the division.
11681 Section 165. Section **62A-4a-209** is amended to read:
11682 **62A-4a-209. Emergency placement.**
11683 (1) The division may use an emergency placement under Subsection

11684 62A-4a-202.1(4)(b)(ii) when:
11685 (a) the case worker has made the determination that:
11686 (i) the child's home is unsafe;
11687 (ii) removal is necessary under the provisions of Section 62A-4a-202.1; and
11688 (iii) the child's custodial parent or guardian will agree to not remove the child from the
11689 home of the person that serves as the placement and not have any contact with the child until
11690 after the shelter hearing required by Section [~~78-3a-306~~] 78A-6-306;
11691 (b) a person, with preference being given in accordance with Subsection (3), can be
11692 identified who has the ability and is willing to provide care for the child who would otherwise
11693 be placed in shelter care, including:
11694 (i) taking the child to medical, mental health, dental, and educational appointments at
11695 the request of the division; and
11696 (ii) making the child available to division services and the guardian ad litem; and
11697 (c) the person described in Subsection (1)(b) agrees to care for the child on an
11698 emergency basis under the following conditions:
11699 (i) the person meets the criteria for an emergency placement under Subsection (2);
11700 (ii) the person agrees to not allow the custodial parent or guardian to have any contact
11701 with the child until after the shelter hearing unless authorized by the division in writing;
11702 (iii) the person agrees to contact law enforcement and the division if the custodial
11703 parent or guardian attempts to make unauthorized contact with the child;
11704 (iv) the person agrees to allow the division and the child's guardian ad litem to have
11705 access to the child;
11706 (v) the person has been informed and understands that the division may continue to
11707 search for other possible placements for long-term care, if needed;
11708 (vi) the person is willing to assist the custodial parent or guardian in reunification
11709 efforts at the request of the division, and to follow all court orders; and
11710 (vii) the child is comfortable with the person.
11711 (2) Before the division places a child in an emergency placement, the division:
11712 (a) may request the name of a reference and may contact the reference to determine the
11713 answer to the following questions:
11714 (i) would the person identified as a reference place a child in the home of the

11715 emergency placement; and
11716 (ii) are there any other relatives or friends to consider as a possible emergency or
11717 long-term placement for the child;
11718 (b) shall have the custodial parent or guardian sign an emergency placement agreement
11719 form during the investigation;
11720 (c) shall complete a criminal background check described in Sections 62A-4a-202.4
11721 and [~~78-3a-307.1~~] 78A-6-308 on all persons living in the household where the child will be
11722 placed;
11723 (d) shall complete a home inspection of the home where the emergency placement is
11724 made; and
11725 (e) shall have the emergency placement approved by a family service specialist.
11726 (3) (a) The following order of preference shall be applied when determining the person
11727 with whom a child will be placed in an emergency placement described in this section,
11728 provided that the person is willing, and has the ability, to care for the child:
11729 (i) a noncustodial parent of the child in accordance with Section [~~78-3a-307~~]
11730 78A-6-307;
11731 (ii) a relative of the child;
11732 (iii) subject to Subsection (3)(b), a friend designated by the custodial parent or
11733 guardian of the child, if the friend is a licensed foster parent; and
11734 (iv) a shelter facility, former foster placement, or other foster placement designated by
11735 the division.
11736 (b) Unless the division agrees otherwise, the custodial parent or guardian described in
11737 Subsection (3)(a)(iii) may only designate one friend as a potential emergency placement.
11738 (4) After an emergency placement, the division caseworker must:
11739 (a) respond to the emergency placement's calls within one hour if the custodial parents
11740 or guardians attempt to make unauthorized contact with the child or attempt to remove the
11741 child;
11742 (b) complete all removal paperwork, including the notice provided to the custodial
11743 parents and guardians under Section [~~78-3a-306~~] 78A-6-306;
11744 (c) contact the attorney general to schedule a shelter hearing;
11745 (d) complete the placement procedures required in Section [~~78-3a-307~~] 78A-6-307,

11746 including, within five days after placement, the criminal history record check described in
11747 Subsection (5); and
11748 (e) continue to search for other relatives as a possible long-term placement, if needed.
11749 (5) (a) In order to determine the suitability of a placement and to conduct a background
11750 screening and investigation of individuals living in the household in which a child is placed,
11751 each individual living in the household in which the child is placed who has not lived in the
11752 state substantially year round for the most recent five consecutive years ending on the date the
11753 investigation is commenced shall be fingerprinted. If no disqualifying record is identified at
11754 the state level, the fingerprints shall be forwarded by the division to the Federal Bureau of
11755 Investigation for a national criminal history record check.
11756 (b) The cost of the investigations described in Subsection (5)(a) shall be borne by
11757 whomever received placement of the child, except that the division may pay all or part of the
11758 cost of those investigations if the person with whom the child is placed is unable to pay.
11759 Section 166. Section **62A-4a-250** is amended to read:
11760 **62A-4a-250. Separate programs and procedures for minors committed to the**
11761 **custody of the Division of Child and Family Services on grounds other than abuse or**
11762 **neglect -- Attorney general responsibility.**
11763 (1) On or before July 1, 1998, the division shall have established programs designed to
11764 meet the needs of minors who have not been adjudicated as abused or neglected, but who are
11765 otherwise committed to the custody of the division by the juvenile court pursuant to Section
11766 [~~78-3a-118~~] 78A-6-117, and who are classified in the division's management information
11767 system as having been placed in custody primarily on the basis of delinquent behavior or a
11768 status offense.
11769 (2) (a) The processes and procedures designed to meet the needs of children who are
11770 abused or neglected, described in Part 2 and in Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part 3, Abuse,
11771 Neglect, and Dependency Proceedings, are not applicable to the minors described in Subsection
11772 (1).
11773 (b) The procedures described in Subsection [~~78-3a-119~~] 78A-6-118(2)(a) are
11774 applicable to the minors described in Subsection (1).
11775 (3) As of July 1, 1998, the attorney general's office has the responsibility to represent
11776 the division with regard to actions involving minors described in Subsection (1). Nothing in

11777 this section may be construed to affect the responsibility of the county attorney or district
11778 attorney to represent the state in those matters, in accordance with Section [~~78-3a-116~~]
11779 78A-6-115.
11780 Section 167. Section **62A-4a-409** is amended to read:
11781 **62A-4a-409. Investigation by division -- Temporary protective custody --**
11782 **Preremoval interviews of children.**
11783 (1) (a) The division shall make a thorough preremoval investigation upon receiving
11784 either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug
11785 dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal
11786 alcohol syndrome, or fetal drug dependency exists.
11787 (b) The primary purpose of the investigation described in Subsection (1)(a) shall be
11788 protection of the child.
11789 (2) The preremoval investigation described in Subsection (1)(a) shall include the same
11790 investigative requirements described in Section 62A-4a-202.3.
11791 (3) The division shall make a written report of its investigation that shall include a
11792 determination regarding whether the alleged abuse or neglect is supported, unsupported, or
11793 without merit.
11794 (4) (a) The division shall use an interdisciplinary approach when appropriate in dealing
11795 with reports made under this part.
11796 (b) For this purpose, the division shall convene appropriate interdisciplinary "child
11797 protection teams" to assist it in its protective, diagnostic, assessment, treatment, and
11798 coordination services.
11799 (c) A representative of the division shall serve as the team's coordinator and chair.
11800 Members of the team shall serve at the coordinator's invitation. Whenever possible, the team
11801 shall include representatives of:
11802 (i) health, mental health, education, and law enforcement agencies;
11803 (ii) the child;
11804 (iii) parent and family support groups unless the parent is alleged to be the perpetrator;
11805 and
11806 (iv) other appropriate agencies or individuals.
11807 (5) In any case where the division supervises, governs, or directs the affairs of any

11808 individual, institution, or facility that is alleged to be involved in acts or omissions of child
11809 abuse or neglect, the investigation of the reported child abuse or neglect shall be conducted by
11810 an agency other than the division.
11811 (6) If a report of neglect is based upon or includes an allegation of educational neglect,
11812 the division shall immediately consult with school authorities to verify the child's status in
11813 accordance with Sections 53A-11-101 through 53A-11-103.
11814 (7) When the division completes its initial investigation under this part, it shall give
11815 notice of that completion to the person who made the initial report.
11816 (8) Division workers or other child protection team members have authority to enter
11817 upon public or private premises, using appropriate legal processes, to investigate reports of
11818 alleged child abuse or neglect, upon notice to parents of their rights under the Child Abuse
11819 Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.
11820 (9) With regard to any interview of a child prior to removal of that child from the
11821 child's home:
11822 (a) except as provided in Subsection (9)(b) or (c), the division shall inform a parent of
11823 the child prior to the interview of:
11824 (i) the specific allegations concerning the child; and
11825 (ii) the time and place of the interview;
11826 (b) if a child's parent or stepparent, or a parent's paramour has been identified as the
11827 alleged perpetrator, the division is not required to comply with Subsection (9)(a);
11828 (c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family
11829 is unknown, the division may conduct a minimal interview or conversation, not to exceed 15
11830 minutes, with the child prior to complying with Subsection (9)(a);
11831 (d) in all cases described in Subsection (9)(b) or (c), a parent of the child shall be
11832 notified as soon as practicable after the child has been interviewed, but in no case later than 24
11833 hours after the interview has taken place;
11834 (e) a child's parents shall be notified of the time and place of all subsequent interviews
11835 with the child; and
11836 (f) the child shall be allowed to have a support person of the child's choice present,
11837 who:
11838 (i) may include:

11839 (A) a school teacher;
11840 (B) an administrator;
11841 (C) a guidance counselor;
11842 (D) a child care provider;
11843 (E) a family member;
11844 (F) a family advocate; or
11845 (G) clergy; and
11846 (ii) may not be a person who is alleged to be, or potentially may be, the perpetrator.
11847 (10) In accordance with the procedures and requirements of Sections 62A-4a-202.1
11848 through 62A-4a-202.3, a division worker or child protection team member may take a child
11849 into protective custody and deliver the child to a law enforcement officer, or place the child in
11850 an emergency shelter facility approved by the juvenile court, at the earliest opportunity
11851 subsequent to the child's removal from the child's original environment. Control and
11852 jurisdiction over the child is determined by the provisions of Title [~~78~~] 78A, Chapter [~~3a~~] 6,
11853 Juvenile Court Act of 1996, and as otherwise provided by law.
11854 (11) With regard to cases in which law enforcement has or is conducting an
11855 investigation of alleged abuse or neglect of a child:
11856 (a) the division shall coordinate with law enforcement to ensure that there is an
11857 adequate safety plan to protect the child from further abuse or neglect; and
11858 (b) the division is not required to duplicate an aspect of the investigation that, in the
11859 division's determination, has been satisfactorily completed by law enforcement.
11860 Section 168. Section **62A-4a-412** is amended to read:
11861 **62A-4a-412. Reports and information confidential.**
11862 (1) Except as otherwise provided in this chapter, reports made pursuant to this part, as
11863 well as any other information in the possession of the division obtained as the result of a report
11864 are private, protected, or controlled records under Title 63, Chapter 2, Government Records
11865 Access and Management Act, and may only be made available to:
11866 (a) a police or law enforcement agency investigating a report of known or suspected
11867 child abuse or neglect;
11868 (b) a physician who reasonably believes that a child may be the subject of abuse or
11869 neglect;

11870 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor
11871 who is the subject of a report;
11872 (d) a contract provider that has a written contract with the division to render services to
11873 a minor who is the subject of a report;
11874 (e) any subject of the report, the natural parents of the child, and the guardian ad litem;
11875 (f) a court, upon a finding that access to the records may be necessary for the
11876 determination of an issue before the court, provided that in a divorce, custody, or related
11877 proceeding between private parties, the record alone is:
11878 (i) limited to objective or undisputed facts that were verified at the time of the
11879 investigation; and
11880 (ii) devoid of conclusions drawn by the division or any of the division's workers on the
11881 ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or
11882 neglect of another person;
11883 (g) an office of the public prosecutor or its deputies in performing an official duty;
11884 (h) a person authorized by a Children's Justice Center, for the purposes described in
11885 Section 67-5b-102;
11886 (i) a person engaged in bona fide research, when approved by the director of the
11887 division, if the information does not include names and addresses;
11888 (j) the State Office of Education, acting on behalf of itself or on behalf of a school
11889 district, for the purpose of evaluating whether an individual should be permitted to obtain or
11890 retain a license as an educator or serve as an employee or volunteer in a school, limited to
11891 information with substantiated findings involving an alleged sexual offense, an alleged felony
11892 or class A misdemeanor drug offense, or any alleged offense against the person under Title 76,
11893 Chapter 5, Offenses Against the Person, and with the understanding that the office must
11894 provide the subject of a report received under Subsection (1)(k) with an opportunity to respond
11895 to the report before making a decision concerning licensure or employment;
11896 (k) any person identified in the report as a perpetrator or possible perpetrator of child
11897 abuse or neglect, after being advised of the screening prohibition in Subsection (2);
11898 (l) a person filing a petition for a child protective order on behalf of a child who is the
11899 subject of the report; and
11900 (m) a licensed child-placing agency or person who is performing a preplacement

11901 adoptive evaluation in accordance with the requirements of [~~Section 78-30-3.5~~] Sections
11902 78B-6-128 and 78B-6-130.
11903 (2) (a) A person, unless listed in Subsection (1), may not request another person to
11904 obtain or release a report or any other information in the possession of the division obtained as
11905 a result of the report that is available under Subsection (1)(k) to screen for potential
11906 perpetrators of child abuse or neglect.
11907 (b) A person who requests information knowing that it is a violation of Subsection
11908 (2)(a) to do so is subject to the criminal penalty in Subsection (4).
11909 (3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division
11910 and law enforcement officials shall ensure the anonymity of the person or persons making the
11911 initial report and any others involved in its subsequent investigation.
11912 (b) Notwithstanding any other provision of law, excluding Section [~~78-3a-314~~]
11913 78A-6-317, but including this chapter and Title 63, Chapter 2, Government Records Access
11914 and Management Act, when the division makes a report or other information in its possession
11915 available under Subsection (1)(e) to a subject of the report or a parent of a child, the division
11916 shall remove from the report or other information only the names, addresses, and telephone
11917 numbers of individuals or specific information that could:
11918 (i) identify the referent;
11919 (ii) impede a criminal investigation; or
11920 (iii) endanger a person's safety.
11921 (4) Any person who wilfully permits, or aides and abets the release of data or
11922 information obtained as a result of this part, in the possession of the division or contained on
11923 any part of the Management Information System, in violation of this part or Sections
11924 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.
11925 (5) The physician-patient privilege is not a ground for excluding evidence regarding a
11926 child's injuries or the cause of those injuries, in any proceeding resulting from a report made in
11927 good faith pursuant to this part.
11928 (6) A child-placing agency or person who receives a report in connection with a
11929 preplacement adoptive evaluation pursuant to [~~Section 78-30-3.5~~] Sections 78B-6-128 and
11930 78B-6-130:
11931 (a) may provide this report to the person who is the subject of the report; and

11932 (b) may provide this report to a person who is performing a preplacement adoptive
11933 evaluation in accordance with the requirement of [~~Section 78-30-3.5~~] Sections 78B-6-128 and
11934 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an
11935 adoption.
11936 Section 169. Section **62A-4a-602** is amended to read:
11937 **62A-4a-602. Licensure requirements -- Prohibited acts.**
11938 (1) No person, agency, firm, corporation, association, or group children's home may
11939 engage in child placing, or solicit money or other assistance for child placing, without a valid
11940 license issued by the Office of Licensing, in accordance with Chapter 2 of this title. When a
11941 child placing agency's license is suspended or revoked in accordance with that chapter, the
11942 care, control, or custody of any child who has been in the care, control, or custody of that
11943 agency shall be transferred to the division.
11944 (2) (a) An attorney, physician, or other person may assist a parent in identifying or
11945 locating a person interested in adopting the parent's child, or in identifying or locating a child to
11946 be adopted. However, no payment, charge, fee, reimbursement of expense, or exchange of
11947 value of any kind, or promise or agreement to make the same, may be made for that assistance.
11948 (b) An attorney, physician, or other person may not:
11949 (i) issue or cause to be issued to any person a card, sign, or device indicating that he is
11950 available to provide that assistance;
11951 (ii) cause, permit, or allow any sign or marking indicating that he is available to
11952 provide that assistance, on or in any building or structure;
11953 (iii) announce or cause, permit, or allow an announcement indicating that he is
11954 available to provide that assistance, to appear in any newspaper, magazine, directory, or on
11955 radio or television; or
11956 (iv) advertise by any other means that he is available to provide that assistance.
11957 (3) Nothing in this part precludes payment of fees for medical, legal, or other lawful
11958 services rendered in connection with the care of a mother, delivery and care of a child, or
11959 lawful adoption proceedings; and no provision of this part abrogates the right of procedures for
11960 independent adoption as provided by law.
11961 (4) In accordance with federal law, only agents or employees of the division and of
11962 licensed child placing agencies may certify to the United States Immigration and Naturalization

11963 Service that a family meets the division's preadoption requirements.
11964 (5) (a) Beginning May 1, 2000, neither a licensed child placing agency nor any attorney
11965 practicing in this state may place a child for adoption, either temporarily or permanently, with
11966 any individual or individuals that would not be qualified for adoptive placement pursuant to the
11967 provisions of Sections [~~78-30-1, 78-30-1.5~~] 78B-6-117, 78B-6-102, and [~~78-30-9~~] 78B-6-137.
11968 (b) Beginning May 1, 2000, the division, as a licensed child placing agency, may not
11969 place a child in foster care with any individual or individuals that would not be qualified for
11970 adoptive placement pursuant to the provisions of Sections [~~78-30-1, 78-30-1.5~~] 78B-6-117,
11971 78B-6-102, and [~~78-30-9~~] 78B-6-137. However, nothing in this Subsection (5)(b) limits the
11972 placement of a child in foster care with the child's biological or adoptive parent.
11973 (c) Beginning May 1, 2000, with regard to children who are in the custody of the state,
11974 the division shall establish a policy providing that priority for foster care and adoptive
11975 placement shall be provided to families in which both a man and a woman are legally married
11976 under the laws of this state. However, nothing in this Subsection (5)(c) limits the placement of
11977 a child with the child's biological or adoptive parent.
11978 Section 170. Section **62A-4a-607** is amended to read:
11979 **62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive**
11980 **parents.**
11981 (1) (a) The division and all child placing agencies licensed under this part shall
11982 promote adoption when that is a possible and appropriate alternative for a child. Specifically,
11983 in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of
11984 all children in its custody who have a final plan for termination of parental rights pursuant to
11985 Section [~~78-3a-312~~] 78A-6-314 or a primary permanency goal of adoption.
11986 (b) Beginning May 1, 2000, the division may not place a child for adoption, either
11987 temporarily or permanently, with any individual or individuals who do not qualify for adoptive
11988 placement pursuant to the requirements of Sections [~~78-30-1, 78-30-1.5~~] 78B-6-117,
11989 78B-6-102, and [~~78-30-9~~] 78B-6-137.
11990 (2) The division shall obtain or conduct research of prior adoptive families to
11991 determine what families may do to be successful with their adoptive children and shall make
11992 this research available to potential adoptive parents.
11993 (3) (a) A child placing agency licensed under this part shall inform each potential

11994 adoptive parent with whom it is working that:
11995 (i) children in the custody of the state are available for adoption;
11996 (ii) Medicaid coverage for medical, dental, and mental health services may be available
11997 for these children;
11998 (iii) tax benefits, including the tax credit provided for in Section 59-10-1104, and
11999 financial assistance may be available to defray the costs of adopting these children;
12000 (iv) training and ongoing support may be available to the adoptive parents of these
12001 children; and
12002 (v) information about individual children may be obtained by contacting the division's
12003 offices or its Internet site as explained by the child placing agency.
12004 (b) A child placing agency shall:
12005 (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity;
12006 and
12007 (ii) simultaneously distribute a copy of the pamphlet prepared by the division in
12008 accordance with Subsection (3)(d).
12009 (c) As a condition of licensure, the child placing agency shall certify to the Office of
12010 Licensing at the time of license renewal that it has complied with the provisions of this section.
12011 (d) Before July 1, 2000, the division shall:
12012 (i) prepare a pamphlet that explains the information that is required by Subsection
12013 (3)(a); and
12014 (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child
12015 placing agencies.
12016 (e) The division shall respond to any inquiry made as a result of the notice provided in
12017 Subsection (3)(a).
12018 Section 171. Section **62A-4a-702** is amended to read:
12019 **62A-4a-702. Financial responsibility.**
12020 Financial responsibility for a child placed pursuant to the provisions of the Interstate
12021 Compact on the Placement of Children shall, in the first instance, be determined in accordance
12022 with the provisions of Article V of the compact. However, in the event of partial or complete
12023 default of performance thereunder, the provisions of [~~Sections 78-45-1 through 78-45-13~~] Title
12024 78B, Chapter 12, Utah Child Support Act, may also be invoked.

12025 Section 172. Section **62A-4a-708** is amended to read:
12026 **62A-4a-708. Existing authority for child placement continues.**
12027 Any person who, under any law of this state other than this part or the interstate
12028 compact established under Section 62A-4a-701, has authority to make or assist in making the
12029 placement of a child, shall continue to have the ability lawfully to make or assist in making that
12030 placement, and the provisions of Part 6 of this chapter and of Title [~~78~~] 78B, Chapter [~~30,~~] 6,
12031 Part 1, Utah Adoption Act, continue to apply.
12032 Section 173. Section **62A-4a-802** is amended to read:
12033 **62A-4a-802. Safe relinquishment of a newborn child.**
12034 (1) (a) A parent or a parent's designee may safely relinquish a newborn child at a
12035 hospital in accordance with the provisions of this part and retain complete anonymity, so long
12036 as the child has not been subject to abuse or neglect.
12037 (b) Safe relinquishment of a newborn child who has not otherwise been subject to
12038 abuse or neglect shall not, in and of itself, constitute neglect as defined in Section 62A-4a-101,
12039 and the child shall not be considered a neglected child, as defined in Section [~~78-3a-103~~]
12040 78A-6-105, so long as the relinquishment is carried out in substantial compliance with the
12041 provisions of this part.
12042 (2) (a) Personnel employed by a hospital shall accept a newborn child that is
12043 relinquished pursuant to the provisions of this part, and may presume that the person
12044 relinquishing is the child's parent or the parent's designee.
12045 (b) The person receiving the newborn child may request information regarding the
12046 parent and newborn child's medical histories, and identifying information regarding the
12047 nonrelinquishing parent of the child.
12048 (c) The division shall provide hospitals with medical history forms and stamped
12049 envelopes addressed to the division that a hospital may provide to a person relinquishing a
12050 child pursuant to the provisions of this part.
12051 (d) Personnel employed by a hospital shall:
12052 (i) provide any necessary medical care to the child and notify the division as soon as
12053 possible, but no later than 24 hours after receipt of the child; and
12054 (ii) prepare a birth certificate or foundling birth certificate if parentage is unknown and
12055 file with the Office of Vital Records and Statistics.

12056 (e) A hospital and personnel employed by a hospital are immune from any civil or
12057 criminal liability arising from accepting a newborn child if the personnel employed by the
12058 hospital substantially comply with the provisions of this part and medical treatment is
12059 administered according to standard medical practice.
12060 (3) The division shall assume care and custody of the child immediately upon notice
12061 from the hospital.
12062 (4) So long as the division determines there is no abuse or neglect of the newborn
12063 child, neither the newborn child nor the child's parents are subject to:
12064 (a) the provisions of Part 2 of this chapter, Child Welfare Services;
12065 (b) the investigation provisions contained in Section 62A-4a-409; or
12066 (c) the provisions of Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part 3, Abuse, Neglect, and
12067 Dependency Proceedings.
12068 (5) Unless identifying information relating to the nonrelinquishing parent of the
12069 newborn child has been provided:
12070 (a) the division shall work with local law enforcement and the Bureau of Criminal
12071 Identification within the Department of Public Safety in an effort to ensure that the newborn
12072 child has not been identified as a missing child;
12073 (b) the division shall immediately place or contract for placement of the newborn child
12074 in a potential adoptive home and, within ten days after receipt of the child, file a petition for
12075 termination of parental rights in accordance with Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part [~~4~~] 5,
12076 Termination of Parental Rights Act;
12077 (c) the division shall direct the Office of Vital Records and Statistics to conduct a
12078 search for a birth certificate for the child and an Initiation of Proceedings to Establish Paternity
12079 Registry for unmarried biological fathers maintained by the Office of Vital Records and
12080 Statistics within the Department of Health and provide notice to each potential father identified
12081 on the registry. Notice of termination of parental rights proceedings shall be provided in the
12082 same manner as is utilized for any other termination proceeding in which the identity of the
12083 child's parents is unknown;
12084 (d) if no person has affirmatively identified himself or herself within two weeks after
12085 notice is complete and established paternity by scientific testing within as expeditious a time
12086 frame as practicable, a hearing on the petition for termination of parental rights shall be

12087 scheduled; and
12088 (e) if a nonrelinquishing parent is not identified, relinquishment of a newborn child
12089 pursuant to the provisions of this part shall be considered grounds for termination of parental
12090 rights of both the relinquishing and nonrelinquishing parents under Section [~~78-3a-407~~]
12091 78A-6-507.
12092 (6) If at any time prior to the adoption, a court finds it is in the best interest of the child,
12093 the court shall deny the petition for termination of parental rights.
12094 (7) The division shall provide for, or contract with a licensed child-placing agency to
12095 provide for expeditious adoption of the newborn child.
12096 (8) So long as the person relinquishing a newborn child is the child's parent or
12097 designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial
12098 compliance with the provisions of this part is an affirmative defense to any potential criminal
12099 liability for abandonment or neglect relating to that relinquishment.
12100 Section 174. Section **62A-4a-1003** is amended to read:
12101 **62A-4a-1003. Management Information System -- Requirements -- Contents --**
12102 **Purpose -- Access.**
12103 (1) (a) The division shall develop and implement a Management Information System
12104 that meets the requirements of this section and the requirements of federal law and regulation.
12105 (b) The information and records contained in the Management Information System:
12106 (i) are protected records under Title 63, Chapter 2, Government Records Access and
12107 Management Act; and
12108 (ii) except as provided in Subsections (1)(c) and (d), are available only to a person with
12109 statutory authorization under Title 63, Chapter 2, Government Records Access and
12110 Management Act, to review the information and records described in this Subsection (1)(b).
12111 (c) Notwithstanding Subsection (1)(b)(ii), the information and records described in
12112 Subsection (1)(b) are available to a person:
12113 (i) as provided under Subsection (6) or Section 62A-4a-1006; or
12114 (ii) who has specific statutory authorization to access the information or records for the
12115 purpose of assisting the state with state and federal requirements to maintain information solely
12116 for the purpose of protecting minors and providing services to families in need.
12117 (d) Notwithstanding Subsection (1)(b)(ii), the information and records described in

12118 Subsection (1)(b) may, to the extent required by Title IV-B or IV-E of the Social Security Act,
12119 be provided by the division:
12120 (i) to comply with child abuse and neglect registry checks requested by other states;
12121 and
12122 (ii) to the United States Department of Health and Human Services for purposes of
12123 maintaining an electronic national registry of substantiated cases of child abuse and neglect.
12124 (2) With regard to all child welfare cases, the Management Information System shall
12125 provide each caseworker and the department's office of licensing, exclusively for the purposes
12126 of foster parent licensure and monitoring, with a complete history of each child in that worker's
12127 caseload, including:
12128 (a) a record of all past action taken by the division with regard to that child and the
12129 child's siblings;
12130 (b) the complete case history and all reports and information in the control or keeping
12131 of the division regarding that child and the child's siblings;
12132 (c) the number of times the child has been in the custody of the division;
12133 (d) the cumulative period of time the child has been in the custody of the division;
12134 (e) a record of all reports of abuse or neglect received by the division with regard to
12135 that child's parent, parents, or guardian including:
12136 (i) for each report, documentation of the:
12137 (A) latest status; or
12138 (B) final outcome or determination; and
12139 (ii) information that indicates whether each report was found to be:
12140 (A) supported;
12141 (B) unsupported;
12142 (C) substantiated by a juvenile court;
12143 (D) unsubstantiated by a juvenile court; or
12144 (E) without merit;
12145 (f) the number of times the child's parent or parents failed any child and family plan;
12146 and
12147 (g) the number of different caseworkers who have been assigned to that child in the
12148 past.

12149 (3) The division's Management Information System shall:
12150 (a) contain all key elements of each family's current child and family plan, including:
12151 (i) the dates and number of times the plan has been administratively or judicially
12152 reviewed;
12153 (ii) the number of times the parent or parents have failed that child and family plan;
12154 and
12155 (iii) the exact length of time the child and family plan has been in effect; and
12156 (b) alert caseworkers regarding deadlines for completion of and compliance with
12157 policy, including child and family plans.
12158 (4) With regard to all child protective services cases, the Management Information
12159 System shall:
12160 (a) monitor the compliance of each case with:
12161 (i) division rule and policy;
12162 (ii) state law; and
12163 (iii) federal law and regulation; and
12164 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
12165 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of
12166 the alleged perpetrator.
12167 (5) Except as provided in Subsection (6) regarding contract providers and Section
12168 62A-4a-1006 regarding limited access to the Licensing Information System, all information
12169 contained in the division's Management Information System is available to the department,
12170 upon the approval of the executive director, on a need-to-know basis.
12171 (6) (a) Subject to this Subsection (6), the division may allow its contract providers,
12172 court clerks designated by the Administrative Office of the Courts, and the Office of the
12173 Guardian Ad Litem to have limited access to the Management Information System.
12174 (b) A division contract provider has access only to information about a person who is
12175 currently receiving services from that specific contract provider.
12176 (c) (i) Designated court clerks may only have access to information necessary to
12177 comply with Subsection [~~78-3h-102~~] 78B-7-202(2).
12178 (ii) The Office of the Guardian Ad Litem may access only the information that:
12179 (A) relates to children and families where the Office of the Guardian Ad Litem is

12180 appointed by a court to represent the interests of the children; and
12181 (B) except as provided in Subsection (6)(d), is entered into the Management
12182 Information System on or after July 1, 2004.
12183 (d) Notwithstanding Subsection (6)(c)(ii)(B), the Office of the Guardian Ad Litem
12184 shall have access to all child abuse and neglect referrals about children and families where the
12185 office has been appointed by a court to represent the interests of the children, regardless of the
12186 date that the information is entered into the Management Information System.
12187 (e) Each contract provider and designated representative of the Office of the Guardian
12188 Ad Litem who requests access to information contained in the Management Information
12189 System shall:
12190 (i) take all necessary precautions to safeguard the security of the information contained
12191 in the Management Information System;
12192 (ii) train its employees regarding:
12193 (A) requirements for protecting the information contained in the Management
12194 Information System as required by this chapter and under Title 63, Chapter 2, Government
12195 Records Access and Management Act; and
12196 (B) the criminal penalties under Sections 62A-4a-412 and 63-2-801 for improper
12197 release of information; and
12198 (iii) monitor its employees to ensure that they protect the information contained in the
12199 Management Information System as required by law.
12200 (f) The division shall take reasonable precautions to ensure that its contract providers
12201 comply with the requirements of this Subsection (6).
12202 (7) The division shall take all necessary precautions, including password protection and
12203 other appropriate and available technological techniques, to prevent unauthorized access to or
12204 release of information contained in the Management Information System.
12205 Section 175. Section **62A-4a-1005** is amended to read:
12206 **62A-4a-1005. Supported finding of a severe type of child abuse or neglect --**
12207 **Notation in Licensing Information System -- Juvenile court petition or notice to alleged**
12208 **perpetrator -- Rights of alleged perpetrator -- Juvenile court finding.**
12209 (1) If the division makes a supported finding that a person committed a severe type of
12210 child abuse or neglect, the division shall:

12211 (a) serve notice of the finding on the alleged perpetrator;
12212 (b) enter the following information into the Licensing Information System created in
12213 Section 62A-4a-1006:
12214 (i) the name and other identifying information of the perpetrator with the supported
12215 finding, without identifying the person as a perpetrator or alleged perpetrator; and
12216 (ii) a notation to the effect that an investigation regarding the person is pending; and
12217 (c) if the division considers it advisable, file a petition for substantiation within one
12218 year of the supported finding.
12219 (2) The notice referred to in Subsection (1)(a):
12220 (a) shall state that:
12221 (i) the division has conducted an investigation regarding alleged child abuse or neglect;
12222 (ii) the division has made a supported finding that the alleged perpetrator described in
12223 Subsection (1) committed a severe type of child abuse or neglect;
12224 (iii) facts gathered by the division support the supported finding;
12225 (iv) as a result of the supported finding, the alleged perpetrator's name and other
12226 identifying information have been listed in the Licensing Information System in accordance
12227 with Subsection (1)(b);
12228 (v) the alleged perpetrator may be disqualified from adopting a child or being licensed
12229 by:
12230 (A) the department;
12231 (B) a human services licensee;
12232 (C) a child care provider or program; or
12233 (D) a covered health care facility;
12234 (vi) the alleged perpetrator has the rights described in Subsection (3); and
12235 (vii) failure to take either action described in Subsection (3)(a) within one year after
12236 service of the notice will result in the action described in Subsection (3)(b);
12237 (b) shall include a general statement of the nature of the findings; and
12238 (c) may not include:
12239 (i) the name of a victim or witness; or
12240 (ii) any privacy information related to the victim or a witness.
12241 (3) (a) Upon receipt of the notice described in Subsection (2), the alleged perpetrator

12242 shall have the right to:
12243 (i) file a written request asking the division to review the findings made under
12244 Subsection (1);
12245 (ii) except as provided in Subsection (3)(c), immediately petition the juvenile court
12246 under Section [~~78-3a-320~~] 78A-6-323; or
12247 (iii) sign a written consent to:
12248 (A) the supported finding made under Subsection (1); and
12249 (B) entry into the Licensing Information System of:
12250 (I) the alleged perpetrator's name; and
12251 (II) other information regarding the supported finding made under Subsection (1).
12252 (b) Except as provided in Subsection (3)(e), the alleged perpetrator's name and the
12253 information described in Subsection (1)(b) shall remain in the Licensing Information System:
12254 (i) if the alleged perpetrator fails to take the action described in Subsection (3)(a)
12255 within one year after service of the notice described in Subsections (1)(a) and (2);
12256 (ii) during the time that the division awaits a response from the alleged perpetrator
12257 pursuant to Subsection (3)(a); and
12258 (iii) until a court determines that the severe type of child abuse or neglect upon which
12259 the Licensing Information System entry was based is unsubstantiated or without merit.
12260 (c) The alleged perpetrator has no right to petition the juvenile court under Subsection
12261 (3)(a)(ii) if the court previously held a hearing on the same alleged incident of abuse or neglect
12262 pursuant to the filing of a petition under Section [~~78-3a-305~~] 78A-6-304 by some other party.
12263 (d) Consent under Subsection (3)(a)(iii) by a child shall be given by the child's parent
12264 or guardian.
12265 (e) Regardless of whether an appeal on the matter is pending:
12266 (i) an alleged perpetrator's name and the information described in Subsection (1)(b)
12267 shall be removed from the Licensing Information System if the severe type of child abuse or
12268 neglect upon which the Licensing Information System entry was based:
12269 (A) is found to be unsubstantiated or without merit by the juvenile court under Section
12270 [~~78-3a-320~~] 78A-6-323; or
12271 (B) is found to be substantiated, but is subsequently reversed on appeal; and
12272 (ii) an alleged perpetrator's name and information that is removed from the Licensing

12273 Information System under Subsection (3)(e)(i) shall be placed back on the Licensing
12274 Information System if the court action that was the basis for removing the alleged perpetrator's
12275 name and information is subsequently reversed on appeal.
12276 (4) Upon the filing of a petition under Subsection (1)(c), the juvenile court shall make
12277 a finding of substantiated, unsubstantiated, or without merit as provided in Subsections
12278 [~~78-3a-320~~] 78A-6-323(1) and (2).
12279 (5) Service of the notice described in Subsections (1)(a) and (2):
12280 (a) shall be personal service in accordance with Utah Rules of Civil Procedure, Rule 4;
12281 and
12282 (b) does not preclude civil or criminal action against the alleged perpetrator.
12283 Section 176. Section **62A-4a-1006** is amended to read:
12284 **62A-4a-1006. Licensing Information System -- Contents -- Juvenile court finding**
12285 **-- Protected record -- Access -- Criminal penalty.**
12286 (1) (a) The division shall maintain a sub-part of the Management Information System
12287 established pursuant to Section 62A-4a-1003, to be known as the Licensing Information
12288 System, to be used:
12289 (i) for licensing purposes; or
12290 (ii) as otherwise specifically provided for by law.
12291 (b) The Licensing Information System shall include only the following information:
12292 (i) the information described in Subsections 62A-4a-1005(1)(b) and (3)(b);
12293 (ii) consented-to supported findings by alleged perpetrators under Subsection
12294 62A-4a-1005(3)(a)(iii); and
12295 (iii) the information in the licensing part of the division's Management Information
12296 System as of May 6, 2002.
12297 (2) Notwithstanding Subsection (1), the department's access to information in the
12298 Management Information System for the licensure and monitoring of foster parents is governed
12299 by Sections 62A-4a-1003 and 62A-2-121.
12300 (3) Subject to Subsection 62A-4a-1005(3)(e), upon receipt of a finding from the
12301 juvenile court under Section [~~78-3a-320~~] 78A-6-323, the division shall:
12302 (a) promptly amend the Licensing Information System; and
12303 (b) enter the information in the Management Information System.

12304 (4) (a) Information contained in the Licensing Information System is classified as a
12305 protected record under Title 63, Chapter 2, Government Records Access and Management Act.
12306 (b) Notwithstanding the disclosure provisions of Title 63, Chapter 2, Government
12307 Records Access and Management Act, the information contained in the Licensing Information
12308 System may only be used or disclosed as specifically provided in this chapter and Section
12309 62A-2-121.
12310 (c) The information described in Subsection (4)(b) is accessible only to:
12311 (i) the Office of Licensing within the department:
12312 (A) for licensing purposes; or
12313 (B) as otherwise specifically provided for by law;
12314 (ii) the division to:
12315 (A) screen a person at the request of the Office of the Guardian Ad Litem Director:
12316 (I) at the time that person seeks a paid or voluntary position with the Office of the
12317 Guardian Ad Litem Director; and
12318 (II) on an annual basis, throughout the time that the person remains with the Office of
12319 Guardian Ad Litem Director; and
12320 (B) respond to a request for information from a person whose name is listed in the
12321 Licensing Information System;
12322 (iii) two persons designated by and within the Department of Health, only for the
12323 following purposes:
12324 (A) licensing a child care program or provider; or
12325 (B) determining whether a person associated with a covered health care facility, as
12326 defined by the Department of Health by rule, who provides direct care to a child, has a
12327 supported finding of a severe type of child abuse or neglect; and
12328 (iv) the department, as specifically provided in this chapter.
12329 (5) The two persons designated by the Department of Health under Subsection
12330 (4)(c)(iii) shall adopt measures to:
12331 (a) protect the security of the Licensing Information System; and
12332 (b) strictly limit access to the Licensing Information System to those persons
12333 designated by statute.
12334 (6) All persons designated by statute as having access to information contained in the

12335 Licensing Information System shall receive training from the department with respect to:
12336 (a) accessing the Licensing Information System;
12337 (b) maintaining strict security; and
12338 (c) the criminal provisions of Sections 62A-4a-412 and 63-2-801 pertaining to the
12339 improper release of information.
12340 (7) (a) A person, except those authorized by this chapter, may not request another
12341 person to obtain or release any other information in the Licensing Information System to screen
12342 for potential perpetrators of child abuse or neglect.
12343 (b) A person who requests information knowing that it is a violation of this Subsection
12344 (7) to do so is subject to the criminal penalty described in Sections 62A-4a-412 and 63-2-801.
12345 Section 177. Section **62A-4a-1010** is amended to read:
12346 **62A-4a-1010. Notice and opportunity for court hearing for persons listed in**
12347 **Licensing Information System.**
12348 (1) Persons whose names were listed on the Licensing Information System as of May
12349 6, 2002 and who have not been the subject of a court determination with respect to the alleged
12350 incident of abuse or neglect may at any time:
12351 (a) request review by the division of their case and removal of their name from the
12352 Licensing Information System pursuant to Subsection (3); or
12353 (b) file a petition for an evidentiary hearing and a request for a finding of
12354 unsubstantiated or without merit.
12355 (2) Subsection (1) does not apply to an individual who has been the subject of any of
12356 the following court determinations with respect to the alleged incident of abuse or neglect:
12357 (a) conviction;
12358 (b) adjudication under Title [~~78~~] 78A, Chapter [~~3a~~] 6, Juvenile Court Act of 1996;
12359 (c) plea of guilty;
12360 (d) plea of guilty and mentally ill; or
12361 (e) no contest.
12362 (3) If an alleged perpetrator listed on the Licensing Information System prior to May 6,
12363 2002 requests removal of the alleged perpetrator's name from the Licensing Information
12364 System, the division shall, within 30 days:
12365 (a) (i) review the case to determine whether the incident of alleged abuse or neglect

12366 qualifies as:
12367 (A) a severe type of child abuse or neglect;
12368 (B) chronic physical abuse;
12369 (C) chronic emotional abuse; or
12370 (D) chronic neglect; and
12371 (ii) if the alleged abuse or neglect does not qualify as a type of abuse or neglect
12372 described in Subsections (3)(a)(i)(A) through (D), remove the alleged perpetrator's name from
12373 the Licensing Information System; or
12374 (b) determine whether to file a petition for substantiation.
12375 (4) If the division decides to file a petition, that petition must be filed no more than 14
12376 days after the decision.
12377 (5) The juvenile court shall act on the petition as provided in Subsection [~~78-3a-320~~]
12378 78A-6-323(3).
12379 (6) If a person whose name appears on the Licensing Information System prior to May
12380 6, 2002 files a petition pursuant to Section [~~78-3a-320~~] 78A-6-323 during the time that an
12381 alleged perpetrator's application for clearance to work with children or vulnerable adults is
12382 pending, the court shall hear the matter on an expedited basis.
12383 Section 178. Section **62A-5-103.5** is amended to read:
12384 **62A-5-103.5. Disbursal of public funds -- Background check of a direct service**
12385 **worker.**
12386 (1) For purposes of this section:
12387 (a) "directly supervised" means that the person being supervised is under the
12388 uninterrupted visual and auditory surveillance of the person doing the supervising; and
12389 (b) "office" is as defined in Section 62A-2-101.
12390 (2) Subject to Subsection (4), public funds may not be disbursed to pay a direct service
12391 worker for personal services rendered to a person, unless:
12392 (a) subject to Subsection (5), the direct service worker is approved by the office to have
12393 direct access and provide services to children or vulnerable adults pursuant to Section
12394 62A-2-120;
12395 (b) except as provided in Subsection (5):
12396 (i) during the time that the direct service worker renders the services described in this

12397 Subsection (2), the direct service worker who renders the services is directly supervised by a
12398 direct service worker who is approved by the office to have direct access and provide services
12399 to children or vulnerable adults pursuant to Section 62A-2-120;
12400 (ii) the direct service worker who renders the services described in this Subsection (2)
12401 has submitted the information required for a background check pursuant to Section 62A-2-120;
12402 and
12403 (iii) the office has not determined whether to approve the direct service worker
12404 described in Subsection (2)(b)(ii) to have direct access and provide services to children or
12405 vulnerable adults; or
12406 (c) except as provided in Subsection (5), the direct service worker:
12407 (i) (A) is a direct ancestor or descendent of the person to whom the services are
12408 rendered, but is not the person's parent;
12409 (B) is the aunt, uncle, or sibling of the person to whom the services are rendered; or
12410 (C) (I) has submitted the information required for a background check pursuant to
12411 Section 62A-2-120; and
12412 (II) the office has not determined whether to approve the direct service worker to have
12413 direct access and provide services to children or vulnerable adults; and
12414 (ii) is not listed in:
12415 (A) the Licensing Information System of the Division of Child and Family Services
12416 created by Section 62A-4a-1006;
12417 (B) the statewide database of the Division of Aging and Adult Services created by
12418 Section 62A-3-311.1 as having a substantiated finding of abuse, neglect, or exploitation; or
12419 (C) juvenile court records as having a substantiated finding under Section [~~78-3a-320~~]
12420 78A-6-323 that the direct service worker committed a severe type of child abuse or neglect.
12421 (3) For purposes of Subsection (2), the office shall conduct a background check of a
12422 direct service worker:
12423 (a) except as provided in Subsection (2)(b) or (c), before public funds are disbursed to
12424 pay the direct service worker for the personal services described in Subsection (2); and
12425 (b) using the same procedures established for a background check of an applicant for
12426 an initial license under Section 62A-2-120.
12427 (4) The background check and the approval determination described in this section

12428 shall be conducted for a direct service worker on an annual basis.
12429 (5) Notwithstanding any other provision of this section, a child who is in the legal
12430 custody of the department or any of the department's divisions may not be placed with a direct
12431 service worker unless, before the child is placed with the direct service worker, the direct
12432 service worker passes a background check, pursuant to the requirements of Section 62A-2-120,
12433 that includes:
12434 (a) submitting the direct service worker's fingerprints for an FBI national criminal
12435 history records check, through the Criminal Investigations and Technical Services Division;
12436 (b) checking the child abuse and neglect registry in each state where the direct service
12437 worker resided in the five years immediately preceding the day on which the direct service
12438 worker applied to be a direct service worker; and
12439 (c) checking the child abuse and neglect registry in each state where each adult living
12440 in the home where the child will be placed resided in the five years immediately preceding the
12441 day on which the direct service worker applied to be a direct service worker.
12442 Section 179. Section **62A-5-109** is amended to read:
12443 **62A-5-109. Parent liable for cost and support of minor -- Guardian liable for**
12444 **costs.**
12445 (1) Parents of a person who receives services or support from the division, who are
12446 financially responsible, are liable for the cost of the actual care and maintenance of that person
12447 and for the support of the child in accordance with Title [~~78~~] 78B, Chapter [~~45, Uniform Civil~~
12448 ~~Liability for~~] 12, Utah Child Support Act, and Title 62A, Chapter 11, Public Support of
12449 Children Act until [~~he~~] the person reaches 18 years of age.
12450 (2) A guardian of a person who receives services or support from the division is liable
12451 for the cost of actual care and maintenance of that person, regardless of his age, where funds
12452 are available in the guardianship estate established on his behalf for that purpose. However, if
12453 the person who receives services is a beneficiary of a trust created in accordance with Section
12454 62A-5-110, or if the guardianship estate meets the requirements of a trust described in that
12455 section, the trust income prior to distribution to the beneficiary, and the trust principal are not
12456 subject to payment for services or support for that person.
12457 (3) If, at the time a person who receives services or support from the division is
12458 discharged from a facility or program owned or operated by or under contract with the division,

12459 or after the death and burial of a resident of the developmental center, there remains in the
12460 custody of the division or the superintendent any money paid by a parent or guardian for the
12461 support or maintenance of that person, it shall be repaid upon demand.
12462 Section 180. Section **62A-7-101** is amended to read:
12463 **62A-7-101. Definitions.**
12464 As used in this chapter:
12465 (1) "Authority" means the Youth Parole Authority, established in accordance with
12466 Section 62A-7-501.
12467 (2) "Board" means the Board of Juvenile Justice Services established in accordance
12468 with Section 62A-1-105.
12469 (3) "Community-based program" means a nonsecure residential or nonresidential
12470 program designated to supervise and rehabilitate youth offenders in the least restrictive setting,
12471 consistent with public safety, and designated or operated by or under contract with the division.
12472 (4) "Control" means the authority to detain, restrict, and supervise a youth in a manner
12473 consistent with public safety and the well being of the youth and division employees.
12474 (5) "Court" means the juvenile court.
12475 (6) "Delinquent act" is an act which would constitute a felony or a misdemeanor if
12476 committed by an adult.
12477 (7) "Detention" means secure detention or home detention.
12478 (8) "Detention center" means a facility established in accordance with Title 62A,
12479 Chapter 7, Part 2, Detention Facilities.
12480 (9) "Director" means the director of the Division of Juvenile Justice Services.
12481 (10) "Discharge" means a written order of the Youth Parole Authority that removes a
12482 youth offender from its jurisdiction.
12483 (11) "Division" means the Division of Juvenile Justice Services.
12484 (12) "Home detention" means predispositional placement of a child in the child's home
12485 or a surrogate home with the consent of the child's parent, guardian, or custodian for conduct
12486 by a child who is alleged to have committed a delinquent act or postdispositional placement
12487 pursuant to Subsection [~~78-3a-118~~] 78A-6-117(2)(f) or [~~78-3a-901~~] 78A-6-1101(3).
12488 (13) "Observation and assessment program" means a service program operated or
12489 purchased by the division, that is responsible for temporary custody of youth offenders for

12490 observation.
12491 (14) "Parole" means a conditional release of a youth offender from residency in a
12492 secure facility to live outside that facility under the supervision of the Division of Juvenile
12493 Justice Services or other person designated by the division.
12494 (15) "Receiving center" means a nonsecure, nonresidential program established by the
12495 division or under contract with the division that is responsible for juveniles taken into custody
12496 by a law enforcement officer for status offenses or delinquent acts, but who do not meet the
12497 criteria for admission to secure detention or shelter.
12498 (16) "Rescission" means a written order of the Youth Parole Authority that rescinds a
12499 parole date.
12500 (17) "Revocation of parole" means a written order of the Youth Parole Authority that
12501 terminates parole supervision of a youth offender and directs return of the youth offender to the
12502 custody of a secure facility because of a violation of the conditions of parole.
12503 (18) "Runaway" means a youth who willfully leaves the residence of a parent or
12504 guardian without the permission of the parent or guardian.
12505 (19) "Secure detention" means predisposition placement in a facility operated by or
12506 under contract with the division, for conduct by a child who is alleged to have committed a
12507 delinquent act.
12508 (20) "Secure facility" means any facility operated by or under contract with the
12509 division, that provides 24-hour supervision and confinement for youth offenders committed to
12510 the division for custody and rehabilitation.
12511 (21) "Shelter" means the temporary care of children in physically unrestricted facilities
12512 pending court disposition or transfer to another jurisdiction.
12513 (22) "Temporary custody" means control and responsibility of nonadjudicated youth
12514 until the youth can be released to the parent, guardian, a responsible adult, or to an appropriate
12515 agency.
12516 (23) "Termination" means a written order of the Youth Parole Authority that terminates
12517 a youth offender from parole.
12518 (24) "Ungovernable" means a youth in conflict with a parent or guardian, and the
12519 conflict:
12520 (a) results in behavior that is beyond the control or ability of the youth, or the parent or

12521 guardian, to manage effectively;
12522 (b) poses a threat to the safety or well-being of the youth, the family, or others; or
12523 (c) results in the situations in both Subsections (24)(a) and (b).
12524 (25) "Work program" means a public or private service work project established and
12525 administered by the division for youth offenders for the purpose of rehabilitation, education,
12526 and restitution to victims.
12527 (26) "Youth offender" means a person 12 years of age or older, and who has not
12528 reached 21 years of age, committed or admitted by the juvenile court to the custody, care, and
12529 jurisdiction of the division, for confinement in a secure facility or supervision in the
12530 community, following adjudication for a delinquent act which would constitute a felony or
12531 misdemeanor if committed by an adult.
12532 (27) (a) "Youth services" means services provided in an effort to resolve family
12533 conflict:
12534 (i) for families in crisis when a minor is ungovernable or runaway; or
12535 (ii) involving a minor and the minor's parent or guardian.
12536 (b) These services include efforts to:
12537 (i) resolve family conflict;
12538 (ii) maintain or reunite minors with their families; and
12539 (iii) divert minors from entering or escalating in the juvenile justice system;
12540 (c) The services may provide:
12541 (i) crisis intervention;
12542 (ii) short-term shelter;
12543 (iii) time out placement; and
12544 (iv) family counseling.
12545 Section 181. Section **62A-7-102** is amended to read:
12546 **62A-7-102. Creation of division -- Jurisdiction.**
12547 There is created the Division of Juvenile Justice Services within the department, under
12548 the administration and supervision of the executive director, and under the policy direction of
12549 the board. The division has jurisdiction over all youth committed to it pursuant to Section
12550 [~~78-3a-118~~] 78A-6-117.
12551 Section 182. Section **62A-7-104** is amended to read:

12552 **62A-7-104. Division responsibilities.**
12553 (1) The division is responsible for all youth offenders committed to it by juvenile
12554 courts for secure confinement or supervision and treatment in the community.
12555 (2) The division shall:
12556 (a) establish and administer a continuum of community, secure, and nonsecure
12557 programs for all youth offenders committed to the division;
12558 (b) establish and maintain all detention and secure facilities and set minimum standards
12559 for those facilities;
12560 (c) establish and operate prevention and early intervention youth services programs for
12561 nonadjudicated youth placed with the division; and
12562 (d) establish observation and assessment programs necessary to serve youth offenders
12563 committed by the juvenile court for short-term observation under Subsection [~~78-3a-118~~]
12564 78A-6-117(2)(e), and whenever possible, conduct the programs in settings separate and distinct
12565 from secure facilities for youth offenders.
12566 (3) The division shall place youth offenders committed to it in the most appropriate
12567 program for supervision and treatment.
12568 (4) In any order committing a youth offender to the division, the juvenile court shall
12569 specify whether the youth offender is being committed for secure confinement or placement in
12570 a community-based program. The division shall place the youth offender in the most
12571 appropriate program within the category specified by the court.
12572 (5) The division shall employ staff necessary to:
12573 (a) supervise and control youth offenders in secure facilities or in the community;
12574 (b) supervise and coordinate treatment of youth offenders committed to the division for
12575 placement in community-based programs; and
12576 (c) control and supervise nonadjudicated youth placed with the division for temporary
12577 services in receiving centers, youth services, and other programs established by the division.
12578 (6) Youth in the custody or temporary custody of the division are controlled or detained
12579 in a manner consistent with public safety and rules promulgated by the division. In the event of
12580 an unauthorized leave from a secure facility, detention center, community-based program,
12581 receiving center, home, or any other designated placement, division employees have the
12582 authority and duty to locate and apprehend the youth, or to initiate action with local law

12583 enforcement agencies for assistance.
12584 (7) The division shall establish and operate compensatory-service work programs for
12585 youth offenders committed to the division by the juvenile court. The compensatory-service
12586 work program shall:
12587 (a) provide labor to help in the operation, repair, and maintenance of public facilities,
12588 parks, highways, and other programs designated by the division;
12589 (b) provide educational and prevocational programs in cooperation with the State
12590 Board of Education for youth offenders placed in the program; and
12591 (c) provide counseling to youth offenders.
12592 (8) The division shall establish minimum standards for the operation of all private
12593 residential and nonresidential rehabilitation facilities which provide services to juveniles who
12594 have committed a delinquent act, in this state or in any other state.
12595 (9) In accordance with policies established by the board, the division shall provide
12596 regular training for staff of secure facilities, detention staff, case management staff, and staff of
12597 the community-based programs.
12598 (10) (a) The division is authorized to employ special function officers, as defined in
12599 Section 53-13-105, to locate and apprehend minors who have absconded from division
12600 custody, transport minors taken into custody pursuant to division policy, investigate cases, and
12601 carry out other duties as assigned by the division.
12602 (b) Special function officers may be employed through contract with the Department of
12603 Public Safety, any P.O.S.T. certified law enforcement agency, or directly hired by the division.
12604 (11) The division shall designate employees to obtain the saliva DNA specimens
12605 required under Section 53-10-403. The division shall ensure that the designated employees
12606 receive appropriate training and that the specimens are obtained in accordance with accepted
12607 protocol.
12608 (12) The division shall register with the Department of Corrections any person who:
12609 (a) has been adjudicated delinquent based on an offense listed in Subsection
12610 77-27-21.5(1)(f)(i);
12611 (b) has been committed to the division for secure confinement; and
12612 (c) remains in the division's custody 30 days prior to the person's 21st birthday.
12613 Section 183. Section **62A-7-201** is amended to read:

12614 **62A-7-201. Confinement -- Facilities -- Restrictions.**
12615 (1) Children under 18 years of age, who are apprehended by any officer or brought
12616 before any court for examination under any provision of state law, may not be confined in jails,
12617 lockups, or cells used for persons 18 years of age or older who are charged with crime, or in
12618 secure postadjudication correctional facilities operated by the division, except as provided by
12619 specific statute and in conformance with standards approved by the board.
12620 (2) (a) Children charged by information or indictment with crimes as a serious youth
12621 offender under Section [~~78-3a-602~~] 78A-6-702 or certified to stand trial as an adult pursuant to
12622 Section [~~78-3a-603~~] 78A-6-703 may be detained in a jail or other place of detention used for
12623 adults.
12624 (b) Children detained in adult facilities under Section [~~78-3a-602~~] 78A-6-702 or
12625 [~~78-3a-603~~] 78A-6-703 prior to a hearing before a magistrate, or under Subsection [~~78-3a-114~~]
12626 78A-6-113(3), may only be held in certified juvenile detention accommodations in accordance
12627 with rules promulgated by the division. Those rules shall include standards for acceptable sight
12628 and sound separation from adult inmates. The division certifies facilities that are in
12629 compliance with the division's standards.
12630 (3) In areas of low density population, the division may, by rule, approve juvenile
12631 holding accommodations within adult facilities that have acceptable sight and sound
12632 separation. Those facilities shall be used only for short-term holding purposes, with a
12633 maximum confinement of six hours, for children alleged to have committed an act which
12634 would be a criminal offense if committed by an adult. Acceptable short-term holding purposes
12635 are: identification, notification of juvenile court officials, processing, and allowance of
12636 adequate time for evaluation of needs and circumstances regarding release or transfer to a
12637 shelter or detention facility.
12638 (4) Children who are alleged to have committed an act which would be a criminal
12639 offense if committed by an adult, may be detained in holding rooms in local law enforcement
12640 agency facilities for a maximum of two hours, for identification or interrogation, or while
12641 awaiting release to a parent or other responsible adult. Those rooms shall be certified by the
12642 division, according to the division's rules. Those rules shall include provisions for constant
12643 supervision and for sight and sound separation from adult inmates.
12644 (5) Willful failure to comply with any of the provisions of this section is a class B

12645 misdemeanor.
12646 (6) (a) The division is responsible for the custody and detention of children under 18
12647 years of age who require detention care prior to trial or examination, or while awaiting
12648 assignment to a home or facility, as a dispositional placement under Subsection [~~78-3a-118~~]
12649 78A-6-117(2)(f)(i) or [~~78-3a-901~~] 78A-6-1101(3)(a), and of youth offenders under Subsection
12650 62A-7-504(8).
12651 (b) The division shall provide standards for custody or detention under Subsections
12652 (2)(b), (3), and (4), and shall determine and set standards for conditions of care and
12653 confinement of children in detention facilities.
12654 (c) All other custody or detention shall be provided by the division, or by contract with
12655 a public or private agency willing to undertake temporary custody or detention upon agreed
12656 terms, or in suitable premises distinct and separate from the general jails, lockups, or cells used
12657 in law enforcement and corrections systems.
12658 Section 184. Section **62A-11-104** is amended to read:
12659 **62A-11-104. Duties of office.**
12660 The office has the following duties:
12661 (1) to provide child support services if:
12662 (a) the office has received an application for child support services;
12663 (b) the state has provided public assistance; or
12664 (c) a child lives out of the home in the protective custody, temporary custody, or
12665 custody or care of the state;
12666 (2) to carry out the obligations of the department contained in this chapter and in Title
12667 [~~78~~] 78B, Chapters [~~45, Uniform Civil Liability for~~] 12, Utah Child Support Act, Chapter [~~45g~~]
12668 15, Utah Uniform Parentage Act, and Chapter [~~45f~~] 14, Uniform Interstate Family Support Act,
12669 for the purpose of collecting child support;
12670 (3) to collect money due the department which could act to offset expenditures by the
12671 state;
12672 (4) to cooperate with the federal government in programs designed to recover health
12673 and social service funds;
12674 (5) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution,
12675 and reimbursable expenses owed to the state or any of its political subdivisions, if the office

12676 has contracted to provide collection services;
12677 (6) to implement income withholding for collection of child support in accordance with
12678 Part 4, Income Withholding in IV-D Cases, of this chapter;
12679 (7) to enter into agreements with financial institutions doing business in the state to
12680 develop and operate, in coordination with such financial institutions, a data match system in the
12681 manner provided for in Section 62A-11-304.5;
12682 (8) to establish and maintain the state case registry in the manner required by the Social
12683 Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:
12684 (a) the amount of monthly or other periodic support owed under the order, and other
12685 amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under
12686 the order;
12687 (b) any amount described in Subsection (8)(a) that has been collected;
12688 (c) the distribution of collected amounts;
12689 (d) the birth date of any child for whom the order requires the provision of support; and
12690 (e) the amount of any lien imposed with respect to the order pursuant to this part;
12691 (9) to contract with the Department of Workforce Services to establish and maintain
12692 the new hire registry created under Section 35A-7-103;
12693 (10) to determine whether an individual who has applied for or is receiving cash
12694 assistance or Medicaid is cooperating in good faith with the office as required by Section
12695 62A-11-307.2;
12696 (11) to finance any costs incurred from collections, fees, General Fund appropriation,
12697 contracts, and federal financial participation; and
12698 (12) to provide notice to a noncustodial parent in accordance with Section
12699 62A-11-304.4 of the opportunity to contest the accuracy of allegations by a custodial parent of
12700 nonpayment of past-due child support, prior to taking action against a noncustodial parent to
12701 collect the alleged past-due support.
12702 Section 185. Section **62A-11-107** is amended to read:
12703 **62A-11-107. Director -- Powers of office -- Representation by county attorney or**
12704 **attorney general -- Receipt of grants -- Rulemaking and enforcement.**
12705 (1) The director of the office shall be appointed by the executive director.
12706 (2) The office has power to administer oaths, certify to official acts, issue subpoenas,

12707 and to compel witnesses and the production of books, accounts, documents, and evidence.
12708 (3) The office has the power to seek administrative and judicial orders to require an
12709 obligor who owes past-due support and is obligated to support a child receiving public
12710 assistance to participate in appropriate work activities if the obligor is unemployed and is not
12711 otherwise incapacitated.
12712 (4) The office has the power to enter into reciprocal child support enforcement
12713 agreements with foreign countries consistent with federal law and cooperative enforcement
12714 agreements with Indian Tribes.
12715 (5) The office has the power to pursue through court action the withholding,
12716 suspension, and revocation of driver's licenses, professional and occupational licenses, and
12717 recreational licenses of individuals owing overdue support or failing, after receiving
12718 appropriate notice, to comply with subpoenas or orders relating to paternity or child support
12719 proceedings pursuant to Section [~~78-32-17~~] 78B-6-315.
12720 (6) It is the duty of the attorney general or the county attorney of any county in which a
12721 cause of action can be filed, to represent the office. Neither the attorney general nor the county
12722 attorney represents or has an attorney-client relationship with the obligee or the obligor in
12723 carrying out the duties arising under this chapter.
12724 (7) The office, with department approval, is authorized to receive any grants or
12725 stipends from the federal government or other public or private source designed to aid the
12726 efficient and effective operation of the recovery program.
12727 (8) The office may adopt, amend, and enforce rules as may be necessary to carry out
12728 the provisions of this chapter.
12729 Section 186. Section **62A-11-303** is amended to read:
12730 **62A-11-303. Definitions.**
12731 As used in this part:
12732 (1) "Adjudicative proceeding" means an action or proceeding of the office conducted in
12733 accordance with Title 63, Chapter 46b, Administrative Procedures Act.
12734 (2) "Administrative order" means an order that has been issued by the office, the
12735 department, or an administrative agency of another state or other comparable jurisdiction with
12736 similar authority to that of the office.
12737 (3) "Assistance" or "public assistance" is defined in Section 62A-11-103.

12738 (4) "Business day" means a day on which state offices are open for regular business.
12739 (5) "Child" means:
12740 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,
12741 self-supporting, married, or a member of the armed forces of the United States;
12742 (b) a son or daughter over the age of 18 years, while enrolled in high school during the
12743 normal and expected year of graduation and not otherwise emancipated, self-supporting,
12744 married, or a member of the armed forces of the United States; or
12745 (c) a son or daughter of any age who is incapacitated from earning a living and is
12746 without sufficient means.
12747 (6) "Child support" is defined in Section 62A-11-401.
12748 (7) "Child support guidelines" or "guidelines" is defined in Section [~~78-45-2~~]
12749 78B-12-102.
12750 (8) "Child support order" or "support order" is defined in Section 62A-11-401.
12751 (9) "Child support services" or "IV-D child support services" is defined in Section
12752 62A-11-103.
12753 (10) "Court order" means a judgment or order of a tribunal of appropriate jurisdiction
12754 of this state, another state, Native American tribe, the federal government, or any other
12755 comparable jurisdiction.
12756 (11) "Director" means the director of the Office of Recovery Services.
12757 (12) "Disposable earnings" is defined in Section 62A-11-103.
12758 (13) "High-volume automated administrative enforcement" in interstate cases means,
12759 on the request of another state, the identification by the office, through automatic data matches
12760 with financial institutions and other entities where assets may be found, of assets owned by
12761 persons who owe child support in the requesting state, and the seizure of the assets by the
12762 office, through levy or other appropriate processes.
12763 (14) "Income" is defined in Section 62A-11-103.
12764 (15) "Notice of agency action" means the notice required to commence an adjudicative
12765 proceeding in accordance with Section 63-46b-3.
12766 (16) "Obligee" means an individual, this state, another state, or other comparable
12767 jurisdiction to whom a duty of child support is owed, or who is entitled to reimbursement of
12768 child support or public assistance.

12769 (17) "Obligor" means a person, firm, corporation, or the estate of a decedent owing a
12770 duty of support to this state, to an individual, to another state, or other corporate jurisdiction in
12771 whose behalf this state is acting.
12772 (18) "Office" is defined in Section 62A-11-103.
12773 (19) "Parent" means a natural parent or an adoptive parent of a dependent child.
12774 (20) "Person" includes an individual, firm, corporation, association, political
12775 subdivision, department, or office.
12776 (21) "Presiding officer" means a presiding officer described in Section 63-46b-2.
12777 (22) "Support" includes past-due, present, and future obligations established by:
12778 (a) a tribunal or imposed by law for the financial support, maintenance, medical, or
12779 dental care of a dependent child; and
12780 (b) a tribunal for the financial support of a spouse or former spouse with whom the
12781 obligor's dependent child resides if the obligor also owes a child support obligation that is
12782 being enforced by the state.
12783 (23) "Support debt," "past-due support," or "arrears" means the debt created by
12784 nonpayment of support.
12785 (24) "Tribunal" means the district court, the Department of Human Services, the Office
12786 of Recovery Services, or court or administrative agency of any state, territory, possession of the
12787 United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American
12788 Tribe, or other comparable domestic or foreign jurisdiction.
12789 Section 187. Section **62A-11-304.2** is amended to read:
12790 **62A-11-304.2. Issuance or modification of administrative order -- Compliance**
12791 **with court order -- Authority of office -- Stipulated agreements -- Notification**
12792 **requirements.**
12793 (1) Through an adjudicative proceeding the office may issue or modify an
12794 administrative order that:
12795 (a) determines paternity;
12796 (b) determines whether an obligor owes support;
12797 (c) determines temporary orders of child support upon clear and convincing evidence
12798 of paternity in the form of genetic test results or other evidence;
12799 (d) requires an obligor to pay a specific or determinable amount of present and future

12800 support;
12801 (e) determines the amount of past-due support;
12802 (f) orders an obligor who owes past-due support and is obligated to support a child
12803 receiving public assistance to participate in appropriate work activities if the obligor is
12804 unemployed and is not otherwise incapacitated;
12805 (g) imposes a penalty authorized under this chapter;
12806 (h) determines an issue that may be specifically contested under this chapter by a party
12807 who timely files a written request for an adjudicative proceeding with the office; and
12808 (i) renews an administrative judgment.
12809 (2) (a) An abstract of a final administrative order issued under this section or a notice
12810 of judgment-lien under Section 62A-11-312.5 may be filed with the clerk of any district court.
12811 (b) Upon a filing under Subsection (2)(a), the clerk of the court shall:
12812 (i) docket the abstract or notice in the judgment docket of the court and note the time of
12813 receipt on the abstract or notice and in the judgment docket; and
12814 (ii) at the request of the office, place a copy of the abstract or notice in the file of a
12815 child support action involving the same parties.
12816 (3) If a judicial order has been issued, the office may not issue an order under
12817 Subsection (1) that is not based on the judicial order, except:
12818 (a) the office may establish a new obligation in those cases in which the juvenile court
12819 has ordered the parties to meet with the office to determine the support pursuant to Section
12820 [~~78-3a-906~~] 78A-6-1106; or
12821 (b) the office may issue an order of current support in accordance with the child support
12822 guidelines if the conditions of Subsection [~~78-45f-207~~] 78B-14-207(2)(c) are met.
12823 (4) The office may proceed under this section in the name of this state, another state
12824 under Section 62A-11-305, any department of this state, the office, or the obligee.
12825 (5) The office may accept voluntary acknowledgment of a support obligation and enter
12826 into stipulated agreements providing for the issuance of an administrative order under this part.
12827 (6) The office may act in the name of the obligee in endorsing and cashing any drafts,
12828 checks, money orders, or other negotiable instruments received by the office for support.
12829 (7) The obligor shall, after a notice of agency action has been served on him in
12830 accordance with Section 63-46b-3, keep the office informed of:

12831 (a) his current address;
12832 (b) the name and address of current payors of income;
12833 (c) availability of or access to health insurance coverage; and
12834 (d) applicable health insurance policy information.
12835 Section 188. Section **62A-11-304.4** is amended to read:
12836 **62A-11-304.4. Filing of location information -- Service of process.**
12837 (1) (a) Upon the entry of an order in a proceeding to establish paternity or to establish,
12838 modify, or enforce a support order, each party shall file identifying information and shall
12839 update that information as changes occur:
12840 (i) with the court or administrative agency that conducted the proceeding; and
12841 (ii) after October 1, 1998, with the state case registry.
12842 (b) The identifying information required under Subsection (1)(a) shall include the
12843 person's Social Security number, driver's license number, residential and mailing addresses,
12844 telephone numbers, the name, address, and telephone number of employers, and any other data
12845 required by the United States Secretary of Health and Human Services.
12846 (c) In any subsequent child support action involving the office or between the parties,
12847 state due process requirements for notice and service of process shall be satisfied as to a party
12848 upon:
12849 (i) a sufficient showing that diligent effort has been made to ascertain the location of
12850 the party; and
12851 (ii) delivery of notice to the most recent residential or employer address filed with the
12852 court, administrative agency, or state case registry under Subsection (1)(a).
12853 (2) (a) The office shall provide individuals who are applying for or receiving services
12854 under this chapter or who are parties to cases in which services are being provided under this
12855 chapter:
12856 (i) with notice of all proceedings in which support obligations might be established or
12857 modified; and
12858 (ii) with a copy of any order establishing or modifying a child support obligation, or in
12859 the case of a petition for modification, a notice of determination that there should be no change
12860 in the amount of the child support award, within 14 days after issuance of such order or
12861 determination.

12862 (b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall
12863 be provided in accordance with Section [~~78-45f-614~~] 78B-14-614.
12864 (3) Service of all notices and orders under this part shall be made in accordance with
12865 Title 63, Chapter 46b, Administrative Procedures Act, the Utah Rules of Civil Procedure, or
12866 this section.
12867 (4) Consistent with Title 63, Chapter 2, Government Records Access and Management
12868 Act, the office shall adopt procedures to classify records to prohibit the unauthorized use or
12869 disclosure of information relating to a proceeding to:
12870 (a) establish paternity; or
12871 (b) establish or enforce support.
12872 (5) (a) The office shall, upon written request, provide location information available in
12873 its files on a custodial or noncustodial parent to the other party or the other party's legal counsel
12874 provided that:
12875 (i) the party seeking the information produces a copy of the parent-time order signed by
12876 the court;
12877 (ii) the information has not been safeguarded in accordance with Section 454 of the
12878 Social Security Act;
12879 (iii) the party whose location is being sought has been afforded notice in accordance
12880 with this section of the opportunity to contest release of the information;
12881 (iv) the party whose location is being sought has not provided the office with a copy of
12882 a protective order, a current court order prohibiting disclosure, a current court order limiting or
12883 prohibiting the requesting person's contact with the party or child whose location is being
12884 sought, a criminal order, an administrative order pursuant to Section 62A-4a-1009, or
12885 documentation of a pending proceeding for any of the above; and
12886 (v) there is no other state or federal law that would prohibit disclosure.
12887 (b) "Location information" shall consist of the current residential address of the
12888 custodial or noncustodial parent and, if different and known to the office, the current residence
12889 of any children who are the subject of the parent-time order. If there is no current residential
12890 address available, the person's place of employment and any other location information shall be
12891 disclosed.
12892 (c) For the purposes of this section, "reason to believe" under Section 454 of the Social

12893 Security Act means that the person seeking to safeguard information has provided to the office
12894 a copy of a protective order, current court order prohibiting disclosure, current court order
12895 prohibiting or limiting the requesting person's contact with the party or child whose location is
12896 being sought, criminal order signed by a court of competent jurisdiction, an administrative
12897 order pursuant to Section 62A-4a-1009, or documentation of a pending proceeding for any of
12898 the above.
12899 (d) Neither the state, the department, the office nor its employees shall be liable for any
12900 information released in accordance with this section.
12901 (6) Custodial or noncustodial parents or their legal representatives who are denied
12902 location information in accordance with Subsection (5) may serve the Office of Recovery
12903 Services to initiate an action to obtain the information.
12904 Section 189. Section **62A-11-305** is amended to read:
12905 **62A-11-305. Support collection services requested by agency of another state.**
12906 (1) In accordance with Title [~~78~~] 78B, Chapter [~~45f~~] 14, Uniform Interstate Family
12907 Support Act, the office may proceed to issue or modify an order under Section 62A-11-304.2 to
12908 collect under this part from an obligor who is located in or is a resident of this state regardless
12909 of the presence or residence of the obligee if:
12910 (a) support collection services are requested by an agency of another state that is
12911 operating under Part IV-D of the Social Security Act; or
12912 (b) an individual applies for services.
12913 (2) The office shall use high-volume automated administrative enforcement, to the
12914 same extent it is used for intrastate cases, in response to a request made by another state's IV-D
12915 child support agency to enforce support orders.
12916 (3) A request by another state shall constitute a certification by the requesting state:
12917 (a) of the amount of support under the order of payment of which is in arrears; and
12918 (b) that the requesting state has complied with procedural due process requirements
12919 applicable to the case.
12920 (4) The office shall give automated administrative interstate enforcement requests the
12921 same priority as a two-state referral received from another state to enforce a support order.
12922 (5) The office shall promptly report the results of the enforcement procedures to the
12923 requesting state.

12924 (6) As required by the Social Security Act, 42 U.S.C. Sec. 666(a)(14), the office shall
12925 maintain records of:
12926 (a) the number of requests for enforcement assistance received by the office under this
12927 section;
12928 (b) the number of cases for which the state collected support in response to those
12929 requests; and
12930 (c) the amount of support collected.
12931 Section 190. Section **62A-11-312.5** is amended to read:
12932 **62A-11-312.5. Liens by operation of law and writs of garnishment.**
12933 (1) Each payment or installment of child support is, on and after the date it is due, a
12934 judgment with the same attributes and effect of any judgment of a district court in accordance
12935 with Section [~~78-45-9.3~~] 78B-12-112 and for purposes of Section [~~78-22-1~~] 78B-5-202.
12936 (2) (a) A judgment under Subsection (1) or final administrative order shall constitute a
12937 lien against the real property of the obligor upon the filing of a notice of judgment-lien in the
12938 district court where the obligor's real property is located if the notice:
12939 (i) specifies the amount of past-due support; and
12940 (ii) complies with the procedural requirements of Section [~~78-22-1~~] 78B-5-202.
12941 (b) Rule 69, Utah Rules of Civil Procedure, shall apply to any action brought to
12942 execute a judgment or final administrative order under this section against real or personal
12943 property in the obligor's possession.
12944 (3) (a) The office may issue a writ of garnishment against the obligor's personal
12945 property in the possession of a third party for a judgment under Subsection (1) or a final
12946 administrative order in the same manner and with the same effect as if the writ were issued on
12947 a judgment of a district court if:
12948 (i) the judgment or final administrative order is recorded on the office's automated case
12949 registry; and
12950 (ii) the writ is signed by the director or the director's designee and served by certified
12951 mail, return receipt requested, or as prescribed by Rule 4, Utah Rules of Civil Procedure.
12952 (b) A writ of garnishment issued under Subsection (3)(a) is subject to the procedures
12953 and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as
12954 provided by Section 62A-11-316.

12955 Section 191. Section **62A-11-333** is amended to read:
12956 **62A-11-333. Right to judicial review.**
12957 (1) (a) Within 30 days of notice of any administrative action on the part of the office to
12958 establish paternity or establish, modify or enforce a child support order, the obligor may file a
12959 petition for de novo review with the district court.
12960 (b) For purposes of Subsection (1)(a), notice includes:
12961 (i) notice actually received by the obligor in accordance with Section 62A-11-304.4;
12962 (ii) participation by the obligor in the proceedings related to the establishment of the
12963 paternity or the modification or enforcement of child support; or
12964 (iii) receiving a paycheck in which a reduction has been made for child support.
12965 (2) The petition shall name the office and all other appropriate parties as respondents
12966 and meet the form requirements specified in Section 63-46b-15.
12967 (3) A copy of the petition shall be served upon the Child and Family Support Division
12968 of the Office of Attorney General.
12969 (4) (a) If the petition is regarding the amount of the child support obligation established
12970 in accordance with Title [~~78~~] 78B, Chapter [~~45, Uniform Civil Liability for~~] 12, Utah Child
12971 Support Act, the court may issue a temporary order for child support until a final order is
12972 issued.
12973 (b) The petitioner may file an affidavit stating the amount of child support reasonably
12974 believed to be due and the court may issue a temporary order for that amount. The temporary
12975 order shall be valid for 60 days, unless extended by the court while the action is being pursued.
12976 (c) If the court upholds the amount of support established in Subsection (4)(a), the
12977 petitioner shall be ordered to make up the difference between the amount originally ordered in
12978 Subsection (4)(a) and the amount temporarily ordered under Subsection (4)(b).
12979 (d) This Subsection (4) does not apply to an action for the court-ordered modification
12980 of a judicial child support order.
12981 (5) The court may, on its own initiative and based on the evidence before it, determine
12982 whether the petitioner violated U.R. Civ. P. Rule 11 by filing the action. If the court
12983 determines that U.R.Civ.P. Rule 11 was violated, it shall, at a minimum, award to the office
12984 [~~attorneys'~~] attorney fees and costs for the action.
12985 (6) Nothing in this section precludes the obligor from seeking administrative remedies

12986 as provided in this chapter.
12987 Section 192. Section **62A-11-401** is amended to read:
12988 **62A-11-401. Definitions.**
12989 As used in this part and in Part 5:
12990 (1) "Business day" means a day on which state offices are open for regular business.
12991 (2) "Child" is defined in Section 62A-11-303.
12992 (3) "Child support" means a base child support award as defined in Subsection
12993 [~~78-45-2~~] 78B-12-102(4), or a financial award for uninsured monthly medical expenses,
12994 ordered by a tribunal for the support of a child, including current periodic payments, all
12995 arrearages which accrue under an order for current periodic payments, and sum certain
12996 judgments awarded for arrearages, medical expenses, and child care costs. Child support
12997 includes obligations ordered by a tribunal for the support of a spouse or former spouse with
12998 whom the child resides if the spousal support is collected with the child support.
12999 (4) "Child support order" or "support order" means a judgment, decree, or order,
13000 whether temporary, final, or subject to modification, issued by a tribunal for child support and
13001 related costs and fees, interest and penalties, income withholding, [~~attorneys'~~] attorney fees, and
13002 other relief.
13003 (5) "Child support services" is defined in Section 62A-11-103.
13004 (6) "Delinquent" or "delinquency" means that child support in an amount at least equal
13005 to current child support payable for one month is overdue.
13006 (7) "Immediate income withholding" means income withholding without regard to
13007 whether a delinquency has occurred.
13008 (8) "Income" is defined in Section 62A-11-103.
13009 (9) "Jurisdiction" means a state or political subdivision of the United States, a territory
13010 or possession of the United States, the District of Columbia, the Commonwealth of Puerto
13011 Rico, an Indian tribe or tribal organization, or any comparable foreign nation or political
13012 subdivision.
13013 (10) "Obligee" is defined in Section 62A-11-303.
13014 (11) "Obligor" is defined in Section 62A-11-303.
13015 (12) "Office" is defined in Section 62A-11-103.
13016 (13) "Payor" means an employer or any person who is a source of income to an obligor.

13017 Section 193. Section **62A-15-202** is amended to read:
13018 **62A-15-202. Definitions.**
13019 As used in this part:
13020 (1) "Juvenile substance abuse offender" means any juvenile found to come within the
13021 provisions of Section [~~78-3a-104~~] 78A-6-103 for a drug or alcohol related offense, as
13022 designated by the Board of Juvenile Court Judges.
13023 (2) "Local substance abuse authority" means a county legislative body designated to
13024 provide substance abuse services in accordance with Section 17-43-201.
13025 (3) "Teen substance abuse school" means any school established by the local substance
13026 abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an
13027 educational, interpersonal, skill-building experience for juvenile substance abuse offenders and
13028 their parents or legal guardians.
13029 Section 194. Section **62A-15-204** is amended to read:
13030 **62A-15-204. Court order to attend substance abuse school -- Assessments.**
13031 (1) In addition to any other disposition ordered by the juvenile court pursuant to
13032 Section [~~78-3a-118~~] 78A-6-117, the court may order a juvenile and his parents or legal
13033 guardians to attend a teen substance abuse school, and order payment of an assessment in
13034 addition to any other fine imposed.
13035 (2) All assessments collected shall be forwarded to the county treasurer of the county
13036 where the juvenile resides, to be used exclusively for the operation of a teen substance abuse
13037 program.
13038 Section 195. Section **62A-15-607** is amended to read:
13039 **62A-15-607. Responsibility for cost of care.**
13040 (1) The division shall estimate and determine, as nearly as possible, the actual expense
13041 per annum of caring for and maintaining a patient in the state hospital, and that amount or
13042 portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents,
13043 child or children who are of sufficient financial ability to do so, or by the guardian of the
13044 patient who has funds of the patient that may be used for that purpose.
13045 (2) In addition to the expenses described in Subsection (1), parents are responsible for
13046 the support of their child while the child is in the care of the state hospital pursuant to Title
13047 [~~78~~] 78B, Chapter [~~45, Uniform Civil Liability for~~] 12, Utah Child Support Act, and Title 62A,

13048 Chapter 11, Recovery Services.
13049 Section 196. Section **62A-15-626** is amended to read:
13050 **62A-15-626. Release from commitment.**
13051 (1) A local mental health authority or its designee shall release from commitment any
13052 person who, in the opinion of the local mental health authority or its designee, has recovered or
13053 no longer meets the criteria specified in Section 62A-15-631.
13054 (2) A local mental health authority or its designee may release from commitment any
13055 patient whose commitment is determined to be no longer advisable except as provided by
13056 Section [~~78-3a-121~~] 78A-6-120, but an effort shall be made to assure that any further
13057 supportive services required to meet the patient's needs upon release will be provided.
13058 (3) When a patient has been committed to a local mental health authority by judicial
13059 process, the local mental health authority shall follow the procedures described in Sections
13060 62A-15-636 and 62A-15-637.
13061 Section 197. Section **62A-15-630** is amended to read:
13062 **62A-15-630. Mental health commissioners.**
13063 The court may appoint a mental health commissioner to assist in conducting
13064 commitment proceedings in accordance with Section [~~78-3-31~~] 78A-5-107.
13065 Section 198. Section **62A-15-703** is amended to read:
13066 **62A-15-703. Residential and inpatient settings -- Commitment proceeding --**
13067 **Child in physical custody of local mental health authority.**
13068 (1) A child may receive services from a local mental health authority in an inpatient or
13069 residential setting only after a commitment proceeding, for the purpose of transferring physical
13070 custody, has been conducted in accordance with the requirements of this section.
13071 (2) That commitment proceeding shall be initiated by a petition for commitment, and
13072 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant
13073 to the procedures and requirements of this section. If the findings described in Subsection (4)
13074 exist, the proceeding shall result in the transfer of physical custody to the appropriate local
13075 mental health authority, and the child may be placed in an inpatient or residential setting.
13076 (3) The neutral and detached fact finder who conducts the inquiry:
13077 (a) shall be a designated examiner, as defined in Subsection 62A-15-602(3); and
13078 (b) may not profit, financially or otherwise, from the commitment or physical

13079 placement of the child in that setting.
13080 (4) Upon determination by the fact finder that the following circumstances clearly
13081 exist, he may order that the child be committed to the physical custody of a local mental health
13082 authority:
13083 (a) the child has a mental illness, as defined in Subsection 62A-15-602(8);
13084 (b) the child demonstrates a risk of harm to himself or others;
13085 (c) the child is experiencing significant impairment in his ability to perform socially;
13086 (d) the child will benefit from care and treatment by the local mental health authority;
13087 and
13088 (e) there is no appropriate less-restrictive alternative.
13089 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be
13090 conducted in as informal manner as possible, and in a physical setting that is not likely to have
13091 a harmful effect on the child.
13092 (b) The child, the child's parent or legal guardian, the person who submitted the
13093 petition for commitment, and a representative of the appropriate local mental health authority
13094 shall all receive informal notice of the date and time of the proceeding. Those parties shall also
13095 be afforded an opportunity to appear and to address the petition for commitment.
13096 (c) The neutral and detached fact finder may, in his discretion, receive the testimony of
13097 any other person.
13098 (d) The fact finder may allow the child to waive his right to be present at the
13099 commitment proceeding, for good cause shown. If that right is waived, the purpose of the
13100 waiver shall be made a matter of record at the proceeding.
13101 (e) At the time of the commitment proceeding, the appropriate local mental health
13102 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the
13103 commitment proceeding, shall provide the neutral and detached fact finder with the following
13104 information, as it relates to the period of current admission:
13105 (i) the petition for commitment;
13106 (ii) the admission notes;
13107 (iii) the child's diagnosis;
13108 (iv) physicians' orders;
13109 (v) progress notes;

13110 (vi) nursing notes; and
13111 (vii) medication records.
13112 (f) The information described in Subsection (5)(e) shall also be provided to the child's
13113 parent or legal guardian upon written request.
13114 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
13115 duration of the commitment. Any commitment to the physical custody of a local mental health
13116 authority may not exceed 180 days. Prior to expiration of the commitment, and if further
13117 commitment is sought, a hearing shall be conducted in the same manner as the initial
13118 commitment proceeding, in accordance with the requirements of this section.
13119 (ii) When a decision for commitment is made, the neutral and detached fact finder shall
13120 inform the child and his parent or legal guardian of that decision, and of the reasons for
13121 ordering commitment at the conclusion of the hearing, and also in writing.
13122 (iii) The neutral and detached fact finder shall state in writing the basis of his decision,
13123 with specific reference to each of the criteria described in Subsection (4), as a matter of record.
13124 (6) Absent the procedures and findings required by this section, a child may be
13125 temporarily committed to the physical custody of a local mental health authority only in
13126 accordance with the emergency procedures described in Subsection 62A-15-629(1) or (2). A
13127 child temporarily committed in accordance with those emergency procedures may be held for a
13128 maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of
13129 that time period, the child shall be released unless the procedures and findings required by this
13130 section have been satisfied.
13131 (7) A local mental health authority shall have physical custody of each child committed
13132 to it under this section. The parent or legal guardian of a child committed to the physical
13133 custody of a local mental health authority under this section, retains legal custody of the child,
13134 unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases
13135 when the Division of Child and Family Services or the Division of Juvenile Justice Services
13136 has legal custody of a child, that division shall retain legal custody for purposes of this part.
13137 (8) The cost of caring for and maintaining a child in the physical custody of a local
13138 mental health authority shall be assessed to and paid by the child's parents, according to their
13139 ability to pay. For purposes of this section, the Division of Child and Family Services or the
13140 Division of Juvenile Justice Services shall be financially responsible, in addition to the child's

13141 parents, if the child is in the legal custody of either of those divisions at the time the child is
13142 committed to the physical custody of a local mental health authority under this section, unless
13143 Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services
13144 shall assist those divisions in collecting the costs assessed pursuant to this section.
13145 (9) Whenever application is made for commitment of a minor to a local mental health
13146 authority under any provision of this section by a person other than the child's parent or
13147 guardian, the local mental health authority or its designee shall notify the child's parent or
13148 guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled
13149 proceeding.
13150 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30
13151 days after any order for commitment. The appeal may be brought on the child's own petition,
13152 or that of his parent or legal guardian, to the juvenile court in the district where the child
13153 resides or is currently physically located. With regard to a child in the custody of the Division
13154 of Child and Family Services or the Division of Juvenile Justice Services, the attorney general's
13155 office shall handle the appeal, otherwise the appropriate county attorney's office is responsible
13156 for appeals brought pursuant to this Subsection (10)(a).
13157 (b) Upon receipt of the petition for appeal, the court shall appoint a designated
13158 examiner previously unrelated to the case, to conduct an examination of the child in accordance
13159 with the criteria described in Subsection (4), and file a written report with the court. The court
13160 shall then conduct an appeal hearing to determine whether the findings described in Subsection
13161 (4) exist by clear and convincing evidence.
13162 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,
13163 its designee, or the mental health professional who has been in charge of the child's care prior
13164 to commitment, shall provide the court and the designated examiner for the appeal hearing with
13165 the following information, as it relates to the period of current admission:
13166 (i) the original petition for commitment;
13167 (ii) admission notes;
13168 (iii) diagnosis;
13169 (iv) physicians' orders;
13170 (v) progress notes;
13171 (vi) nursing notes; and

13172 (vii) medication records.
13173 (d) Both the neutral and detached fact finder and the designated examiner appointed for
13174 the appeal hearing shall be provided with an opportunity to review the most current
13175 information described in Subsection (10)(c) prior to the appeal hearing.
13176 (e) The child, his parent or legal guardian, the person who submitted the original
13177 petition for commitment, and a representative of the appropriate local mental health authority
13178 shall be notified by the court of the date and time of the appeal hearing. Those persons shall be
13179 afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review
13180 the record and findings of the neutral and detached fact finder, the report of the designated
13181 examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require
13182 the testimony of the neutral and detached fact finder, the designated examiner, the child, the
13183 child's parent or legal guardian, the person who brought the initial petition for commitment, or
13184 any other person whose testimony the court deems relevant. The court may allow the child to
13185 waive his right to appear at the appeal hearing, for good cause shown. If that waiver is granted,
13186 the purpose shall be made a part of the court's record.
13187 (11) Each local mental health authority has an affirmative duty to conduct periodic
13188 evaluations of the mental health and treatment progress of every child committed to its physical
13189 custody under this section, and to release any child who has sufficiently improved so that the
13190 criteria justifying commitment no longer exist.
13191 (12) (a) A local mental health authority or its designee, in conjunction with the child's
13192 current treating mental health professional may release an improved child to a less restrictive
13193 environment, as they determine appropriate. Whenever the local mental health authority or its
13194 designee, and the child's current treating mental health professional, determine that the
13195 conditions justifying commitment no longer exist, the child shall be discharged and released to
13196 his parent or legal guardian. With regard to a child who is in the physical custody of the State
13197 Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's
13198 current treating mental health professional.
13199 (b) A local mental health authority or its designee, in conjunction with the child's
13200 current treating mental health professional, is authorized to issue a written order for the
13201 immediate placement of a child not previously released from an order of commitment into a
13202 more restrictive environment, if the local authority or its designee and the child's current

13203 treating mental health professional has reason to believe that the less restrictive environment in
13204 which the child has been placed is exacerbating his mental illness, or increasing the risk of
13205 harm to himself or others.
13206 (c) The written order described in Subsection (12)(b) shall include the reasons for
13207 placement in a more restrictive environment and shall authorize any peace officer to take the
13208 child into physical custody and transport him to a facility designated by the appropriate local
13209 mental health authority in conjunction with the child's current treating mental health
13210 professional. Prior to admission to the more restrictive environment, copies of the order shall
13211 be personally delivered to the child, his parent or legal guardian, the administrator of the more
13212 restrictive environment, or his designee, and the child's former treatment provider or facility.
13213 (d) If the child has been in a less restrictive environment for more than 30 days and is
13214 aggrieved by the change to a more restrictive environment, the child or his representative may
13215 request a review within 30 days of the change, by a neutral and detached fact finder as
13216 described in Subsection (3). The fact finder shall determine whether:
13217 (i) the less restrictive environment in which the child has been placed is exacerbating
13218 his mental illness, or increasing the risk of harm to himself or others; or
13219 (ii) the less restrictive environment in which the child has been placed is not
13220 exacerbating his mental illness, or increasing the risk of harm to himself or others, in which
13221 case the fact finder shall designate that the child remain in the less restrictive environment.
13222 (e) Nothing in this section prevents a local mental health authority or its designee, in
13223 conjunction with the child's current mental health professional, from discharging a child from
13224 commitment or from placing a child in an environment that is less restrictive than that
13225 designated by the neutral and detached fact finder.
13226 (13) Each local mental health authority or its designee, in conjunction with the child's
13227 current treating mental health professional shall discharge any child who, in the opinion of that
13228 local authority, or its designee, and the child's current treating mental health professional, no
13229 longer meets the criteria specified in Subsection (4), except as provided by Section [~~78-3a-121~~]
13230 78A-6-120. The local authority and the mental health professional shall assure that any further
13231 supportive services required to meet the child's needs upon release will be provided.
13232 (14) Even though a child has been committed to the physical custody of a local mental
13233 health authority pursuant to this section, the child is still entitled to additional due process

13234 proceedings, in accordance with Section 62A-15-704, before any treatment which may affect a
13235 constitutionally protected liberty or privacy interest is administered. Those treatments include,
13236 but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.
13237 Section 199. Section **63-2-304** is amended to read:
13238 **63-2-304. Protected records.**
13239 The following records are protected if properly classified by a governmental entity:
13240 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
13241 has provided the governmental entity with the information specified in Section 63-2-308;
13242 (2) commercial information or nonindividual financial information obtained from a
13243 person if:
13244 (a) disclosure of the information could reasonably be expected to result in unfair
13245 competitive injury to the person submitting the information or would impair the ability of the
13246 governmental entity to obtain necessary information in the future;
13247 (b) the person submitting the information has a greater interest in prohibiting access
13248 than the public in obtaining access; and
13249 (c) the person submitting the information has provided the governmental entity with
13250 the information specified in Section 63-2-308;
13251 (3) commercial or financial information acquired or prepared by a governmental entity
13252 to the extent that disclosure would lead to financial speculations in currencies, securities, or
13253 commodities that will interfere with a planned transaction by the governmental entity or cause
13254 substantial financial injury to the governmental entity or state economy;
13255 (4) records the disclosure of which could cause commercial injury to, or confer a
13256 competitive advantage upon a potential or actual competitor of, a commercial project entity as
13257 defined in Subsection 11-13-103(4);
13258 (5) test questions and answers to be used in future license, certification, registration,
13259 employment, or academic examinations;
13260 (6) records the disclosure of which would impair governmental procurement
13261 proceedings or give an unfair advantage to any person proposing to enter into a contract or
13262 agreement with a governmental entity, except that this Subsection (6) does not restrict the right
13263 of a person to see bids submitted to or by a governmental entity after bidding has closed;
13264 (7) records that would identify real property or the appraisal or estimated value of real

13265 or personal property, including intellectual property, under consideration for public acquisition
13266 before any rights to the property are acquired unless:
13267 (a) public interest in obtaining access to the information outweighs the governmental
13268 entity's need to acquire the property on the best terms possible;
13269 (b) the information has already been disclosed to persons not employed by or under a
13270 duty of confidentiality to the entity;
13271 (c) in the case of records that would identify property, potential sellers of the described
13272 property have already learned of the governmental entity's plans to acquire the property;
13273 (d) in the case of records that would identify the appraisal or estimated value of
13274 property, the potential sellers have already learned of the governmental entity's estimated value
13275 of the property; or
13276 (e) the property under consideration for public acquisition is a single family residence
13277 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
13278 the property as required under Section [~~78-34-4.5~~] 78B-6-505;
13279 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
13280 compensated transaction of real or personal property including intellectual property, which, if
13281 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
13282 of the subject property, unless:
13283 (a) the public interest in access outweighs the interests in restricting access, including
13284 the governmental entity's interest in maximizing the financial benefit of the transaction; or
13285 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
13286 the value of the subject property have already been disclosed to persons not employed by or
13287 under a duty of confidentiality to the entity;
13288 (9) records created or maintained for civil, criminal, or administrative enforcement
13289 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
13290 release of the records:
13291 (a) reasonably could be expected to interfere with investigations undertaken for
13292 enforcement, discipline, licensing, certification, or registration purposes;
13293 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
13294 proceedings;
13295 (c) would create a danger of depriving a person of a right to a fair trial or impartial

13296 hearing;
13297 (d) reasonably could be expected to disclose the identity of a source who is not
13298 generally known outside of government and, in the case of a record compiled in the course of
13299 an investigation, disclose information furnished by a source not generally known outside of
13300 government if disclosure would compromise the source; or
13301 (e) reasonably could be expected to disclose investigative or audit techniques,
13302 procedures, policies, or orders not generally known outside of government if disclosure would
13303 interfere with enforcement or audit efforts;
13304 (10) records the disclosure of which would jeopardize the life or safety of an
13305 individual;
13306 (11) records the disclosure of which would jeopardize the security of governmental
13307 property, governmental programs, or governmental recordkeeping systems from damage, theft,
13308 or other appropriation or use contrary to law or public policy;
13309 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
13310 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
13311 with the control and supervision of an offender's incarceration, treatment, probation, or parole;
13312 (13) records that, if disclosed, would reveal recommendations made to the Board of
13313 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
13314 Board of Pardons and Parole, or the Department of Human Services that are based on the
13315 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
13316 jurisdiction;
13317 (14) records and audit workpapers that identify audit, collection, and operational
13318 procedures and methods used by the State Tax Commission, if disclosure would interfere with
13319 audits or collections;
13320 (15) records of a governmental audit agency relating to an ongoing or planned audit
13321 until the final audit is released;
13322 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
13323 litigation that are not available under the rules of discovery;
13324 (17) records disclosing an attorney's work product, including the mental impressions or
13325 legal theories of an attorney or other representative of a governmental entity concerning
13326 litigation;

13327 (18) records of communications between a governmental entity and an attorney
13328 representing, retained, or employed by the governmental entity if the communications would be
13329 privileged as provided in Section [~~78-24-8~~] 78B-1-137;
13330 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
13331 from a member of the Legislature; and
13332 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
13333 legislative action or policy may not be classified as protected under this section; and
13334 (b) (i) an internal communication that is part of the deliberative process in connection
13335 with the preparation of legislation between:
13336 (A) members of a legislative body;
13337 (B) a member of a legislative body and a member of the legislative body's staff; or
13338 (C) members of a legislative body's staff; and
13339 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
13340 legislative action or policy may not be classified as protected under this section;
13341 (20) (a) records in the custody or control of the Office of Legislative Research and
13342 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
13343 legislation or contemplated course of action before the legislator has elected to support the
13344 legislation or course of action, or made the legislation or course of action public; and
13345 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
13346 Office of Legislative Research and General Counsel is a public document unless a legislator
13347 asks that the records requesting the legislation be maintained as protected records until such
13348 time as the legislator elects to make the legislation or course of action public;
13349 (21) research requests from legislators to the Office of Legislative Research and
13350 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
13351 in response to these requests;
13352 (22) drafts, unless otherwise classified as public;
13353 (23) records concerning a governmental entity's strategy about collective bargaining or
13354 pending litigation;
13355 (24) records of investigations of loss occurrences and analyses of loss occurrences that
13356 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
13357 Uninsured Employers' Fund, or similar divisions in other governmental entities;

13358 (25) records, other than personnel evaluations, that contain a personal recommendation
13359 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
13360 personal privacy, or disclosure is not in the public interest;
13361 (26) records that reveal the location of historic, prehistoric, paleontological, or
13362 biological resources that if known would jeopardize the security of those resources or of
13363 valuable historic, scientific, educational, or cultural information;
13364 (27) records of independent state agencies if the disclosure of the records would
13365 conflict with the fiduciary obligations of the agency;
13366 (28) records of an institution within the state system of higher education defined in
13367 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
13368 retention decisions, and promotions, which could be properly discussed in a meeting closed in
13369 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
13370 the final decisions about tenure, appointments, retention, promotions, or those students
13371 admitted, may not be classified as protected under this section;
13372 (29) records of the governor's office, including budget recommendations, legislative
13373 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
13374 policies or contemplated courses of action before the governor has implemented or rejected
13375 those policies or courses of action or made them public;
13376 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
13377 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
13378 recommendations in these areas;
13379 (31) records provided by the United States or by a government entity outside the state
13380 that are given to the governmental entity with a requirement that they be managed as protected
13381 records if the providing entity certifies that the record would not be subject to public disclosure
13382 if retained by it;
13383 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
13384 except as provided in Section 52-4-206;
13385 (33) records that would reveal the contents of settlement negotiations but not including
13386 final settlements or empirical data to the extent that they are not otherwise exempt from
13387 disclosure;
13388 (34) memoranda prepared by staff and used in the decision-making process by an

13389 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
13390 other body charged by law with performing a quasi-judicial function;
13391 (35) records that would reveal negotiations regarding assistance or incentives offered
13392 by or requested from a governmental entity for the purpose of encouraging a person to expand
13393 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
13394 person or place the governmental entity at a competitive disadvantage, but this section may not
13395 be used to restrict access to a record evidencing a final contract;
13396 (36) materials to which access must be limited for purposes of securing or maintaining
13397 the governmental entity's proprietary protection of intellectual property rights including patents,
13398 copyrights, and trade secrets;
13399 (37) the name of a donor or a prospective donor to a governmental entity, including an
13400 institution within the state system of higher education defined in Section 53B-1-102, and other
13401 information concerning the donation that could reasonably be expected to reveal the identity of
13402 the donor, provided that:
13403 (a) the donor requests anonymity in writing;
13404 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
13405 classified protected by the governmental entity under this Subsection (37); and
13406 (c) except for an institution within the state system of higher education defined in
13407 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
13408 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
13409 over the donor, a member of the donor's immediate family, or any entity owned or controlled
13410 by the donor or the donor's immediate family;
13411 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
13412 73-18-13;
13413 (39) a notification of workers' compensation insurance coverage described in Section
13414 34A-2-205;
13415 (40) (a) the following records of an institution within the state system of higher
13416 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
13417 or received by or on behalf of faculty, staff, employees, or students of the institution:
13418 (i) unpublished lecture notes;
13419 (ii) unpublished notes, data, and information:

13420 (A) relating to research; and
13421 (B) of:
13422 (I) the institution within the state system of higher education defined in Section
13423 53B-1-102; or
13424 (II) a sponsor of sponsored research;
13425 (iii) unpublished manuscripts;
13426 (iv) creative works in process;
13427 (v) scholarly correspondence; and
13428 (vi) confidential information contained in research proposals;
13429 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
13430 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
13431 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
13432 (41) (a) records in the custody or control of the Office of Legislative Auditor General
13433 that would reveal the name of a particular legislator who requests a legislative audit prior to the
13434 date that audit is completed and made public; and
13435 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
13436 Office of the Legislative Auditor General is a public document unless the legislator asks that
13437 the records in the custody or control of the Office of Legislative Auditor General that would
13438 reveal the name of a particular legislator who requests a legislative audit be maintained as
13439 protected records until the audit is completed and made public;
13440 (42) records that provide detail as to the location of an explosive, including a map or
13441 other document that indicates the location of:
13442 (a) a production facility; or
13443 (b) a magazine;
13444 (43) information contained in the database described in Section 62A-3-311.1;
13445 (44) information contained in the Management Information System and Licensing
13446 Information System described in Title 62A, Chapter 4a, Child and Family Services;
13447 (45) information regarding National Guard operations or activities in support of the
13448 National Guard's federal mission;
13449 (46) records provided by any pawn or secondhand business to a law enforcement
13450 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and

13451 Secondhand Merchandise Transaction Information Act;
13452 (47) information regarding food security, risk, and vulnerability assessments performed
13453 by the Department of Agriculture and Food;
13454 (48) except to the extent that the record is exempt from this chapter pursuant to Section
13455 63-2-106, records related to an emergency plan or program prepared or maintained by the
13456 Division of Homeland Security the disclosure of which would jeopardize:
13457 (a) the safety of the general public; or
13458 (b) the security of:
13459 (i) governmental property;
13460 (ii) governmental programs; or
13461 (iii) the property of a private person who provides the Division of Homeland Security
13462 information;
13463 (49) records of the Department of Agriculture and Food relating to the National
13464 Animal Identification System or any other program that provides for the identification, tracing,
13465 or control of livestock diseases, including any program established under Title 4, Chapter 24,
13466 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and
13467 Quarantine;
13468 (50) as provided in Section 26-39-109:
13469 (a) information or records held by the Department of Health related to a complaint
13470 regarding a child care program or residential child care which the department is unable to
13471 substantiate; and
13472 (b) information or records related to a complaint received by the Department of Health
13473 from an anonymous complainant regarding a child care program or residential child care; and
13474 (51) unless otherwise classified as public under Section 63-2-301 and except as
13475 provided under Section 41-1a-116, an individual's home address, home telephone number, or
13476 personal mobile phone number, if:
13477 (a) the individual is required to provide the information in order to comply with a law,
13478 ordinance, rule, or order of a government entity; and
13479 (b) the subject of the record has a reasonable expectation that this information will be
13480 kept confidential due to:
13481 (i) the nature of the law, ordinance, rule, or order; and

13482 (ii) the individual complying with the law, ordinance, rule, or order.
13483 Section 200. Section **63-5a-8** is amended to read:
13484 **63-5a-8. Acquisition of property for public use -- Compensation of owners.**
13485 (1) (a) Upon proclamation of a state of emergency, the governor may purchase or lease
13486 public or private property for public use including:
13487 (i) food and medical supplies;
13488 (ii) clothing;
13489 (iii) shelter;
13490 (iv) means of transportation;
13491 (v) fuels;
13492 (vi) oils; or
13493 (vii) buildings or lands.
13494 (b) The governor may not purchase private home storage nor privately owned arms.
13495 (2) (a) The governor may use property purchased under authority of this section for any
13496 purpose to meet the needs of an emergency, including its use to relieve want, distress, and
13497 disease.
13498 (b) Any property used by the governor to meet the needs of an emergency is a public
13499 use.
13500 (3) (a) The governor shall compensate the owner of property taken or used under
13501 authority of this section by complying with the procedures established in Title [~~78~~] 78B,
13502 Chapter [~~34~~] 6, Part 5, Eminent Domain.
13503 (b) The governor shall pay for those purchases or leases from the funds available to the
13504 Division of Homeland Security under:
13505 (i) this chapter; or
13506 (ii) Title 53, Chapter 2, Part 4, Disaster Recovery Funding Act, to the extent provided
13507 for in that chapter.
13508 (4) Nothing in this section applies to or authorizes compensation for the destruction or
13509 damage of standing timber or other property in order to provide a fire break or to the release of
13510 waters or the breach of impoundments in order to reduce pressure or other danger from actual
13511 or threatened flood.
13512 Section 201. Section **63-11-17** is amended to read:

13513 **63-11-17. Powers and duties of Board and Division of Parks and Recreation.**
13514 (1) (a) The board may make rules:
13515 (i) governing the use of the state park system;
13516 (ii) to protect state parks and their natural and cultural resources from misuse or
13517 damage, including watersheds, plants, wildlife, and park amenities; and
13518 (iii) to provide for public safety and preserve the peace within state parks.
13519 (b) To accomplish the purposes stated in Subsection (1)(a), the board may enact rules
13520 that:
13521 (i) close or partially close state parks; or
13522 (ii) establish use or access restrictions within state parks.
13523 (c) Rules made under Subsection (1) may not have the effect of preventing the transfer
13524 of livestock along a livestock highway established in accordance with Section 72-3-112.
13525 (2) The Division of Wildlife Resources shall retain the power and jurisdiction
13526 conferred upon it by law within state parks and on property controlled by the Division of Parks
13527 and Recreation with reference to fish and game.
13528 (3) The Division of Parks and Recreation shall permit multiple use of state parks and
13529 property controlled by it for purposes such as grazing, fishing and hunting, mining, and the
13530 development and utilization of water and other natural resources.
13531 (4) (a) The division may acquire real and personal property in the name of the state by
13532 all legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange,
13533 or otherwise, subject to the approval of the executive director and the governor.
13534 (b) As used in this section, "real property" includes land under water, upland, and all
13535 other property commonly or legally defined as real property.
13536 (c) In acquiring any real or personal property, the credit of the state may not be pledged
13537 without the consent of the Legislature.
13538 (5) (a) Before acquiring any real property, the division shall notify the county
13539 legislative body of the county where the property is situated of its intention to acquire the
13540 property.
13541 (b) If the county legislative body requests a hearing within ten days of receipt of the
13542 notice, the board shall hold a public hearing in the county concerning the matter.
13543 (6) Acceptance of gifts or devises of land or other property shall be at the discretion of

13544 the division, subject to the approval of the executive director of the Department of Natural
13545 Resources and the governor.
13546 (7) Acquisition of property by eminent domain shall be in the manner authorized by
13547 Title [~~78~~] 78B, Chapter [~~34~~] 6, Part 5, Eminent Domain.
13548 (8) (a) The Division of Parks and Recreation may make charges for special services
13549 and use of facilities, the income from which shall be available for park and recreation purposes.
13550 (b) The division may conduct and operate those services necessary for the comfort and
13551 convenience of the public.
13552 (c) The board shall adopt appropriate rules governing the collection of charges under
13553 this Subsection (8).
13554 (9) (a) The division may lease or rent concessions of all lawful kinds and nature in state
13555 parks and property to persons, partnerships, and corporations for a valuable consideration upon
13556 the recommendation of the board.
13557 (b) The division shall comply with Title 63, Chapter 56, Utah Procurement Code, in
13558 selecting concessionaires.
13559 (10) The division shall proceed without delay to negotiate with the federal government
13560 concerning the Weber Basin and other recreation and reclamation projects.
13561 Section 202. Section **63-30d-302** is amended to read:
13562 **63-30d-302. Specific remedies -- "Takings" actions -- Government records access**
13563 **and management actions.**
13564 (1) In any action brought under the authority of Article I, Section 22, of the Utah
13565 Constitution for the recovery of compensation from the governmental entity when the
13566 governmental entity has taken or damaged private property for public uses without just
13567 compensation, compensation and damages shall be assessed according to the requirements of
13568 Title [~~78~~] 78B, Chapter [~~34~~] 6, Part 5, Eminent Domain.
13569 (2) (a) Notwithstanding Section 63-30d-401, a notice of claim for [~~attorneys'~~] attorney
13570 fees under Subsection 63-30d-301(2)(e) may be filed contemporaneously with a petition for
13571 review under Section 63-2-404.
13572 (b) The provisions of Subsection 63-30d-403(1), relating to the governmental entity's
13573 response to a claim, and the provisions of 63-30d-601, requiring an undertaking, do not apply
13574 to a notice of claim for [~~attorneys'~~] attorney fees filed contemporaneously with a petition for

13575 review under Section 63-2-404.
13576 (c) Any other claim under this chapter that is related to a claim for [~~attorneys'~~] attorney
13577 fees under Subsection 63-30d-301(2)(e) may be brought contemporaneously with the claim for
13578 [~~attorneys'~~] attorney fees or in a subsequent action.
13579 Section 203. Section **63-46b-15** is amended to read:
13580 **63-46b-15. Judicial review -- Informal adjudicative proceedings.**
13581 (1) (a) The district courts have jurisdiction to review by trial de novo all final agency
13582 actions resulting from informal adjudicative proceedings, except that the juvenile courts have
13583 jurisdiction over all state agency actions relating to:
13584 (i) the removal or placement of children in state custody;
13585 (ii) the support of children under Subsection (1)(a)(i) as determined administratively
13586 under Section [~~78-3a-906~~] 78A-6-1106; and
13587 (iii) substantiated findings of abuse or neglect made by the Division of Child and
13588 Family Services, after an evidentiary hearing.
13589 (b) Venue for judicial review of informal adjudicative proceedings shall be as provided
13590 in the statute governing the agency or, in the absence of such a venue provision, in the county
13591 where the petitioner resides or maintains the petitioner's principal place of business.
13592 (2) (a) The petition for judicial review of informal adjudicative proceedings shall be a
13593 complaint governed by the Utah Rules of Civil Procedure and shall include:
13594 (i) the name and mailing address of the party seeking judicial review;
13595 (ii) the name and mailing address of the respondent agency;
13596 (iii) the title and date of the final agency action to be reviewed, together with a copy,
13597 summary, or brief description of the agency action;
13598 (iv) identification of the persons who were parties in the informal adjudicative
13599 proceedings that led to the agency action;
13600 (v) a copy of the written agency order from the informal proceeding;
13601 (vi) facts demonstrating that the party seeking judicial review is entitled to obtain
13602 judicial review;
13603 (vii) a request for relief, specifying the type and extent of relief requested; and
13604 (viii) a statement of the reasons why the petitioner is entitled to relief.
13605 (b) All additional pleadings and proceedings in the district court are governed by the

13606 Utah Rules of Civil Procedure.
13607 (3) (a) The district court, without a jury, shall determine all questions of fact and law
13608 and any constitutional issue presented in the pleadings.
13609 (b) The Utah Rules of Evidence apply in judicial proceedings under this section.
13610 Section 204. Section **63-46c-102** is amended to read:
13611 **63-46c-102. Definitions.**
13612 As used in this chapter:
13613 (1) "Agency" is defined in Section 63-46b-2.
13614 (2) "Alternative dispute resolution" or "ADR" means a process other than litigation
13615 used to resolve disputes including mediation, arbitration, facilitation, regulatory negotiation,
13616 fact-finding, conciliation, early neutral evaluation, and policy dialogues.
13617 (3) "ADR organization" is defined in Section [~~78-31b-2~~] 78B-6-202.
13618 (4) (a) "ADR provider" means a neutral person who:
13619 (i) meets the qualifications established by Judicial Council rules authorized under
13620 Section [~~78-31b-5~~] 78B-6-205; and
13621 (ii) conducts an ADR procedure.
13622 (b) "ADR provider" includes an arbitrator, mediator, and early neutral evaluator and
13623 may be an employee or an independent contractor.
13624 (5) "Arbitration" means a private hearing before an ADR provider or panel of ADR
13625 providers who hear the evidence, consider the contentions of the parties, and enter a written
13626 award to resolve the issues presented.
13627 (6) "Mediation" is defined in Section [~~78-31b-2~~] 78B-6-202.
13628 (7) "Neutral" means a person who holds himself out to the public as a qualified person
13629 trained to use alternative dispute resolution techniques to resolve conflicts.
13630 Section 205. Section **63-46c-103** is amended to read:
13631 **63-46c-103. Alternative dispute resolution -- Authorization -- Procedures --**
13632 **Agency coordinators -- Contracts.**
13633 (1) An agency may use an ADR procedure to resolve any dispute, issue, or controversy
13634 involving any of the agency's operations, programs, or functions, including formal and informal
13635 adjudications, rulemakings, enforcement actions, permitting, certifications, licensing, policy
13636 development, and contract administration only with the consent of all the interested parties.

13637 (2) (a) An agency may develop and adopt an ADR procedure governed by rules,
13638 adopted in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
13639 (b) In developing and adopting an ADR procedure under Subsection (2)(a), an agency
13640 shall consider:
13641 (i) public interest in maintaining open access to and neutrality of an ADR provider or
13642 neutral;
13643 (ii) providing a broad selection of ADR providers or neutrals; and
13644 (iii) creating objective criteria for an ADR provider or neutral to become qualified to
13645 conduct an agency ADR procedure.
13646 (3) ADR procedures developed and used by an agency must be consistent with the
13647 requirements of Title 63, Chapter 46b, Administrative Procedures Act.
13648 (4) ADR procedures are voluntary and may be used:
13649 (a) at the discretion of the agency; or
13650 (b) with an agency that has adopted an ADR procedure under Subsection (2), at the
13651 request of an interested party to a dispute.
13652 (5) An agency that chooses to use an ADR procedure shall develop an agreement with
13653 interested parties that provides:
13654 (a) (i) for the appointment of an ADR provider or a neutral;
13655 (ii) whose appointment is agreed upon by all parties to the dispute;
13656 (b) specifies any limitation periods applicable to the commencement or conclusion of
13657 formal administrative or judicial proceedings and, if applicable, specifies any time periods that
13658 the parties have agreed to waive; and
13659 (c) sets forth how costs and expenses shall be apportioned among the parties.
13660 (6) (a) An ADR provider or neutral agreed upon in Subsection (5) shall have no
13661 official, financial, or personal conflict of interest with any issue or party in controversy unless
13662 the conflict of interest is fully disclosed in writing to all of the parties and all of the parties
13663 agree that the person may continue to serve.
13664 (b) An agency may make rules in accordance with Title 63, Chapter 46a, Utah
13665 Administrative Rulemaking Act, to develop standards to assure the neutrality of an ADR
13666 provider or neutral.
13667 (7) An agreement developed in accordance with Subsection (5) may be included in an

13668 enforcement order, stipulation, contract, permit, or other document entered into or issued by the
13669 agency.
13670 (8) (a) The administrative head of an agency may designate an employee as the ADR
13671 coordinator for that agency.
13672 (b) The agency ADR coordinator shall:
13673 (i) make recommendations to the agency's executive staff on issues and disputes that
13674 are suitable for alternative dispute resolution;
13675 (ii) analyze the agency's enabling statutes and rules to determine whether they contain
13676 impediments to the use of ADR procedures and suggest any modifications;
13677 (iii) monitor the agency's use of ADR procedures;
13678 (iv) arrange for training of agency staff in ADR procedures; and
13679 (v) provide information about the agency's ADR procedures to the agency's staff and to
13680 the public.
13681 (9) In order to implement the purposes of this chapter, an agency may employ or
13682 contract with a neutral, an ADR provider, an ADR organization, another agency, or a private
13683 entity for any service necessary on a case-by-case basis, on a service basis, or on a program
13684 basis.
13685 (10) ADR procedures developed and used under this chapter are subject to the
13686 confidentiality requirements of Section [~~78-31b-8~~] 78B-6-208.
13687 Section 206. Section **63-55-278** is amended to read:
13688 **63-55-278. Repeal dates, Titles 78A and 78B.**
13689 (1) The Office of the Court Administrator, created in Section [~~78-3-23~~] 78A-2-105, is
13690 repealed July 1, 2008.
13691 (2) Foster care citizen review boards and steering committee, created in Title [~~78~~] 78B,
13692 Chapter [~~3g~~] 8, Part 1, is repealed July 1, 2012.
13693 (3) Alternative Dispute Resolution Act, created in Title [~~78~~] 78B, Chapter [~~31b~~] 6, Part
13694 2, is repealed July 1, 2016.
13695 (4) Section [~~78-14-17~~] 78B-3-421, regarding medical malpractice arbitration
13696 agreements, is repealed July 1, 2009.
13697 (5) The case management program coordinator in Subsection [~~78-3-25~~] 78A-2-108(4)
13698 is repealed July 1, 2009.

13699 Section 207. Section **63-55b-178** is amended to read:
13700 **63-55b-178. Repeal dates, Title 78A and 78B.**
13701 (1) Section [~~78-9-101~~] 78A-9-103, Practicing law without a license, is repealed May 3,
13702 2012.
13703 (2) [~~Subsection 78-45-7.14(1) is~~] Subsections 78B-12-301(1) and 78B-12-302(1) are
13704 repealed January 1, 2010.
13705 Section 208. Section **63-56-207** is amended to read:
13706 **63-56-207. Specific statutory authority.**
13707 (1) The authority to procure certain supplies, services, and construction given the
13708 public procurement units governed by the following provisions shall be retained:
13709 (a) Title 53B, State System of Higher Education;
13710 (b) Title 63A, Chapter 5, State Building Board - Division of Facilities Construction
13711 and Management;
13712 (c) Title 67, Chapter 5, Attorney General;
13713 (d) Title 72, Transportation; and
13714 (e) Title [~~78~~] 78A, Chapter [~~3~~] 5, District Courts.
13715 (2) This authority extends only to supplies, services, and construction to the extent
13716 provided in the cited chapters. Except as otherwise provided in Sections 63-56-102 and
13717 63-56-103, the respective purchasing agencies shall procure supplies, services, and
13718 construction in accordance with this chapter.
13719 (3) (a) The Department of Transportation may make rules governing the procurement
13720 of highway construction or improvement.
13721 (b) This Subsection (3) supersedes Subsections (1) and (2).
13722 (4) The Legislature may procure supplies and services for its own needs.
13723 Section 209. Section **63-63a-1** is amended to read:
13724 **63-63a-1. Surcharge -- Application and exemptions.**
13725 (1) (a) A surcharge shall be paid on all criminal fines, penalties, and forfeitures
13726 imposed by the courts.
13727 (b) The surcharge shall be:
13728 (i) 85% upon conviction of a:
13729 (A) felony;

13730 (B) class A misdemeanor;
13731 (C) violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless
13732 Driving; or
13733 (D) class B misdemeanor not classified within Title 41, Motor Vehicles, including
13734 violation of comparable county or municipal ordinances; or
13735 (ii) 35% upon conviction of any other offense, including violation of county or
13736 municipal ordinances not subject to the 85% surcharge.
13737 (2) The surcharge may not be imposed:
13738 (a) upon nonmoving traffic violations;
13739 (b) upon court orders when the offender is ordered to perform compensatory service
13740 work in lieu of paying a fine; and
13741 (c) upon penalties assessed by the juvenile court as part of the nonjudicial adjustment
13742 of a case under Section [~~78-3a-502~~] 78A-6-602.
13743 (3) (a) The surcharge and the exceptions under Subsections (1) and (2) also apply to
13744 all fines, penalties, and forfeitures imposed on juveniles for conduct that would be criminal if
13745 committed by an adult.
13746 (b) However, the surcharge does not include amounts assessed or collected separately
13747 by juvenile courts for the Juvenile Restitution Account, which is independent of this chapter
13748 and does not affect the imposition or collection of the surcharge.
13749 (4) The surcharge under this section shall be imposed in addition to the fine charged
13750 for a civil or criminal offense, and no reduction may be made in the fine charged due to the
13751 surcharge imposition.
13752 (5) Fees, assessments, and surcharges related to criminal or traffic offenses shall be
13753 authorized and managed by this chapter rather than attached to particular offenses.
13754 Section 210. Section **63-63a-2** is amended to read:
13755 **63-63a-2. Division of collected monies retained by state treasurer and local**
13756 **governmental collecting entity -- Purpose of surcharge -- Allocation of collections --**
13757 **Financial information.**
13758 (1) The amount of the surcharge imposed under this chapter by courts of record shall
13759 be collected before any fine and deposited with the state treasurer.
13760 (2) The amount of the surcharge and the amount of criminal fines, penalties, and

13761 forfeitures imposed under this chapter by courts not of record shall be collected concurrently.
13762 (a) As monies are collected on criminal fines, penalties, and forfeitures subject to the
13763 85% surcharge, the monies shall be divided pro rata so that the local governmental collecting
13764 entity retains 54% of the collected monies and the state retains 46% of the collected monies.
13765 (b) As monies are collected on criminal fines, penalties, and forfeitures subject to the
13766 35% surcharge, the monies shall be divided pro rata so that the local governmental collecting
13767 entity retains 74% of the collected monies and the state retains 26% of the collected monies.
13768 (c) The court shall deposit with the state treasurer the surcharge portion of all monies
13769 as they are collected.
13770 (3) Courts of record, courts not of record, and administrative traffic proceedings shall
13771 collect financial information to determine:
13772 (a) the total number of cases in which:
13773 (i) a final judgment has been rendered;
13774 (ii) surcharges and fines are paid by partial or installment payment; and
13775 (iii) the judgment is fulfilled by an alternative method upon the court's order;
13776 (b) the total dollar amounts of surcharges owed to the state and fines owed to the state
13777 and county or municipality, including:
13778 (i) waived surcharges;
13779 (ii) uncollected surcharges; and
13780 (iii) collected surcharges.
13781 (4) The courts of record, courts not of record, and administrative traffic proceedings
13782 shall report all collected financial information monthly to the Administrative Office of the
13783 Courts. The collected information shall be categorized by cases subject to the 85% and 35%
13784 surcharge.
13785 (5) The purpose of the surcharge is to finance the trust funds and support accounts as
13786 provided in this chapter.
13787 (6) (a) From the surcharge, the Division of Finance shall allocate in the manner and for
13788 the purposes described in Sections 63-63a-3 through 63-63a-10.
13789 (b) Allocations shall be made on a fiscal year basis.
13790 (7) The provisions of Sections 63-63a-1 and 63-63a-2 may not impact the distribution
13791 and allocation of fines and forfeitures imposed in accordance with Sections 23-14-13,

13792 [~~78-3-14.5~~] 78A-5-110, and [~~78-5-116~~] 78A-7-120.
13793 Section 211. Section **63-63a-5** is amended to read:
13794 **63-63a-5. Substance Abuse Prevention Account established -- Funding -- Uses.**
13795 (1) There is created a restricted account within the General Fund known as the
13796 Substance Abuse Prevention Account.
13797 (2) (a) The Division of Finance shall allocate to the Substance Abuse Prevention
13798 Account from the collected surcharge established in Section 63-63a-1:
13799 (i) 2.5% for the juvenile court, but not to exceed the amount appropriated by the
13800 Legislature; and
13801 (ii) 2.5% for the State Office of Education, but not to exceed the amount appropriated
13802 by the Legislature.
13803 (b) The juvenile court shall use the allocation to pay for community service programs
13804 required by Subsection [~~78-3a-118~~] 78A-6-117(2)(m).
13805 (c) The State Office of Education shall use the allocation in public school programs
13806 for:
13807 (i) substance abuse prevention and education;
13808 (ii) substance abuse prevention training for teachers and administrators; and
13809 (iii) district and school programs to supplement, not supplant, existing local prevention
13810 efforts in cooperation with local substance abuse authorities.
13811 Section 212. Section **63-63a-8** is amended to read:
13812 **63-63a-8. Children's Legal Defense Account.**
13813 (1) There is created a restricted account within the General Fund known as the
13814 Children's Legal Defense Account.
13815 (2) The purpose of the Children's Legal Defense Account is to provide for programs
13816 that protect and defend the rights, safety, and quality of life of children.
13817 (3) The Legislature shall appropriate money from the account for the administrative
13818 and related costs of the following programs:
13819 (a) implementing the Mandatory Educational Course on Children's Needs for
13820 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,
13821 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation Pilot Program - Child
13822 Custody or Parent-time as provided in Sections 30-3-15.3 and 30-3-18;

13823 (b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,
13824 [~~78-3a-318~~] 78A-6-321, [~~78-3a-912~~] 78A-6-902, [~~78-11-6~~] 78B-3-102, and [~~78-7-9~~]
13825 78A-2-227; the training of guardian ad litems and volunteers as provided in Section
13826 [~~78-3a-912~~] 78A-6-902; and termination of parental rights as provided in Sections [~~78-3a-118~~]
13827 78A-6-117, [~~78-3a-119~~] 78A-6-118, [~~78-3a-903~~] and 78A-6-1103, and Title [~~78~~] 78A, Chapter
13828 [~~3a~~] 6, Part [~~4~~] 5, Termination of Parental Rights Act. This account may not be used to
13829 supplant funding for the guardian ad litem program in the juvenile court as provided in Section
13830 [~~78-3a-912~~] 78A-6-902; and
13831 (c) implementing and administering the Expedited Parent-time Enforcement Pilot
13832 Program as provided in Section 30-3-38.
13833 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
13834 Account and used only for the purposes provided in Subsections (3)(a) through (c):
13835 (a) the additional $10 fee withheld on every marriage license issued in the state of Utah
13836 as provided in Section 17-16-21; and
13837 (b) a fee of $4 shall be withheld from the existing civil filing fee collected on any
13838 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.
13839 (5) The Division of Finance shall allocate the monies described in Subsection (4) from
13840 the General Fund to the Children's Legal Defense Account.
13841 (6) Any funds in excess of $200,000 remaining in the restricted account as of June 30
13842 of any fiscal year shall lapse into the General Fund.
13843 Section 213. Section **63-63a-8.5** is amended to read:
13844 **63-63a-8.5. Guardian Ad Litem Services Account established -- Funding -- Uses.**
13845 There is created in the General Fund a restricted account known as the Guardian Ad
13846 Litem Services Account, for the purpose of funding the Office of the Guardian Ad Litem
13847 Director, in accordance with the provisions of Sections [~~78-3a-911~~] 78A-6-901 and
13848 [~~78-3a-912~~] 78A-6-902. The Division of Finance shall allocate 1.75% of the collected
13849 surcharge established in Section 63-63a-1 to the Guardian Ad Litem Services Account. That
13850 amount may not, however, exceed the amount appropriated by the Legislature.
13851 Section 214. Section **63-75-6** is amended to read:
13852 **63-75-6. Prevention and early intervention programs -- Applicants -- Selection**
13853 **process.**

13854 (1) Within appropriations from the Legislature, the council shall implement prevention
13855 and early intervention programs for children and youth at risk.
13856 (2) The council shall select a limited number of participants for programs described in
13857 Subsection (1) through applications submitted by local entities.
13858 (3) (a) (i) The written consent of a parent or guardian is necessary for a child or youth
13859 at risk to participate in a program operated under Subsection (1).
13860 (ii) Programs for children who are enrolled in public schools shall also be subject to the
13861 disclosure and written consent provisions of Section 53A-13-301 and Section 53A-13-302.
13862 (iii) A parent or guardian may withdraw consent at any time.
13863 (b) Notwithstanding Subsection (3)(a), a court may order a child's participation in a
13864 prevention and early intervention program.
13865 (4) The prevention and early intervention services provided under this section shall:
13866 (a) be comprehensive and collaborative;
13867 (b) seek to strengthen and preserve families;
13868 (c) be culturally sensitive, family focused, and community based;
13869 (d) protect children and youth at risk;
13870 (e) prevent abuse and neglect;
13871 (f) provide access to health care; and
13872 (g) prevent academic failure as defined in Subsection [~~78-3a-316~~] 78A-6-319(2)(a).
13873 (5) (a) A case management team shall be established at each participating site.
13874 (b) The case management team shall include at least the following:
13875 (i) parents who represent a community perspective on children and youth at risk;
13876 (ii) an educator at the school if the child receiving services is enrolled in a public
13877 school;
13878 (iii) the principal if the child receiving services is enrolled in a public school;
13879 (iv) a public health nurse;
13880 (v) a representative of the local mental health authority;
13881 (vi) a representative from the Division of Child and Family Services within the
13882 Department of Human Services;
13883 (vii) a representative from the Employment Development Division; and
13884 (viii) other persons considered appropriate by those persons specified in Subsections

13885 (5)(b)(i) through (vii), based on the needs of the child or youth and his family.
13886 (6) (a) Nothing in this chapter shall be construed to waive the civil, constitutional, or
13887 parental rights of any child, youth, parent, or guardian.
13888 (b) The case management team shall recommend that children or youth be evaluated
13889 for at risk intervention.
13890 Section 215. Section **63A-8-201** is amended to read:
13891 **63A-8-201. Office of State Debt Collection created -- Duties.**
13892 (1) The state and each state agency shall comply with the requirements of this chapter
13893 and any rules established by the Office of State Debt Collection.
13894 (2) There is created the Office of State Debt Collection in the Department of
13895 Administrative Services.
13896 (3) The office shall:
13897 (a) have overall responsibility for collecting and managing state receivables;
13898 (b) develop consistent policies governing the collection and management of state
13899 receivables;
13900 (c) oversee and monitor state receivables to ensure that state agencies are:
13901 (i) implementing all appropriate collection methods;
13902 (ii) following established receivables guidelines; and
13903 (iii) accounting for and reporting receivables in the appropriate manner;
13904 (d) develop policies, procedures, and guidelines for accounting, reporting, and
13905 collecting monies owed to the state;
13906 (e) provide information, training, and technical assistance to all state agencies on
13907 various collection-related topics;
13908 (f) write an inclusive receivables management and collection manual for use by all
13909 state agencies;
13910 (g) prepare quarterly and annual reports of the state's receivables;
13911 (h) create or coordinate a state accounts receivable database;
13912 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
13913 effective accounts receivable program;
13914 (j) identify those state agencies that are not making satisfactory progress toward
13915 implementing collection techniques and improving accounts receivable collections;

13916 (k) coordinate information, systems, and procedures between state agencies to
13917 maximize the collection of past-due accounts receivable;
13918 (l) establish an automated cash receipt process between state agencies;
13919 (m) establish procedures for writing off accounts receivable for accounting and
13920 collection purposes;
13921 (n) establish standard time limits after which an agency will delegate responsibility to
13922 collect state receivables to the office or its designee;
13923 (o) be a real party in interest for an account receivable referred to the office by any
13924 state agency; and
13925 (p) allocate monies collected for judgments registered under Section 77-18-6 in
13926 accordance with Sections 63-63a-2, 63A-8-302, and [~~78-3-14.5~~] 78A-5-110.
13927 (4) The office may:
13928 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
13929 by state agencies;
13930 (b) collect accounts receivables for higher education entities, if the higher education
13931 entity agrees;
13932 (c) prepare a request for proposal for consulting services to:
13933 (i) analyze the state's receivable management and collection efforts; and
13934 (ii) identify improvements needed to further enhance the state's effectiveness in
13935 collecting its receivables;
13936 (d) contract with private or state agencies to collect past-due accounts;
13937 (e) perform other appropriate and cost-effective coordinating work directly related to
13938 collection of state receivables;
13939 (f) obtain access to records of any state agency that are necessary to the duties of the
13940 office by following the procedures and requirements of Section 63-2-206;
13941 (g) collect interest and fees related to the collection of receivables under this chapter,
13942 and establish, by following the procedures and requirements of Section 63-38-3.2:
13943 (i) a fee to cover the administrative costs of collection, on accounts administered by the
13944 office;
13945 (ii) a late penalty fee that may not be more than 10% of the account receivable on
13946 accounts administered by the office;

13947 (iii) an interest charge that is:
13948 (A) the postjudgment interest rate established by Section 15-1-4 in judgments
13949 established by the courts; or
13950 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
13951 receivable for which no court judgment has been entered; and
13952 (iv) fees to collect accounts receivable for higher education;
13953 (h) collect reasonable [~~attorney's~~] attorney fees and reasonable costs of collection that
13954 are related to the collection of receivables under this chapter;
13955 (i) make rules that allow accounts receivable to be collected over a reasonable period
13956 of time and under certain conditions with credit cards;
13957 (j) file a satisfaction of judgment in the district court by following the procedures and
13958 requirements of the Utah Rules of Civil Procedure;
13959 (k) ensure that judgments for which the office is the judgment creditor are renewed, as
13960 necessary; and
13961 (l) notwithstanding Section 63-2-206, share records obtained under Subsection (4)(f)
13962 with private sector vendors under contract with the state to assist state agencies in collecting
13963 debts owed to the state agencies without changing the classification of any private, controlled,
13964 or protected record into a public record.
13965 (5) The office shall ensure that:
13966 (a) a record obtained by the office or a private sector vendor as referred to in
13967 Subsection (4)(l):
13968 (i) is used only for the limited purpose of collecting accounts receivable; and
13969 (ii) is subject to federal, state, and local agency records restrictions; and
13970 (b) any person employed by, or formerly employed by, the office or a private sector
13971 vendor as referred to in Subsection (4)(l) is subject to:
13972 (i) the same duty of confidentiality with respect to the record imposed by law on
13973 officers and employees of the state agency from which the record was obtained; and
13974 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a
13975 private, controlled, or protected record.
13976 (6) (a) The office shall collect accounts receivable ordered by the district court as a
13977 result of prosecution for a criminal offense that have been transferred to the office under

13978 Subsection 76-3-201.1(5)(h) or (8).
13979 (b) The office may not assess the interest charge established by the office under
13980 Subsection (4) on an account receivable subject to the postjudgment interest rate established by
13981 Section 15-1-4.
13982 (7) The office shall require state agencies to:
13983 (a) transfer collection responsibilities to the office or its designee according to time
13984 limits established by the office;
13985 (b) make annual progress towards implementing collection techniques and improved
13986 accounts receivable collections;
13987 (c) use the state's accounts receivable system or develop systems that are adequate to
13988 properly account for and report their receivables;
13989 (d) develop and implement internal policies and procedures that comply with the
13990 collections policies and guidelines established by the office;
13991 (e) provide internal accounts receivable training to staff involved in their management
13992 and collection of receivables as a supplement to statewide training;
13993 (f) bill for and make initial collection efforts of its receivables up to the time the
13994 accounts must be transferred; and
13995 (g) submit quarterly receivable reports to the office that identify the age, collection
13996 status, and funding source of each receivable.
13997 (8) The office shall use the information provided by the agencies and any additional
13998 information from the office's records to compile a one-page summary report of each agency.
13999 (9) The summary shall include:
14000 (a) the type of revenue that is owed to the agency;
14001 (b) any attempted collection activity; and
14002 (c) any costs incurred in the collection process.
14003 (10) The office shall annually provide copies of each agency's summary to the governor
14004 and to the Legislature.
14005 Section 216. Section **63A-9-801** is amended to read:
14006 **63A-9-801. State surplus property program -- Definitions -- Administration.**
14007 (1) As used in this section:
14008 (a) "Agency" means:

14009 (i) the Utah Departments of Administrative Services, Agriculture, Alcoholic Beverage
14010 Control, Commerce, Community and Culture, Corrections, Workforce Services, Health,
14011 Human Resource Management, Human Services, Insurance, Natural Resources, Public Safety,
14012 Technology Services, and Transportation and the Labor Commission;
14013 (ii) the Utah Offices of the Auditor, Attorney General, Court Administrator, Crime
14014 Victim Reparations, Rehabilitation, and Treasurer;
14015 (iii) the Public Service Commission and State Tax Commission;
14016 (iv) the State Boards of Education, Pardons and Parole, and Regents;
14017 (v) the Career Service Review Board;
14018 (vi) other state agencies designated by the governor;
14019 (vii) the legislative branch, the judicial branch, and the State Board of Regents; and
14020 (viii) an institution of higher education, its president, and its board of trustees for
14021 purposes of Section 63A-9-802.
14022 (b) "Division" means the Division of Fleet Operations.
14023 (c) "Information technology equipment" means any equipment that is designed to
14024 electronically manipulate, store, or transfer any form of data.
14025 (d) "Inventory property" means property in the possession of the division that is
14026 available for purchase by an agency or the public.
14027 (e) "Judicial district" means the geographic districts established by Section [~~78-1-2.1~~]
14028 78A-1-102.
14029 (f) (i) "Surplus property" means property purchased by, seized by, or donated to, an
14030 agency that the agency wishes to dispose of.
14031 (ii) "Surplus property" does not mean real property.
14032 (g) "Transfer" means transfer of surplus property without cash consideration.
14033 (2) (a) The division shall make rules establishing a state surplus property program that
14034 meets the requirements of this chapter by following the procedures and requirements of Title
14035 63, Chapter 46a, Utah Administrative Rulemaking Act.
14036 (b) Those rules shall include:
14037 (i) a requirement prohibiting the transfer of surplus property from one agency to
14038 another agency without written approval from the division;
14039 (ii) procedures and requirements governing division administration requirements that

14040 an agency must follow;
14041 (iii) requirements governing purchase priorities;
14042 (iv) requirements governing accounting, reimbursement, and payment procedures;
14043 (v) procedures for collecting bad debts;
14044 (vi) requirements and procedures for disposing of firearms;
14045 (vii) the elements of the rates or other charges assessed by the division for services and
14046 handling;
14047 (viii) procedures governing the timing and location of public sales of inventory
14048 property; and
14049 (ix) procedures governing the transfer of information technology equipment by state
14050 agencies directly to public schools.
14051 (c) The division shall report all transfers of information technology equipment by state
14052 agencies to public schools to the Utah Technology Commission and to the Legislative Interim
14053 Education Committee at the end of each fiscal year.
14054 (3) In creating and administering the program, the division shall:
14055 (a) when conditions, inventory, and demand permit:
14056 (i) establish facilities to store inventory property at geographically dispersed locations
14057 throughout the state; and
14058 (ii) hold public sales of property at geographically dispersed locations throughout the
14059 state;
14060 (b) establish, after consultation with the agency requesting the sale of surplus property,
14061 the price at which the surplus property shall be sold; and
14062 (c) transfer proceeds arising from the sale of state surplus property to the agency
14063 requesting the sale in accordance with Title 63, Chapter 38, Budgetary Procedures Act, less an
14064 amount established by the division by rule to pay the costs of administering the surplus
14065 property program.
14066 (4) Unless specifically exempted from this chapter by explicit reference to this chapter,
14067 each state agency shall dispose of and acquire surplus property only by participating in the
14068 division's program.
14069 Section 217. Section **63A-11-102** is amended to read:
14070 **63A-11-102. Definitions.**

14071 For purposes of this chapter:
14072 (1) "Child welfare case" means a proceeding under Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part
14073 3, Abuse, Neglect, and Dependency Proceedings or [~~4~~] 5, Termination of Parental Rights Act.
14074 (2) "Contracted parental defense attorney" means a parental defense attorney who is
14075 under contract with the office to provide parental defense in child welfare cases.
14076 (3) "Director" means the director of the office.
14077 (4) "Fund" means the Child Welfare Parental Defense Fund established in Section
14078 63A-11-203.
14079 (5) "Office" means the Office of Child Welfare Parental Defense created in Section
14080 63A-11-103.
14081 (6) "Parental defense attorney" means an attorney, law firm, or group of attorneys who:
14082 (a) are authorized to practice law in Utah; and
14083 (b) provide legal representation under contract with the office, or a county in the state,
14084 to a parent who is a party in a child welfare case.
14085 Section 218. Section **63A-11-201** is amended to read:
14086 **63A-11-201. Child welfare parental defense contracts -- Qualifications.**
14087 (1) The office may enter into contracts with qualified parental defense attorneys to
14088 provide services for an indigent parent or parents who are the subject of a petition alleging
14089 abuse, neglect, or dependency, and will require a parental defense attorney pursuant to Section
14090 [~~78-3a-913~~] 78A-6-1111.
14091 (2) Payment for the representation, costs, and expenses of a contracted parental defense
14092 attorney shall be made from the Child Welfare Parental Defense Fund as provided in Section
14093 63A-11-203.
14094 (3) The parental defense attorney shall maintain the minimum qualifications as
14095 provided by this chapter.
14096 Section 219. Section **63D-2-102** is amended to read:
14097 **63D-2-102. Definitions.**
14098 As used in this chapter:
14099 (1) (a) "Collect" means the gathering of personally identifiable information:
14100 (i) from a user of a governmental website; or
14101 (ii) about a user of the governmental website.

14102 (b) "Collect" includes use of any identifying code linked to a user of a governmental
14103 website.
14104 (2) "Court website" means a website on the Internet that is operated by or on behalf of
14105 any court created in Title [~~78, Judicial Code~~] 78A, Chapter 1, Judiciary.
14106 (3) "Governmental entity" means:
14107 (a) an executive branch agency as defined in Section 63D-1a-102;
14108 (b) the legislative branch;
14109 (c) the judicial branch;
14110 (d) the State Board of Education;
14111 (e) the Board of Regents;
14112 (f) an institution of higher education; and
14113 (g) a political subdivision of the state:
14114 (i) as defined in Section 17B-1-102; and
14115 (ii) including a school district.
14116 (4) (a) "Governmental website" means a website on the Internet that is operated by or
14117 on behalf of a governmental entity.
14118 (b) "Governmental website" includes a court website.
14119 (5) "Governmental website operator" means a governmental entity or person acting on
14120 behalf of the governmental entity that:
14121 (a) operates a governmental website; and
14122 (b) collects or maintains personally identifiable information from or about a user of
14123 that website.
14124 (6) "Personally identifiable information" means information that identifies:
14125 (a) a user by:
14126 (i) name;
14127 (ii) account number;
14128 (iii) physical address;
14129 (iv) email address;
14130 (v) telephone number;
14131 (vi) Social Security number;
14132 (vii) credit card information; or

14133 (viii) bank account information;
14134 (b) a user as having requested or obtained specific materials or services from a
14135 governmental website;
14136 (c) Internet sites visited by a user; or
14137 (d) any of the contents of a user's data-storage device.
14138 (7) "User" means a person who accesses a governmental website.
14139 Section 220. Section **63D-2-104** is amended to read:
14140 **63D-2-104. Posting certain information on a court website.**
14141 (1) Except as provided in Subsections (2) and (3), a court website:
14142 (a) may not display personally identifiable information; and
14143 (b) shall contain a conspicuous notice that includes a list of documents routinely posted
14144 on the court website.
14145 (2) This section does not prohibit access to any original document as provided by law.
14146 (3) This section does not apply to:
14147 (a) the Registry of Judgments created in Section [~~78-22-1.5~~] 78B-5-201, if the Registry
14148 of Judgments complies with Subsection (3)(b);
14149 (b) remote access to a document through a network or system that:
14150 (i) is secure; and
14151 (ii) provides restricted access through security standards developed by the court,
14152 including a registration requirement under which a prospective user must provide the
14153 prospective user's:
14154 (A) identity;
14155 (B) business or residence address; and
14156 (C) citizenship status;
14157 (c) postings related to legitimate law enforcement purposes;
14158 (d) postings of documents filed or recorded more than 100 years prior to the posting;
14159 (e) postings of:
14160 (i) historical information;
14161 (ii) genealogical information;
14162 (iii) interpretive information about historic persons and events; or
14163 (iv) educational information about historic persons and events; or

14164 (f) postings of information instructing a user how to contact a website operator,
14165 employee, or other representative of the court.
14166 Section 221. Section **67-19-15** is amended to read:
14167 **67-19-15. Career service -- Exempt positions -- Schedules for civil service**
14168 **positions -- Coverage of career service provisions.**
14169 (1) Except as otherwise provided by law or by rules and regulations established for
14170 federally aided programs, the following positions are exempt from the career service provisions
14171 of this chapter:
14172 (a) the governor, members of the Legislature, and all other elected state officers,
14173 designated as Schedule AA;
14174 (b) appointed executives and board or commission executives enumerated in Section
14175 67-22-2, and commissioners designated as Schedule AB;
14176 (c) all employees and officers in the office and at the residence of the governor,
14177 designated as Schedule AC;
14178 (d) employees who are in a confidential relationship to an agency head or
14179 commissioner and who report directly to, and are supervised by, a department head,
14180 commissioner, or deputy director of an agency or its equivalent, designated as Schedule AD;
14181 (e) unskilled employees in positions requiring little or no specialized skill or training,
14182 designated as Schedule AE;
14183 (f) part-time professional noncareer persons who are paid for any form of medical and
14184 other professional service and who are not engaged in the performance of administrative duties,
14185 designated as Schedule AF;
14186 (g) employees in the Office of the Attorney General who are under their own career
14187 service pay plan under Sections 67-5-7 through 67-5-13, designated as Schedule AG;
14188 (h) teaching staff of all state institutions and patients and inmates employed in state
14189 institutions, designated as Schedule AH;
14190 (i) persons appointed to a position vacated by an employee who has a right to return
14191 under federal or state law or policy, designated as Schedule AI;
14192 (j) noncareer employees compensated for their services on a seasonal or contractual
14193 basis who are hired for limited periods of less than nine consecutive months or who are
14194 employed on less than 1/2 time basis, designated as Schedule AJ;

14195 (k) those employees in a personal and confidential relationship to elected officials,
14196 designated as Schedule AK;
14197 (l) employees appointed to perform work of a limited duration not exceeding two years
14198 or to perform work with time-limited funding, designated as Schedule AL;
14199 (m) employees of the Department of Community and Culture whose positions are
14200 designated as executive/professional positions by the executive director of the Department of
14201 Community and Culture with the concurrence of the executive director, and employees of the
14202 Governor's Office of Economic Development whose positions are designated as
14203 executive/professional positions by the director of the office, designated as Schedule AM;
14204 (n) employees of the Legislature, designated as Schedule AN;
14205 (o) employees of the judiciary, designated as Schedule AO;
14206 (p) all judges in the judiciary, designated as Schedule AP;
14207 (q) members of state and local boards and councils appointed by the governor and
14208 governing bodies of agencies, other local officials serving in an ex officio capacity, officers,
14209 faculty, and other employees of state universities and other state institutions of higher
14210 education, designated as Schedule AQ;
14211 (r) employees who make statewide policy, designated as Schedule AR;
14212 (s) any other employee whose appointment is required by statute to be career service
14213 exempt, designated as Schedule AS; and
14214 (t) employees of the Department of Technology Services, designated as
14215 executive/professional positions by the executive director of the Department of Technology
14216 Services with the concurrence of the executive director, designated as Schedule AT.
14217 (2) The civil service shall consist of two schedules as follows:
14218 (a) (i) Schedule A is the schedule consisting of positions exempted by Subsection (1).
14219 (ii) Removal from any appointive position under Schedule A, unless otherwise
14220 regulated by statute, is at the pleasure of the appointing officers without regard to tenure.
14221 (b) Schedule B is the competitive career service schedule, consisting of all positions
14222 filled through competitive selection procedures as defined by the executive director.
14223 (3) (a) The executive director, after consultation with the heads of concerned executive
14224 branch departments and agencies and with the approval of the governor, shall allocate positions
14225 to the appropriate schedules under this section.

14226 (b) Agency heads shall make requests and obtain approval from the executive director
14227 before changing the schedule assignment and tenure rights of any position.
14228 (c) Unless the executive director's decision is reversed by the governor, when the
14229 executive director denies an agency's request, the executive director's decision is final.
14230 (4) (a) Compensation for employees of the Legislature shall be established by the
14231 directors of the legislative offices in accordance with Section 36-12-7.
14232 (b) Compensation for employees of the judiciary shall be established by the state court
14233 administrator in accordance with Section [~~78-3-24~~] 78A-2-107.
14234 (c) Compensation for officers, faculty, and other employees of state universities and
14235 institutions of higher education shall be established as provided in Title 53B, Chapters 1,
14236 Governance, Powers, Rights, and Responsibilities, and 2, Institutions of Higher Education.
14237 (d) Unless otherwise provided by law, compensation for all other Schedule A
14238 employees shall be established by their appointing authorities, within ranges approved by, and
14239 after consultation with the executive director of the Department of Human Resource
14240 Management.
14241 (5) All employees of the Office of State Auditor, the Office of State Treasurer, and
14242 employees who are not exempt under this section are covered by the career service provisions
14243 of this chapter.
14244 Section 222. Section **72-5-111** is amended to read:
14245 **72-5-111. Disposal of real property.**
14246 (1) (a) If the department determines that any real property or interest in real property,
14247 acquired for a highway purpose, is no longer necessary for the purpose, the department may
14248 lease, sell, exchange, or otherwise dispose of the real property or interest in the real property.
14249 (b) (i) Real property may be sold at private or public sale.
14250 (ii) Except as provided in Subsection (1)(c) related to exchanges, proceeds of any sale
14251 shall be deposited with the state treasurer and credited to the Transportation Fund.
14252 (c) If approved by the commission, real property or an interest in real property may be
14253 exchanged by the department for other real property or interest in real property, including
14254 improvements, for highway purposes.
14255 (2) (a) In the disposition of real property at any private sale, first consideration shall be
14256 given to the original grantor or the original grantor's heirs.

14257 (b) Notwithstanding the provisions of Section [~~78-34-20~~] 78B-6-521, if no portion of a
14258 parcel of real property acquired by the department is used for transportation purposes, then the
14259 original grantor or the grantor's heirs shall be given the opportunity to repurchase the parcel of
14260 real property at the department's original purchase price from the grantor.
14261 (c) In accordance with Section 72-5-404, this Subsection (2) does not apply to property
14262 rights acquired in proposed transportation corridors using funds from the Transportation
14263 Corridor Preservation Revolving Loan Fund created in Section 72-2-117.
14264 (3) (a) Any sale, exchange, or disposal of real property or interest in real property made
14265 by the department under this section, is exempt from the mineral reservation provisions of Title
14266 65A, Chapter 6, Mineral Leases.
14267 (b) Any deed made and delivered by the department under this section without specific
14268 reservations in the deed is a conveyance of all the state's right, title, and interest in the real
14269 property or interest in the real property.
14270 Section 223. Section **72-5-404** is amended to read:
14271 **72-5-404. Disposition of excess property rights.**
14272 If the department has acquired property rights in land in proposed transportation
14273 corridors, and some or all of that land is eventually not used for the proposed transportation
14274 corridors, the department shall dispose of the property rights in accordance with the provisions
14275 of Section [~~78-34-20~~] 78B-6-521.
14276 Section 224. Section **72-7-510** is amended to read:
14277 **72-7-510. Existing outdoor advertising not in conformity with part -- Procedure**
14278 **-- Eminent domain -- Compensation -- Relocation.**
14279 (1) As used in this section, "nonconforming sign" means a sign that has been erected in
14280 a zone or area other than commercial or industrial or where outdoor advertising is not
14281 permitted under this part.
14282 (2) (a) The department may acquire by gift, purchase, agreement, exchange, or eminent
14283 domain, any existing outdoor advertising and all property rights pertaining to the outdoor
14284 advertising which were lawfully in existence on May 9, 1967, and which by reason of this part
14285 become nonconforming.
14286 (b) If the department, or any town, city, county, governmental entity, public utility, or
14287 any agency or the United States Department of Transportation under this part, prevents the

14288 maintenance as defined in Section 72-7-502, or requires that maintenance of an existing sign be
14289 discontinued, the sign in question shall be considered acquired by the entity and just
14290 compensation will become immediately due and payable.
14291 (c) Eminent domain shall be exercised in accordance with the provision of Title [~~78~~]
14292 78B, Chapter [~~34~~] 6, Part 5, Eminent Domain.
14293 (3) (a) Just compensation shall be paid for outdoor advertising and all property rights
14294 pertaining to the same, including the right of the landowner upon whose land a sign is located,
14295 acquired through the processes of eminent domain.
14296 (b) For the purposes of this part, just compensation shall include the consideration of
14297 damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign
14298 company's interest, which remaining properties, together with the properties actually
14299 condemned, constituted an economic unit.
14300 (c) The department is empowered to remove signs found in violation of Section
14301 72-7-508 without payment of any compensation.
14302 (4) Except as specifically provided in this section or Section 72-7-513, this part may
14303 not be construed to permit a person to place or maintain any outdoor advertising adjacent to
14304 any interstate or primary highway system which is prohibited by law or by any town, city, or
14305 county ordinance. Any town, city, county, governmental entity, or public utility which requires
14306 the removal, relocation, alteration, change, or termination of outdoor advertising shall pay just
14307 compensation as defined in this part and in Title [~~78~~] 78B, Chapter [~~34~~] 6, Part 5, Eminent
14308 Domain.
14309 (5) Except as provided in Section 72-7-508, no sign shall be required to be removed by
14310 the department nor sign maintenance as described in this section be discontinued unless at the
14311 time of removal or discontinuance there are sufficient funds, from whatever source,
14312 appropriated and immediately available to pay the just compensation required under this
14313 section and unless at that time the federal funds required to be contributed under 23 U.S.C.,
14314 Sec. 131, if any, with respect to the outdoor advertising being removed, have been appropriated
14315 and are immediately available to this state.
14316 (6) (a) If any outdoor advertising use, structure, or permit may not be continued
14317 because of the widening, construction, or reconstruction along an interstate, federal aid primary
14318 highway existing as of June 1, 1991, or national highway systems highway, the owner shall

14319 have the option to relocate and remodel the use, structure, or permit to another location:
14320 (i) on the same property;
14321 (ii) on adjacent property;
14322 (iii) on the same highway within 5280 feet of the previous location, which may be
14323 extended 5280 feet outside the areas described in Subsection 72-7-505(3)(c)(i)(A), on either
14324 side of the same highway; or
14325 (iv) mutually agreed upon by the owner and the county or municipality in which the
14326 use, structure, or permit is located.
14327 (b) The relocation under Subsection (6)(a) shall be in a commercial or industrial zoned
14328 area or where outdoor advertising is permitted under this part.
14329 (c) The county or municipality in which the use or structure is located shall, if
14330 necessary, provide for the relocation and remodeling by ordinance for a special exception to its
14331 zoning ordinance.
14332 (d) The relocated and remodeled use or structure may be:
14333 (i) erected to a height and angle to make it clearly visible to traffic on the main-traveled
14334 way of the highway to which it is relocated or remodeled;
14335 (ii) the same size and at least the same height as the previous use or structure, but the
14336 relocated use or structure may not exceed the size and height permitted under this part;
14337 (iii) relocated to a comparable vehicular traffic count.
14338 (7) (a) The governmental entity, quasi-governmental entity, or public utility that causes
14339 the need for the outdoor advertising relocation or remodeling as provided in Subsection (6)(a)
14340 shall pay the costs related to the relocation, remodeling, or acquisition.
14341 (b) If a governmental entity prohibits the relocation and remodeling as provided in
14342 Subsection (6)(a), it shall pay just compensation as provided in Subsection (3).
14343 Section 225. Section **73-3-3.5** is amended to read:
14344 **73-3-3.5. Application for a change of point of diversion, place of use, or purpose**
14345 **of use of water in a water company made by a shareholder.**
14346 (1) As used in this section:
14347 (a) "Shareholder" means the owner of a share of stock, or other evidence of stock
14348 ownership, that entitles the person to a proportionate share of water in a water company.
14349 (b) "Water company" means any company, operating for profit or not for profit, in

14350 which a shareholder has the right to receive a proportionate share, based on that shareholder's
14351 ownership interest, of water delivered by the company.
14352 (2) A shareholder who seeks to change the point of diversion, place of use, or purpose
14353 of use of the shareholder's proportionate share of water in the water company shall submit a
14354 request for the change, in writing, to the water company. This request shall include the
14355 following information:
14356 (a) the details of the requested change, which may include the point of diversion,
14357 period of use, place, or nature of use;
14358 (b) the quantity of water sought to be changed;
14359 (c) the certificate number of the stock affected by the change;
14360 (d) a description of the land proposed to be retired from irrigation pursuant to Section
14361 73-3-3, if the proposed change in place or nature of use of the water involves a situation where
14362 the water was previously used for irrigation;
14363 (e) an agreement by the shareholder to continue to pay all applicable corporate
14364 assessments on the share affected by the change; and
14365 (f) any other information that the water company may reasonably need to evaluate the
14366 requested change application.
14367 (3) (a) A water company shall make a decision and provide written notice of that
14368 decision on a shareholder's request for a change application within 120 days from receipt of the
14369 request.
14370 (b) Based on the facts and circumstances of each proposed change, a water company
14371 may take the following action:
14372 (i) approve the change request;
14373 (ii) approve the change request with conditions; or
14374 (iii) deny the change request.
14375 (c) If the water company fails to respond to a shareholder's request for a change
14376 application, pursuant to Subsection (3)(a), the failure to respond shall be considered to be a
14377 denial of the request.
14378 (d) The water company may not withhold approval if any potential damage, liability, or
14379 impairment to the water company, or its shareholders, can be reasonably mitigated without cost
14380 to the water company.

14381 (e) A water company may consider the following factors in evaluating change
14382 applications:
14383 (i) any increased cost to the water company or its shareholders;
14384 (ii) interference with the water company's ability to manage and distribute water for the
14385 benefit of all shareholders;
14386 (iii) whether the proposed change represents more water than the shareholder's pro rata
14387 share of the water company's right;
14388 (iv) impairment of either the quantity or quality of water delivered to other
14389 shareholders under the existing water rights of the water company, including rights to carrier
14390 water;
14391 (v) whether the proposed change would cause a violation of any statute, ordinance,
14392 regulation, or order of a court or governmental agency;
14393 (vi) whether the shareholder has or can arrange for the beneficial use of water to be
14394 retired from irrigation within the water company's service under the proposed change; or
14395 (vii) the cumulative effects that the approval of the change application may have on
14396 other shareholders or water company operations.
14397 (4) The water company may require that all costs associated with the change
14398 application, including costs of submitting proof, be paid by the shareholder.
14399 (5) (a) The shareholder requesting the change must be current on all water company
14400 assessments and agree to continue to pay all applicable future assessments, except that the
14401 shareholder may choose to prepay any portion of the water company assessments attributable to
14402 an existing debt of the water company.
14403 (b) Other than prepaid assessments, the water company may require that the
14404 shareholder continue to pay all applicable assessments.
14405 (6) If the water company approves the requested change, with or without conditions,
14406 the change application may be filed with the state engineer, and must:
14407 (a) be signed on behalf of the water company; or
14408 (b) be accompanied by written authorization from the water company assenting to the
14409 change.
14410 (7) (a) The state engineer may evaluate a change application authorized by a water
14411 company under this section in the same manner and using the same criteria that he or she uses

14412 to evaluate any other change application.
14413 (b) Nothing in this section shall limit the authority of the state engineer in evaluating
14414 and processing any change application.
14415 (8) If an application authorized by a water company under this section is approved by
14416 the state engineer, the shareholder may file requests for extensions of time to submit proof of
14417 beneficial use under the change application without further permission of the water company.
14418 (9) (a) Change applications approved under this section are subject to all conditions
14419 imposed by the water company and the state engineer.
14420 (b) If a shareholder fails to comply with all of the conditions imposed by the water
14421 company, the water company may, after written notice to the shareholder and after allowing
14422 reasonable time to remedy the failure, withdraw its approval of the application, and petition the
14423 state engineer for an order canceling the change application.
14424 (c) The water company may not revoke its approval of the change application or seek
14425 an order canceling the application if the conditions are substantially satisfied.
14426 (10) (a) The shareholder requesting the change shall have a cause of action, including
14427 an award of actual damages incurred, against the water company if the water company:
14428 (i) unreasonably withholds approval of a requested change;
14429 (ii) imposes unreasonable conditions in its approval; or
14430 (iii) withdraws approval of a change application in a manner other than as provided in
14431 Subsection (9).
14432 (b) The action referred to in Subsection (10)(a) shall be referred to mediation by the
14433 court under Title [~~78~~] 78B, Chapter [~~31b~~] 6, Part 2, Alternative Dispute Resolution Act, unless
14434 both parties decline mediation.
14435 (c) If mediation is declined, the prevailing party to the action shall be entitled to costs
14436 and reasonable attorney fees.
14437 Section 226. Section **73-26-404** is amended to read:
14438 **73-26-404. Eminent domain.**
14439 In order to construct the reservoirs and other facilities authorized under this chapter, the
14440 division may exercise eminent domain as provided in Title [~~78~~] 78B, Chapter [~~34~~] 6, Part 5,
14441 Eminent Domain.
14442 Section 227. Section **73-28-104** is amended to read:

14443 **73-28-104. Powers of the board.**
14444 (1) The board may contract with:
14445 (a) a district for the sale of developed water;
14446 (b) a qualified entity for the development or construction of the project; or
14447 (c) a district or other qualified entity for the operation, maintenance, repair, or
14448 replacement of the project.
14449 (2) By following the procedures and requirements of Title 63, Chapter 46a, Utah
14450 Administrative Rulemaking Act, the board may make rules to:
14451 (a) establish prices, in consultation with the committee and in accordance with Section
14452 73-28-403, for:
14453 (i) developed water sold to the districts; and
14454 (ii) electricity made available by the project;
14455 (b) establish procedures for reviewing offers to contract for the sale of developed water
14456 and electricity;
14457 (c) establish the interest rate for repayment of preconstruction and construction costs;
14458 (d) establish a reasonable time period for the districts to offer to purchase water; and
14459 (e) administer and operate the project.
14460 (3) The board may exercise eminent domain, as provided in Title [~~78~~] 78B, Chapter
14461 [~~34~~] 6, Part 5, Eminent Domain, to construct the project.
14462 Section 228. Section **75-2-114** is amended to read:
14463 **75-2-114. Parent and child relationship.**
14464 (1) Except as provided in Subsections (2) and (3), for purposes of intestate succession
14465 by, through, or from a person, an individual is the child of the individual's natural parents,
14466 regardless of their marital status. The parent and child relationship may be established as
14467 provided in Title [~~78~~] 78B, Chapter [~~45g~~] 15, Utah Uniform Parentage Act.
14468 (2) An adopted individual is the child of the adopting parent or parents and not of the
14469 natural parents, but adoption of a child by the spouse of either natural parent has no effect on:
14470 (a) the relationship between the child and that natural parent; or
14471 (b) the right of the child or a descendant of the child to inherit from or through the
14472 other natural parent.
14473 (3) Inheritance from or through a child by either natural parent or his kindred is

14474 precluded unless that natural parent has openly treated the child as his, and has not refused to
14475 support the child.
14476 Section 229. Section **75-2a-103** is amended to read:
14477 **75-2a-103. Definitions.**
14478 As used in this chapter:
14479 (1) "Agent" means a person designated in an advance health care directive to make
14480 health care decisions for the declarant.
14481 (2) "Best interest" means that the benefits to the individual resulting from a treatment
14482 outweigh the burdens to the individual resulting from the treatment, taking into account:
14483 (a) the effect of the treatment on the physical, emotional, and cognitive functions of the
14484 individual;
14485 (b) the degree of physical pain or discomfort caused to the individual by the treatment
14486 or the withholding or withdrawal of treatment;
14487 (c) the degree to which the individual's medical condition, the treatment, or the
14488 withholding or withdrawal of treatment, result in a severe and continuing impairment of the
14489 dignity of the individual by subjecting the individual to humiliation and dependency;
14490 (d) the effect of the treatment on the life expectancy of the individual;
14491 (e) the prognosis of the individual for recovery with and without the treatment;
14492 (f) the risks, side effects, and benefits of the treatment, or the withholding or
14493 withdrawal of treatment; and
14494 (g) the religious beliefs and basic values of the individual receiving treatment, to the
14495 extent these may assist the decision maker in determining the best interest.
14496 (3) "Capacity to appoint an agent" means that the individual understands the
14497 consequences of appointing a particular person as agent.
14498 (4) "Declarant" means an individual who has signed or directed the signing of a health
14499 care directive.
14500 (5) "Default surrogate decision maker" means the person who may make decisions for
14501 an individual when either:
14502 (a) an agent has not been appointed; or
14503 (b) an agent is not able or available to make decisions for a declarant.
14504 (6) "Generally accepted health care standards":

14505 (a) is defined only for the purpose of:
14506 (i) this chapter and does not define the standard of care for any other purpose under
14507 Utah law; and
14508 (ii) enabling health care providers to interpret the statutory form set forth in Section
14509 75-2a-117; and
14510 (b) means the standard of care that justifies a provider in declining to provide life
14511 sustaining or life supporting care because the proposed life sustaining care:
14512 (i) will not prevent or reduce the deterioration in the health or functional status of an
14513 individual;
14514 (ii) will not prevent the impending death of an individual; or
14515 (iii) will impose more burden on the individual than any expected benefit to the
14516 individual.
14517 (7) "Guardian" means a court-appointed guardian.
14518 (8) "Health care" means any care, treatment, service, or procedure to improve,
14519 maintain, diagnose, or otherwise affect an individual's physical or mental condition.
14520 (9) "Health care decision":
14521 (a) means a decision about an individual's health care made by the individual or the
14522 individual's surrogate, that is communicated to a health care provider;
14523 (b) includes:
14524 (i) selection and discharge of a health care provider and a health care facility;
14525 (ii) approval or disapproval of diagnostic tests, procedures, programs of medication,
14526 and orders not to resuscitate; and
14527 (iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and
14528 all other forms of health care; and
14529 (c) does not include decisions about the individual's financial affairs or social
14530 interactions other than as indirectly affected by the health care decision.
14531 (10) "Health care decision making capacity" means an individual's ability to make an
14532 informed decision about receiving or refusing health care, including:
14533 (a) the ability to understand the nature, extent, or probable consequences of the health
14534 care;
14535 (b) the ability to make a rational evaluation of the burdens, risks, benefits, and

14536 alternatives to the proposed health care; and
14537 (c) the ability to communicate a decision.
14538 (11) "Health care directive":
14539 (a) includes:
14540 (i) a designation of an agent to make health care decisions for an individual when the
14541 individual cannot make or communicate health care decisions; or
14542 (ii) an expression of preferences about health care decisions; and
14543 (b) may take one of the following forms:
14544 (i) a written document, voluntarily executed by an individual in accordance with the
14545 requirements of this chapter; or
14546 (ii) a witnessed oral statement, made by an individual, in accordance with the
14547 requirements of this chapter.
14548 (12) "Health care facility" means:
14549 (a) a health care facility as defined in Title 26, Chapter 21, Health Care Facility
14550 Licensing and Inspection Act; and
14551 (b) private offices of physicians, dentists, and other health care providers licensed to
14552 provide health care under Title 58, Occupations and Professions.
14553 (13) "Health care provider" is defined in Section [~~78-14-3~~] 78B-3-403.
14554 (14) "Individual":
14555 (a) means:
14556 (i) a person 18 years of age or older; or
14557 (ii) an emancipated minor as defined in [~~Sections 78-3a-1001 to 78-3a-1105~~] Title
14558 78A, Chapter 6, Part 8, Emancipation; and
14559 (b) includes:
14560 (i) a declarant; and
14561 (ii) a person who has not completed an advance health care directive.
14562 (15) "Reasonably available" means:
14563 (a) readily able to be contacted without undue effort; and
14564 (b) willing and able to act in a timely manner considering the urgency of the
14565 individual's health care needs.
14566 (16) "Surrogate" means a decision maker who is:

14567 (a) an appointed agent;
14568 (b) a default surrogate decision maker under the provisions of Section 75-2a-108; or
14569 (c) a court-appointed guardian.
14570 Section 230. Section **75-5-209** is amended to read:
14571 **75-5-209. Powers and duties of guardian of minor -- Residual parental rights and**
14572 **duties -- Adoption of a ward.**
14573 (1) For purposes of this section, "residual parental rights and duties" is as defined in
14574 Section [~~78-3a-103~~] 78A-6-105.
14575 (2) Except as provided in Subsection (4)(a), a guardian of a minor has the powers and
14576 responsibilities of a parent who has not been deprived of custody of the parent's unemancipated
14577 minor, including the powers and responsibilities described in Subsection (3).
14578 (3) A guardian of a minor:
14579 (a) must take reasonable care of the personal effects of the guardian's ward;
14580 (b) must commence protective proceedings if necessary to protect other property of the
14581 guardian's ward;
14582 (c) subject to Subsection (4)(b), may receive money payable for the support of the ward
14583 to the ward's parent, guardian, or custodian under the terms of a:
14584 (i) statutory benefit or insurance system;
14585 (ii) private contract;
14586 (iii) devise;
14587 (iv) trust;
14588 (v) conservatorship; or
14589 (vi) custodianship;
14590 (d) subject to Subsection (4)(b), may receive money or property of the ward paid or
14591 delivered by virtue of Section 75-5-102;
14592 (e) except as provided in Subsection (4)(c), must exercise due care to conserve any
14593 excess money or property described in Subsection (3)(d) for the ward's future needs;
14594 (f) unless otherwise provided by statute, may institute proceedings to compel the
14595 performance by any person of a duty to:
14596 (i) support the ward; or
14597 (ii) pay sums for the welfare of the ward;

14598 (g) is empowered to:
14599 (i) facilitate the ward's education, social, or other activities; and
14600 (ii) subject to Subsection (4)(d), authorize medical or other professional care,
14601 treatment, or advice;
14602 (h) may consent to the:
14603 (i) marriage of the guardian's ward, if specifically authorized by a court to give this
14604 consent; or
14605 (ii) adoption of the guardian's ward if the:
14606 (A) guardian of the ward is specifically authorized by a court to give this consent; and
14607 (B) parental rights of the ward's parents have been terminated; and
14608 (i) must report the condition of the minor and of the minor's estate that has been subject
14609 to the guardian's possession or control:
14610 (i) as ordered by court on petition of any person interested in the minor's welfare; or
14611 (ii) as required by court rule.
14612 (4) (a) Notwithstanding Subsection (2), a guardian of a minor is not:
14613 (i) legally obligated to provide from the guardian's own funds for the ward; and
14614 (ii) liable to third persons by reason of the guardian's relationship for acts of the ward.
14615 (b) Sums received under Subsection (3)(c) or (d):
14616 (i) may not be used for compensation for the services of a guardian, except as:
14617 (A) approved by court order; or
14618 (B) determined by a duly appointed conservator other than the guardian; and
14619 (ii) shall be applied to the ward's current needs for support, care, and education.
14620 (c) Notwithstanding Subsection (3)(e), if a conservator is appointed for the estate of the
14621 ward, the excess shall be paid over at least annually to the conservator.
14622 (d) A guardian of a minor is not, by reason of giving the authorization described in
14623 Subsection (3)(g)(ii), liable for injury to the minor resulting from the negligence or acts of third
14624 persons, unless it would have been illegal for a parent to have given the authorization.
14625 (5) A parent of a minor for whom a guardian is appointed retains residual parental
14626 rights and duties.
14627 (6) If a parent of a minor for whom a guardian is appointed consents to the adoption of
14628 the minor, the guardian is entitled to:

14629 (a) receive notice of the adoption proceeding pursuant to Section [~~78-30-4.13~~]
14630 78B-6-110;
14631 (b) intervene in the adoption; and
14632 (c) present evidence to the court relevant to the best interest of the child pursuant to
14633 Subsection [~~78-30-4.13~~] 78B-6-110(11).
14634 (7) If a minor for whom a guardian is appointed is adopted subsequent to the
14635 appointment, the guardianship shall terminate when the adoption is finalized.
14636 Section 231. Section **76-3-406.5** is amended to read:
14637 **76-3-406.5. Aggravating factors in imprisonment for certain criminal homicide**
14638 **cases.**
14639 (1) As used in this section:
14640 (a) "Cohabitant" has the same definition as in Section [~~30-6-1~~] 78B-7-102.
14641 (b) "Position of trust" includes the position of a spouse, parent, or cohabitant.
14642 (2) It is an aggravating factor that the person occupied a position of trust in relation to
14643 the victim.
14644 (3) The Board of Pardons and Parole shall consider the aggravating factor in
14645 Subsection (2) in determining the length of imprisonment for a person convicted of:
14646 (a) aggravated murder under Section 76-5-202;
14647 (b) murder under Section 76-5-203; or
14648 (c) manslaughter under Section 76-5-205.
14649 (4) The sentencing court shall consider the aggravating factor in Subsection (2) in
14650 sentencing a person convicted of manslaughter under Section 76-5-205.
14651 Section 232. Section **76-5-102.7** is amended to read:
14652 **76-5-102.7. Assault against health care provider and emergency medical service**
14653 **worker -- Penalty.**
14654 (1) A person who assaults a health care provider or emergency medical service worker
14655 is guilty of a class A misdemeanor if:
14656 (a) the person knew that the victim was a health care provider or emergency medical
14657 service worker; and
14658 (b) the health care provider or emergency medical service worker was performing
14659 emergency or life saving duties within the scope of his authority at the time of the assault.

14660 (2) As used in this section:
14661 (a) " Emergency medical service worker" means a person certified under Section
14662 26-8a-302.
14663 (b) "Health care provider" has the meaning as provided in Section [~~78-14-3~~]
14664 78B-3-403.
14665 Section 233. Section **76-5-108** is amended to read:
14666 **76-5-108. Protective orders restraining abuse of another -- Violation.**
14667 (1) Any person who is the respondent or defendant subject to a protective order, child
14668 protective order, ex parte protective order, or ex parte child protective order issued under Title
14669 [~~30~~] 78B, Chapter [~~6~~] 7, Part 1, Cohabitant Abuse Act, or Title [~~78~~] 78A, Chapter [~~3a~~] 6,
14670 Juvenile Court Act of 1996, Title 77, Chapter 36, Cohabitant Abuse Procedures Act, or a
14671 foreign protection order enforceable under Title [~~30~~] 78B, Chapter [~~6a~~] 7, Part 3, Uniform
14672 Interstate Enforcement of Domestic Violence Protection Orders Act, who intentionally or
14673 knowingly violates that order after having been properly served, is guilty of a class A
14674 misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant
14675 Abuse Procedures Act.
14676 (2) Violation of an order as described in Subsection (1) is a domestic violence offense
14677 under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.
14678 Section 234. Section **76-5-109.1** is amended to read:
14679 **76-5-109.1. Commission of domestic violence in the presence of a child.**
14680 (1) As used in this section:
14681 (a) "Cohabitant" has the same meaning as defined in Section [~~30-6-1~~] 78B-7-102.
14682 (b) "Domestic violence" has the same meaning as in Section 77-36-1.
14683 (c) "In the presence of a child" means:
14684 (i) in the physical presence of a child; or
14685 (ii) having knowledge that a child is present and may see or hear an act of domestic
14686 violence.
14687 (2) A person is guilty of child abuse if the person:
14688 (a) commits or attempts to commit criminal homicide, as defined in Section 76-5-201,
14689 against a cohabitant in the presence of a child; or
14690 (b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous

14691 weapon, as defined in Section 76-1-601, or other means or force likely to produce death or
14692 serious bodily injury against a cohabitant, in the presence of a child; or
14693 (c) under circumstances not amounting to a violation of Subsection (2)(a) or (b),
14694 commits an act of domestic violence in the presence of a child.
14695 (3) (a) A person who violates Subsection (2)(a) or (b) is guilty of a third degree felony.
14696 (b) A person who violates Subsection (2)(c) is guilty of a class B misdemeanor.
14697 (4) A charge under this section is separate and distinct from, and is in addition to, a
14698 charge of domestic violence where the victim is the cohabitant. Either or both charges may be
14699 filed by the prosecutor.
14700 Section 235. Section **76-5-110** is amended to read:
14701 **76-5-110. Abuse or neglect of disabled child.**
14702 (1) As used in this section:
14703 (a) "Abuse" means:
14704 (i) inflicting physical injury, as that term is defined in Section 76-5-109;
14705 (ii) having the care or custody of a disabled child, causing or permitting another to
14706 inflict physical injury, as that term is defined in Section 76-5-109; or
14707 (iii) unreasonable confinement.
14708 (b) "Caretaker" means:
14709 (i) any parent, legal guardian, or other person having under that person's care and
14710 custody a disabled child; or
14711 (ii) any person, corporation, or public institution that has assumed by contract or court
14712 order the responsibility to provide food, shelter, clothing, medical, and other necessities to a
14713 disabled child.
14714 (c) "Disabled child" means any person under 18 years of age who is impaired because
14715 of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent
14716 that the person is unable to care for the person's own personal safety or to provide necessities
14717 such as food, shelter, clothing, and medical care.
14718 (d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter,
14719 supervision, or medical care.
14720 (2) Any caretaker who abuses or neglects a disabled child is guilty of a third degree
14721 felony.

14722 (3) (a) A parent or legal guardian who provides a child with treatment by spiritual
14723 means alone through prayer, in lieu of medical treatment, in accordance with the tenets and
14724 practices of an established church or religious denomination of which the parent or legal
14725 guardian is a member or adherent shall not, for that reason alone, be considered to be in
14726 violation under this section.
14727 (b) Subject to Subsection [~~78-3a-118~~] 78A-6-117(2)(n)(iii), the exception under
14728 Subsection (3)(a) does not preclude a court from ordering medical services from a physician
14729 licensed to engage in the practice of medicine to be provided to the child where there is
14730 substantial risk of harm to the child's health or welfare if the treatment is not provided.
14731 (c) A caretaker of a disabled child does not violate this section by selecting a treatment
14732 option for a disabled child's medical condition, if the treatment option is one that a reasonable
14733 caretaker would believe to be in the best interest of the disabled child.
14734 Section 236. Section **76-5-413** is amended to read:
14735 **76-5-413. Custodial sexual relations or misconduct with youth receiving state**
14736 **services -- Definitions -- Penalties -- Defenses.**
14737 (1) As used in this section:
14738 (a) "Actor" means:
14739 (i) a person employed by the Department of Human Services, as created in Section
14740 62A-1-102, or an employee of a private provider or contractor; or
14741 (ii) a person employed by the juvenile court of the state, or an employee of a private
14742 provider or contractor.
14743 (b) "Department" means the Department of Human Services created in Section
14744 62A-1-102.
14745 (c) "Juvenile court" means the juvenile court of the state created in Section [~~78-3a-102~~]
14746 78A-6-102.
14747 (d) "Private provider or contractor" means any person or entity that contracts with the:
14748 (i) department to provide services or functions that are part of the operation of the
14749 department; or
14750 (ii) juvenile court to provide services or functions that are part of the operation of the
14751 juvenile court.
14752 (e) "Youth receiving state services" means a person:

14753 (i) younger than 18 years of age, except as provided under Subsection (1)(e)(ii), who is:
14754 (A) in the custody of the department under Subsection [~~78-3a-118~~]
14755 78A-6-117(2)(c)(ii); or
14756 (B) receiving services from any division of the department if any portion of the costs of
14757 these services is covered by public monies as defined in Section 76-8-401; or
14758 (ii) younger than 21 years of age who is:
14759 (A) in the custody of the Division of Juvenile Justice Services, or the Division of Child
14760 and Family Services; or
14761 (B) under the jurisdiction of the juvenile court.
14762 (2) (a) An actor commits custodial sexual relations with a youth receiving state
14763 services if the actor commits any of the acts under Subsection (3):
14764 (i) under circumstances not amounting to commission of, or an attempt to commit, an
14765 offense under Subsection (6); and
14766 (ii) (A) the actor knows that the individual is a youth receiving state services; or
14767 (B) a reasonable person in the actor's position should have known under the
14768 circumstances that the individual was a youth receiving state services.
14769 (b) A violation of Subsection (2)(a) is a third degree felony, but if the youth receiving
14770 state services is younger than 18 years of age, a violation of Subsection (2)(a) is a second
14771 degree felony.
14772 (c) If the act committed under this Subsection (2) amounts to an offense subject to a
14773 greater penalty under another provision of state law than is provided under this Subsection (2),
14774 this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.
14775 (3) Acts referred to in Subsection (2)(a) are:
14776 (a) having sexual intercourse with a youth receiving state services;
14777 (b) engaging in any sexual act with a youth receiving state services involving the
14778 genitals of one person and the mouth or anus of another person, regardless of the sex of either
14779 participant; or
14780 (c) causing the penetration, however slight, of the genital or anal opening of a youth
14781 receiving state services by any foreign object, substance, instrument, or device, including a part
14782 of the human body, with the intent to cause substantial emotional or bodily pain to any person,
14783 regardless of the sex of any participant or with the intent to arouse or gratify the sexual desire

14784 of any person, regardless of the sex of any participant.
14785 (4) (a) An actor commits custodial sexual misconduct with a youth receiving state
14786 services if the actor commits any of the acts under Subsection (5):
14787 (i) under circumstances not amounting to commission of, or an attempt to commit, an
14788 offense under Subsection (6); and
14789 (ii) (A) the actor knows that the individual is a youth receiving state services; or
14790 (B) a reasonable person in the actor's position should have known under the
14791 circumstances that the individual was a youth receiving state services.
14792 (b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth
14793 receiving state services is younger than 18 years of age, a violation of Subsection (4)(a) is a
14794 third degree felony.
14795 (c) If the act committed under this Subsection (4) amounts to an offense subject to a
14796 greater penalty under another provision of state law than is provided under this Subsection (4),
14797 this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.
14798 (5) Acts referred to in Subsection (4)(a) are the following acts when committed with
14799 the intent to cause substantial emotional or bodily pain to any person or with the intent to
14800 arouse or gratify the sexual desire of any person, regardless of the sex of any participant:
14801 (a) touching the anus, buttocks, or any part of the genitals of a youth receiving state
14802 services;
14803 (b) touching the breast of a female youth receiving state services;
14804 (c) otherwise taking indecent liberties with a youth receiving state services; or
14805 (d) causing a youth receiving state services to take indecent liberties with the actor or
14806 another person.
14807 (6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:
14808 (a) Section 76-5-401, unlawful sexual activity with a minor;
14809 (b) Section 76-5-402, rape;
14810 (c) Section 76-5-402.1, rape of a child;
14811 (d) Section 76-5-402.2, object rape;
14812 (e) Section 76-5-402.3, object rape of a child;
14813 (f) Section 76-5-403, forcible sodomy;
14814 (g) Section 76-5-403.1, sodomy on a child;

14815 (h) Section 76-5-404, forcible sexual abuse;
14816 (i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or
14817 (j) Section 76-5-405, aggravated sexual assault.
14818 (7) (a) It is not a defense to the commission of the offense of custodial sexual relations
14819 with a youth receiving state services under Subsection (2) or custodial sexual misconduct with
14820 a youth receiving state services under Subsection (4), or an attempt to commit either of these
14821 offenses, if the youth receiving state services is younger than 18 years of age, that the actor:
14822 (i) mistakenly believed the youth receiving state services to be 18 years of age or older
14823 at the time of the alleged offense; or
14824 (ii) was unaware of the true age of the youth receiving state services.
14825 (b) Consent of the youth receiving state services is not a defense to any violation or
14826 attempted violation of Subsection (2) or (4).
14827 (8) It is a defense that the commission by the actor of an act under Subsection (2) or (4)
14828 is the result of compulsion, as the defense is described in Subsection 76-2-302(1).
14829 Section 237. Section **76-6-107.1**, which is renumbered from Section 78-11-20.7 is
14830 renumbered and amended to read:
14831 **[~~78-11-20.7~~]. 76-6-107.1. Compensatory service -- Graffiti penalties.**
14832 (1) If an offender uses graffiti and is convicted under Section 76-6-106 or 76-6-206 for
14833 its use, [~~or adjudicated in the juvenile court under Section 78-3a-118,~~] the court may, as a
14834 condition of probation under Subsection 77-18-1(8), [~~in addition to the compensatory or~~
14835 ~~general damage award imposed pursuant to Section 78-11-20,~~] order the offender to clean up
14836 graffiti of his own and any other at a time and place within the jurisdiction of the court.
14837 (a) For a first conviction or adjudication, the court may require the offender to clean up
14838 graffiti for not less than eight hours.
14839 (b) For a second conviction or adjudication, the court may require the offender to clean
14840 up graffiti for not less than 16 hours.
14841 (c) For a third conviction or adjudication, the court may require the offender to clean
14842 up graffiti for not less than 24 hours.
14843 [~~(2) Any compensatory service of a person under the age of 18 years which is required,~~
14844 ~~under this section, may be performed in the presence, and under the direct supervision, of the~~
14845 ~~person's parent or legal guardian. The person's parent or legal guardian shall report completion~~

14846 ~~of the order to the court.~~]
14847 [~~(3)~~] (2) The offender convicted under Section 76-6-106, 76-6-206, or 76-6-107 [~~or~~
14848 ~~adjudicated under Section 78-3a-118 or his parent or legal guardian, if applicable,~~] shall be
14849 responsible for removal costs as determined under Section 76-6-107, unless waived by the
14850 court for good cause.
14851 [~~(4)~~] (3) The court may also require the offender to perform other alternative forms of
14852 restitution or repair to the damaged property pursuant to Subsection 77-18-1(8).
14853 Section 238. Section **76-7-305** is amended to read:
14854 **76-7-305. Informed consent requirements for abortion -- 24-hour wait mandatory**
14855 **-- Emergency exceptions.**
14856 (1) No abortion may be performed unless a voluntary and informed written consent,
14857 consistent with Section 8.08 of the American Medical Association's Code of Medical Ethics,
14858 Current Opinions, and the provisions of this section is first obtained by the attending physician
14859 from the woman upon whom the abortion is to be performed.
14860 (2) Except in the case of a medical emergency, consent to an abortion is voluntary and
14861 informed only if:
14862 (a) at least 24 hours prior to the abortion, the physician who is to perform the abortion,
14863 the referring physician, a registered nurse, nurse practitioner, advanced practice registered
14864 nurse, certified nurse midwife, or physician's assistant, in a face-to-face consultation, orally
14865 informs the woman of:
14866 (i) consistent with Subsection (3)(a), the nature of the proposed abortion procedure or
14867 treatment, specifically how that procedure will affect the fetus, and the risks and alternatives to
14868 an abortion procedure or treatment that any person would consider material to the decision of
14869 whether or not to undergo an abortion;
14870 (ii) the probable gestational age and a description of the development of the unborn
14871 child at the time the abortion would be performed; and
14872 (iii) the medical risks associated with carrying her child to term;
14873 (b) at least 24 hours prior to the abortion the physician who is to perform the abortion,
14874 the referring physician, or, as specifically delegated by either of those physicians, a registered
14875 nurse, licensed practical nurse, certified nurse-midwife, advanced practice registered nurse,
14876 clinical laboratory technologist, psychologist, marriage and family therapist, clinical social

14877 worker, or certified social worker has orally, in a face-to-face consultation, informed the
14878 pregnant woman that:
14879 (i) the Department of Health, in accordance with Section 76-7-305.5, publishes printed
14880 material and an informational video that:
14881 (A) provides medically accurate information regarding all abortion procedures that may
14882 be used;
14883 (B) describes the gestational stages of an unborn child; and
14884 (C) includes information regarding public and private services and agencies available
14885 to assist her through pregnancy, at childbirth, and while the child is dependent, including
14886 private and agency adoption alternatives;
14887 (ii) the printed material and a viewing of or a copy of the informational video shall be
14888 provided to her free of charge;
14889 (iii) medical assistance benefits may be available for prenatal care, childbirth, and
14890 neonatal care, and that more detailed information on the availability of that assistance is
14891 contained in the printed materials and the informational video published by the Department of
14892 Health;
14893 (iv) except as provided in Subsection (3)(b), the father of the unborn child is legally
14894 required to assist in the support of her child, even in instances where he has offered to pay for
14895 the abortion, and that the Office of Recovery Services within the Department of Human
14896 Services will assist her in collecting child support; and
14897 (v) she has the right to view an ultrasound of the unborn child, at no expense to her,
14898 upon her request;
14899 (c) the information required to be provided to the pregnant woman under Subsection
14900 (2)(a) is also provided by the physician who is to perform the abortion, in a face-to-face
14901 consultation, prior to performance of the abortion, unless the attending or referring physician is
14902 the individual who provides the information required under Subsection (2)(a);
14903 (d) a copy of the printed materials published by the Department of Health has been
14904 provided to the pregnant woman;
14905 (e) the informational video, published by the Department of Health, has been provided
14906 to the pregnant woman in accordance with Subsection (4); and
14907 (f) the pregnant woman has certified in writing, prior to the abortion, that the

14908 information required to be provided under Subsections (2)(a) through (e) was provided, in
14909 accordance with the requirements of those subsections.
14910 (3) (a) The alternatives required to be provided under Subsection (2)(a)(i) shall include:
14911 (i) a description of adoption services, including private and agency adoption methods;
14912 and
14913 (ii) a statement that it is legal for adoptive parents to financially assist in pregnancy and
14914 birth expenses.
14915 (b) The information described in Subsection (2)(b)(iv) may be omitted from the
14916 information required to be provided to a pregnant woman under this section if the woman is
14917 pregnant as the result of rape.
14918 (4) When the informational video described in Section 76-7-305.5 is provided to a
14919 pregnant woman, the person providing the information shall first request that the woman view
14920 the video at that time or at another specifically designated time and location. If the woman
14921 chooses not to do so, a copy of the video shall be provided to her.
14922 (5) When a serious medical emergency compels the performance of an abortion, the
14923 physician shall inform the woman prior to the abortion, if possible, of the medical indications
14924 supporting the physician's judgment that an abortion is necessary.
14925 (6) Any physician who violates the provisions of this section:
14926 (a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102;
14927 and
14928 (b) shall be subject to suspension or revocation of the physician's license for the
14929 practice of medicine and surgery in accordance with Sections 58-67-401 and 58-67-402, Utah
14930 Medical Practice Act, or Sections 58-68-401 and 58-68-402, Utah Osteopathic Medical
14931 Practice Act.
14932 (7) A physician is not guilty of violating this section for failure to furnish any of the
14933 information described in Subsection (2), if:
14934 (a) the physician can demonstrate by a preponderance of the evidence that the physician
14935 reasonably believed that furnishing the information would have resulted in a severely adverse
14936 effect on the physical or mental health of the pregnant woman;
14937 (b) in the physician's professional judgment, the abortion was necessary to save the
14938 pregnant woman's life;

14939 (c) the pregnancy was the result of rape or rape of a child, as defined in Sections
14940 76-5-402 and 76-5-402.1;
14941 (d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(10) and
14942 Section 76-7-102;
14943 (e) in his professional judgment the abortion was to prevent the birth of a child who
14944 would have been born with grave defects; or
14945 (f) the pregnant woman was 14 years of age or younger.
14946 (8) A physician who complies with the provisions of this section and Section
14947 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain
14948 informed consent under Section [~~78-14-5~~] 78B-3-406.
14949 Section 239. Section **76-8-601** is amended to read:
14950 **76-8-601. Wrongful commencement of action in justice court.**
14951 Any party to any suit or proceeding, and any attorney or agent for the party, who
14952 knowingly commences, prosecutes, or maintains any action, suit, or proceeding in any justice
14953 court other than as provided in Sections [~~78-5-103~~] 78A-7-105 and [~~78-5-104~~] 78A-7-106, is
14954 guilty of a class B misdemeanor.
14955 Section 240. Section **76-9-701** is amended to read:
14956 **76-9-701. Intoxication -- Release of arrested person or placement in detoxification**
14957 **center.**
14958 (1) A person is guilty of intoxication if the person is under the influence of alcohol, a
14959 controlled substance, or any substance having the property of releasing toxic vapors, to a
14960 degree that the person may endanger the person or another, in a public place or in a private
14961 place where the person unreasonably disturbs other persons.
14962 (2) (a) A peace officer or a magistrate may release from custody a person arrested
14963 under this section if the peace officer or magistrate believes imprisonment is unnecessary for
14964 the protection of the person or another.
14965 (b) A peace officer may take the arrested person to a detoxification center or other
14966 special facility as an alternative to incarceration or release from custody.
14967 (3) When a person who is at least 18 years old, but younger than 21 years old, is found
14968 by a court to have violated this section:
14969 (a) if the violation is the person's first violation of this section, the court may suspend

14970 the person's driving privileges; or
14971 (b) if the violation is the person's second or subsequent violation of this section, the
14972 court shall suspend the person's driving privileges.
14973 (4) When a person who is at least 13 years old, but younger than 18 years old, is found
14974 by a court to have violated this section, the provisions regarding suspension of the driver's
14975 license under Section [~~78-3a-506~~] 78A-6-606 apply to the violation.
14976 (5) When the court issues an order suspending a person's driving privileges for a
14977 violation of this section, the person's driver license shall be suspended under Section 53-3-219.
14978 (6) An offense under this section is a class C misdemeanor.
14979 Section 241. Section **76-10-306** is amended to read:
14980 **76-10-306. Explosive, chemical, or incendiary device and parts -- Definitions --**
14981 **Persons exempted -- Penalties.**
14982 (1) As used in this section:
14983 (a) "Explosive, chemical, or incendiary device" means:
14984 (i) dynamite and all other forms of high explosives, including water gel, slurry, military
14985 C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel
14986 oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting
14987 caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid
14988 explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other
14989 chemical mixture intended to explode with fire or force;
14990 (ii) any explosive bomb, grenade, missile, or similar device; and
14991 (iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device,
14992 including any device, except kerosene lamps, if criminal intent has not been established, which
14993 consists of or includes a breakable container including a flammable liquid or compound and a
14994 wick composed of any material which, when ignited, is capable of igniting the flammable
14995 liquid or compound or any breakable container which consists of, or includes a chemical
14996 mixture that explodes with fire or force and can be carried, thrown, or placed.
14997 (b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or
14998 shotgun ammunition, reloading components, or muzzleloading equipment.
14999 (c) "Explosive, chemical, or incendiary parts" means any substances or materials or
15000 combinations which have been prepared or altered for use in the creation of an explosive,

15001 chemical, or incendiary device. These substances or materials include:
15002 (i) timing device, clock, or watch which has been altered in such a manner as to be
15003 used as the arming device in an explosive;
15004 (ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and
15005 (iii) mechanical timers, mechanical triggers, chemical time delays, electronic time
15006 delays, or commercially made or improvised items which, when used singly or in combination,
15007 may be used in the construction of a timing delay mechanism, booby trap, or activating
15008 mechanism for any explosive, chemical, or incendiary device.
15009 (d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun
15010 ammunition, or any signaling device customarily used in operation of railroad equipment.
15011 (2) The provisions in Subsections (3) and (6) do not apply to:
15012 (a) any public safety officer while acting in his official capacity transporting or
15013 otherwise handling explosives, chemical, or incendiary devices;
15014 (b) any member of the armed forces of the United States or Utah National Guard while
15015 acting in his official capacity;
15016 (c) any person possessing a valid permit issued under the provisions of Uniform Fire
15017 Code, Article 77, or any employee of the permittee acting within the scope of his employment;
15018 (d) any person possessing a valid license as an importer, wholesaler, or display
15019 operator under the provisions of Sections 11-3-3.5 and 53-7-223; and
15020 (e) any person or entity possessing or controlling an explosive, chemical, or incendiary
15021 device as part of its lawful business operations.
15022 (3) Any person is guilty of a second degree felony who, under circumstances not
15023 amounting to a violation of Title 76, Chapter 10, Part 4, Weapons of Mass Destruction,
15024 knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or
15025 incendiary device.
15026 (4) Any person is guilty of a first degree felony who, under circumstances not
15027 amounting to a violation of Title 76, Chapter 10, Part 4, Weapons of Mass Destruction,
15028 knowingly or intentionally:
15029 (a) uses or causes to be used an explosive, chemical, or incendiary device in the
15030 commission of or an attempt to commit a felony;
15031 (b) injures another or attempts to injure another in his person or property through the

15032 use of an explosive, chemical, or incendiary device; or
15033 (c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary
15034 device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-10-529, or
15035 [~~78-7-6~~] 78A-2-203.
15036 (5) Any person who, under circumstances not amounting to a violation of Title 76,
15037 Chapter 10, Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly
15038 removes or causes to be removed or carries away any explosive, chemical, or incendiary device
15039 from the premises where the explosive, chemical, or incendiary device is kept by the lawful
15040 user, vendor, transporter, or manufacturer without the consent or direction of the lawful
15041 possessor is guilty of a second degree felony.
15042 (6) Any person who, under circumstances not amounting to a violation of Title 76,
15043 Chapter 10, Part 4,Weapons of Mass Destruction, knowingly, intentionally, or recklessly
15044 possesses any explosive, chemical, or incendiary parts is guilty of a felony of the third degree.
15045 Section 242. Section **76-10-523.5** is amended to read:
15046 **76-10-523.5. Compliance with rules for secure facilities.**
15047 Any person, including a person licensed to carry a concealed firearm under Title 53,
15048 Chapter 5, Part 7, Concealed Weapons, shall comply with any rule established for secure
15049 facilities pursuant to Sections 53B-3-103, 76-8-311.1, 76-8-311.3, and [~~78-7-6~~] 78A-2-203 and
15050 shall be subject to any penalty provided in those sections.
15051 Section 243. Section **76-10-803** is amended to read:
15052 **76-10-803. "Public nuisance" defined -- Agricultural operations.**
15053 (1) A public nuisance is a crime against the order and economy of the state and consists
15054 in unlawfully doing any act or omitting to perform any duty, which act or omission:
15055 (a) annoys, injures, or endangers the comfort, repose, health, or safety of three or more
15056 persons;
15057 (b) offends public decency;
15058 (c) unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for
15059 passage, any lake, stream, canal, or basin, or any public park, square, street, or highway;
15060 (d) is a nuisance as defined in Section [~~78-38-9~~] 78B-6-1107; or
15061 (e) in any way renders three or more persons insecure in life or the use of property.
15062 (2) An act which affects three or more persons in any of the ways specified in this

15063 section is still a nuisance regardless of the extent to which the annoyance or damage inflicted
15064 on individuals is unequal.
15065 (3) (a) Agricultural operations that are consistent with sound agricultural practices are
15066 presumed to be reasonable and do not constitute a public nuisance under Subsection (1) unless
15067 the agricultural operation has a substantial adverse effect on the public health and safety.
15068 (b) Agricultural operations undertaken in conformity with federal, state, and local laws
15069 and regulations, including zoning ordinances, are presumed to be operating within sound
15070 agricultural practices.
15071 Section 244. Section **76-10-1605** is amended to read:
15072 **76-10-1605. Remedies of person injured by a pattern of unlawful activity --**
15073 **Double damages -- Costs, including attorney fees -- Arbitration -- Agency -- Burden of**
15074 **proof -- Actions by attorney general or county attorney -- Dismissal -- Statute of**
15075 **limitations -- Authorized orders of district court.**
15076 (1) A person injured in his person, business, or property by a person engaged in
15077 conduct forbidden by any provision of Section 76-10-1603 may sue in an appropriate district
15078 court and recover twice the damages he sustains, regardless of whether:
15079 (a) the injury is separate or distinct from the injury suffered as a result of the acts or
15080 conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or
15081 (b) the conduct has been adjudged criminal by any court of the state or of the United
15082 States.
15083 (2) A party who prevails on a cause of action brought under this section recovers the
15084 cost of the suit, including [~~a~~] reasonable [~~attorney's fee~~] attorney fees.
15085 (3) All actions arising under this section which are grounded in fraud are subject to
15086 arbitration under Title [~~78, Chapter 31a~~] 78B, Chapter 11, Utah Uniform Arbitration Act.
15087 (4) In all actions under this section, a principal is liable for actual damages for harm
15088 caused by an agent acting within the scope of either his employment or apparent authority. A
15089 principal is liable for double damages only if the pattern of unlawful activity alleged and
15090 proven as part of the cause of action was authorized, solicited, requested, commanded,
15091 undertaken, performed, or recklessly tolerated by the board of directors or a high managerial
15092 agent acting within the scope of his employment.
15093 (5) In all actions arising under this section, the burden of proof is clear and convincing

15094 evidence.
15095 (6) The attorney general, county attorney, or, if within a prosecution district, the district
15096 attorney may maintain actions under this section on behalf of the state, the county, or any
15097 person injured by a person engaged in conduct forbidden by any provision of Section
15098 76-10-1603, to prevent, restrain, or remedy injury as defined in this section and may recover
15099 the damages and costs allowed by this section.
15100 (7) In all actions under this section, the elements of each claim or cause of action shall
15101 be stated with particularity against each defendant.
15102 (8) If an action, claim, or counterclaim brought or asserted by a private party under this
15103 section is dismissed prior to trial or disposed of on summary judgment, or if it is determined at
15104 trial that there is no liability, the prevailing party shall recover from the party who brought the
15105 action or asserted the claim or counterclaim the amount of its reasonable expenses incurred
15106 because of the defense against the action, claim, or counterclaim, including a reasonable
15107 attorney's fee.
15108 (9) An action or proceeding brought under this section shall be commenced within
15109 three years after the conduct prohibited by Section 76-10-1603 terminates or the cause of action
15110 accrues, whichever is later. This provision supersedes any limitation to the contrary.
15111 (10) (a) In any action brought under this section, the district court has jurisdiction to
15112 prevent, restrain, or remedy injury as defined by this section by issuing appropriate orders after
15113 making provisions for the rights of innocent persons.
15114 (b) Before liability is determined in any action brought under this section, the district
15115 court may:
15116 (i) issue restraining orders and injunctions;
15117 (ii) require satisfactory performance bonds or any other bond it considers appropriate
15118 and necessary in connection with any property or any requirement imposed upon a party by the
15119 court; and
15120 (iii) enter any other order the court considers necessary and proper.
15121 (c) After a determination of liability, the district court may, in addition to granting the
15122 relief allowed in Subsection (1), do any one or all of the following:
15123 (i) order any person to divest himself of any interest in or any control, direct or indirect,
15124 of any enterprise;

15125 (ii) impose reasonable restrictions on the future activities or investments of any person,
15126 including prohibiting any person from engaging in the same type of endeavor as the enterprise
15127 engaged in, to the extent the Utah Constitution and the Constitution of the United States
15128 permit; or
15129 (iii) order the dissolution or reorganization of any enterprise.
15130 (d) However, if an action is brought to obtain any relief provided by this section, and if
15131 the conduct prohibited by Section 76-10-1603 has for its pattern of unlawful activity acts or
15132 conduct illegal under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the court
15133 may not enter any order that would amount to a prior restraint on the exercise of an affected
15134 party's rights under the First Amendment to the Constitution of the United States, or Article I,
15135 Sec. 15 of the Utah Constitution. The court shall, upon the request of any affected party, and
15136 upon the notice to all parties, prior to the issuance of any order provided for in this subsection,
15137 and at any later time, hold hearings as necessary to determine whether any materials at issue are
15138 obscene or pornographic and to determine if there is probable cause to believe that any act or
15139 conduct alleged violates Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222. In
15140 making its findings the court shall be guided by the same considerations required of a court
15141 making similar findings in criminal cases brought under Section 76-10-1204, 76-10-1205,
15142 76-10-1206, or 76-10-1222, including, but not limited to, the definitions in Sections
15143 76-10-1201, 76-10-1203, and 76-10-1216, and the exemptions in Section 76-10-1226.
15144 Section 245. Section **77-1-3** is amended to read:
15145 **77-1-3. Definitions.**
15146 For the purpose of this act:
15147 (1) "Criminal action" means the proceedings by which a person is charged, accused,
15148 and brought to trial for a public offense.
15149 (2) "Indictment" means an accusation in writing presented by a grand jury to the
15150 district court charging a person with a public offense.
15151 (3) "Information" means an accusation, in writing, charging a person with a public
15152 offense which is presented, signed, and filed in the office of the clerk where the prosecution is
15153 commenced pursuant to Section 77-2-1.1.
15154 (4) "Magistrate" means a justice or judge of a court of record or not of record or a
15155 commissioner of such a court appointed in accordance with Section [~~78-3-31~~] 78A-5-107,

15156 except that the authority of a court commissioner to act as a magistrate shall be limited by rule
15157 of the judicial council. The judicial council rules shall not exceed constitutional limitations
15158 upon the delegation of judicial authority.
15159 Section 246. Section **77-2-4.2** is amended to read:
15160 **77-2-4.2. Compromise of traffic charges -- Limitations.**
15161 (1) As used in this section:
15162 (a) "Compromise" means referral of a person charged with a traffic violation to traffic
15163 school or other school, class, or remedial or rehabilitative program.
15164 (b) "Traffic violation" means any charge for which bail may be forfeited in lieu of
15165 appearance, by citation or information, of a violation of:
15166 (i) Title 41, Chapter 6a, Traffic Code, amounting to:
15167 (A) a class B misdemeanor;
15168 (B) a class C misdemeanor; or
15169 (C) an infraction; or
15170 (ii) any local traffic ordinance.
15171 (2) Any compromise of a traffic violation shall be done pursuant to a plea in abeyance
15172 agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, except:
15173 (a) when the criminal prosecution is dismissed pursuant to Section 77-2-4; or
15174 (b) when there is a plea by the defendant to and entry of a judgment by a court for the
15175 offense originally charged or for an amended charge.
15176 (3) In all cases which are compromised pursuant to the provisions of Subsection (2):
15177 (a) the court, taking into consideration the offense charged, shall collect a plea in
15178 abeyance fee which shall:
15179 (i) be subject to the same surcharge as if imposed on a criminal fine;
15180 (ii) be allocated subject to the surcharge as if paid as a criminal fine under Section
15181 [~~78-3-14.5~~] 78A-5-110 and a surcharge under Title 63, Chapter 63a, Crime Victim Reparation
15182 Trust, Public Safety Support Funds, Substance Abuse Prevention Account, and Services for
15183 Victims of Domestic Violence Account; and
15184 (iii) be not more than $25 greater than the bail designated in the Uniform Bail
15185 Schedule; or
15186 (b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic

15187 school or other school, class, or rehabilitative program shall be collected, which surcharge
15188 shall:
15189 (i) be computed, assessed, collected, and remitted in the same manner as if the traffic
15190 school fee and surcharge had been imposed as a criminal fine and surcharge; and
15191 (ii) be subject to the financial requirements contained in Title 63, Chapter 63a, Crime
15192 Victim Reparation Trust, Public Safety Support Funds, Substance Abuse Prevention Account,
15193 and Services for Victims of Domestic Violence Account.
15194 (4) If a written plea in abeyance agreement is provided, or the defendant requests a
15195 written accounting, an itemized statement of all amounts assessed by the court shall be
15196 provided, including:
15197 (a) the Uniform Bail Schedule amount;
15198 (b) the amount of any surcharges being assessed; and
15199 (c) the amount of the plea in abeyance fee.
15200 Section 247. Section **77-2a-3** is amended to read:
15201 **77-2a-3. Manner of entry of plea -- Powers of court.**
15202 (1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be
15203 done in full compliance with the provisions of Rule 11, Utah Rules of Criminal Procedure.
15204 (b) In cases charging offenses for which bail may be forfeited, a plea in abeyance
15205 agreement may be entered into without a personal appearance before a magistrate.
15206 (2) A plea in abeyance agreement may provide that the court may, upon finding that the
15207 defendant has successfully completed the terms of the agreement:
15208 (a) reduce the degree of the offense and enter judgment of conviction and impose
15209 sentence for a lower degree of offense; or
15210 (b) allow withdrawal of defendant's plea and order the dismissal of the case.
15211 (3) Upon finding that a defendant has successfully completed the terms of a plea in
15212 abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as
15213 provided in the plea in abeyance agreement or as agreed to by all parties. Upon sentencing a
15214 defendant for any lesser offense pursuant to a plea in abeyance agreement, the court may not
15215 invoke Section 76-3-402 to further reduce the degree of the offense.
15216 (4) The court may require the Department of Corrections to assist in the administration
15217 of the plea in abeyance agreement as if the defendant were on probation to the court under

15218 Section 77-18-1.
15219 (5) The terms of a plea in abeyance agreement may include:
15220 (a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a
15221 surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in
15222 the same manner as if paid as a fine for a criminal conviction under Section [~~78-3-14.5~~]
15223 78A-5-110 and a surcharge under Title 63, Chapter 63a, Crime Victim Reparation Trust, Public
15224 Safety Support Funds, Substance Abuse Prevention Account, and Services for Victims of
15225 Domestic Violence Account, and which may not exceed in amount the maximum fine and
15226 surcharge which could have been imposed upon conviction and sentencing for the same
15227 offense;
15228 (b) an order that the defendant pay restitution to the victims of his actions as provided
15229 in Title 77, Chapter 38a, Crime Victims Restitution Act;
15230 (c) an order that the defendant pay the costs of any remedial or rehabilitative program
15231 required by the terms of the agreement; and
15232 (d) an order that the defendant comply with any other conditions which could have
15233 been imposed as conditions of probation upon conviction and sentencing for the same offense.
15234 (6) A court may not hold a plea in abeyance without the consent of both the
15235 prosecuting attorney and the defendant. A decision by a prosecuting attorney not to agree to a
15236 plea in abeyance is final.
15237 (7) No plea may be held in abeyance in any case involving a sexual offense against a
15238 victim who is under the age of 14.
15239 (8) Beginning on July 1, 2008, no plea may be held in abeyance in any case involving a
15240 driving under the influence violation under Section 41-6a-502.
15241 Section 248. Section **77-3a-101** is amended to read:
15242 **77-3a-101. Civil stalking injunction -- Petition -- Ex parte injunction.**
15243 (1) As used in this chapter, "stalking" means the crime of stalking as defined in Section
15244 76-5-106.5. Stalking injunctions may not be obtained against law enforcement officers,
15245 governmental investigators, or licensed private investigators, acting in their official capacity.
15246 (2) Any person who believes that he or she is the victim of stalking may file a verified
15247 written petition for a civil stalking injunction against the alleged stalker with the district court
15248 in the district in which the petitioner or respondent resides or in which any of the events

15249 occurred. A minor with his or her parent or guardian may file a petition on his or her own
15250 behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.
15251 (3) The Administrative Office of the Courts shall develop and adopt uniform forms for
15252 petitions, ex parte civil stalking injunctions, civil stalking injunctions, service and any other
15253 necessary forms in accordance with the provisions of this chapter on or before July 1, 2001.
15254 The office shall provide the forms to the clerk of each district court.
15255 (a) All petitions, injunctions, ex parte injunctions, and any other necessary forms shall
15256 be issued in the form adopted by the Administrative Office of the Courts.
15257 (b) The offices of the court clerk shall provide the forms to persons seeking to proceed
15258 under this chapter.
15259 (4) The petition for a civil stalking injunction shall include:
15260 (a) the name of the petitioner; however, the petitioner's address shall be disclosed to the
15261 court for purposes of service, but, on request of the petitioner, the address may not be listed on
15262 the petition, and shall be protected and maintained in a separate document or automated
15263 database, not subject to release, disclosure, or any form of public access except as ordered by
15264 the court for good cause shown;
15265 (b) the name and address, if known, of the respondent;
15266 (c) specific events and dates of the actions constituting the alleged stalking;
15267 (d) if there is a prior court order concerning the same conduct, the name of the court in
15268 which the order was rendered; and
15269 (e) corroborating evidence of stalking, which may be in the form of a police report,
15270 affidavit, record, statement, item, letter, or any other evidence which tends to prove the
15271 allegation of stalking.
15272 (5) If the court determines that there is reason to believe that an offense of stalking has
15273 occurred, an ex parte civil stalking injunction may be issued by the court that includes any of
15274 the following:
15275 (a) respondent may be enjoined from committing stalking;
15276 (b) respondent may be restrained from coming near the residence, place of
15277 employment, or school of the other party or specifically designated locations or persons;
15278 (c) respondent may be restrained from contacting, directly or indirectly, the other party,
15279 including personal, written or telephone contact with the other party, the other party's

15280 employers, employees, fellow workers or others with whom communication would be likely to
15281 cause annoyance or alarm to the other party; or
15282 (d) any other relief necessary or convenient for the protection of the petitioner and
15283 other specifically designated persons under the circumstances.
15284 (6) Within ten days of service of the ex parte civil stalking injunction, the respondent is
15285 entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.
15286 (a) A hearing requested by the respondent shall be held within ten days from the date
15287 the request is filed with the court unless the court finds compelling reasons to continue the
15288 hearing. The hearing shall then be held at the earliest possible time. The burden is on the
15289 petitioner to show by a preponderance of the evidence that stalking of the petitioner by the
15290 respondent has occurred.
15291 (b) An ex parte civil stalking injunction issued under this section shall state on its face:
15292 (i) that the respondent is entitled to a hearing, upon written request within ten days of
15293 the service of the order;
15294 (ii) the name and address of the district court where the request may be filed;
15295 (iii) that if the respondent fails to request a hearing within ten days of service, the ex
15296 parte civil stalking injunction is automatically modified to a civil stalking injunction without
15297 further notice to the respondent and that the civil stalking injunction expires three years after
15298 service of the ex parte civil stalking injunction; and
15299 (iv) that if the respondent requests, in writing, a hearing after the ten-day period after
15300 service, the court shall set a hearing within a reasonable time from the date requested.
15301 (7) At the hearing, the court may modify, revoke, or continue the injunction. The
15302 burden is on the petitioner to show by a preponderance of the evidence that stalking of the
15303 petitioner by the respondent has occurred.
15304 (8) The ex parte civil stalking injunction and civil stalking injunction shall include the
15305 following statement: "Attention. This is an official court order. If you disobey this order, the
15306 court may find you in contempt. You may also be arrested and prosecuted for the crime of
15307 stalking and any other crime you may have committed in disobeying this order."
15308 (9) The ex parte civil stalking injunction shall be served on the respondent within 90
15309 days from the date it is signed. An ex parte civil stalking injunction is effective upon service.
15310 If no hearing is requested in writing by the respondent within ten days of service of the ex parte

15311 civil stalking injunction, the ex parte civil stalking injunction automatically becomes a civil
15312 stalking injunction without further notice to the respondent and expires three years from the
15313 date of service of the ex parte civil stalking injunction.
15314 (10) If the respondent requests a hearing after the ten-day period after service, the court
15315 shall set a hearing within a reasonable time from the date requested. At the hearing, the burden
15316 is on the respondent to show good cause why the civil stalking injunction should be dissolved
15317 or modified.
15318 (11) Within 24 hours after the affidavit or acceptance of service has been returned,
15319 excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking
15320 injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of
15321 service or acceptance of service in the statewide network for warrants or a similar system.
15322 (a) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction
15323 shall not depend upon its entry in the statewide system and, for enforcement purposes, a
15324 certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to
15325 be a valid existing order of the court for a period of three years from the date of service of the
15326 ex parte civil stalking injunction on the respondent.
15327 (b) Any changes or modifications of the ex parte civil stalking injunction are effective
15328 upon service on the respondent. The original ex parte civil stalking injunction continues in
15329 effect until service of the changed or modified civil stalking injunction on the respondent.
15330 (12) Within 24 hours after the affidavit or acceptance of service has been returned,
15331 excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or
15332 modified civil stalking injunction and proof of service or acceptance of service in the statewide
15333 network for warrants or a similar system.
15334 (13) The ex parte civil stalking injunction or civil stalking injunction may be dissolved
15335 at any time upon application of the petitioner to the court which granted it.
15336 (14) The court clerk shall provide, without charge, to the petitioner one certified copy
15337 of the injunction issued by the court and one certified copy of the proof of service of the
15338 injunction on the respondent. Charges may be imposed by the clerk's office for any additional
15339 copies, certified or not certified in accordance with Rule 4-202.08 of the Code of Judicial
15340 Administration.
15341 (15) The remedies provided in this chapter for enforcement of the orders of the court

15342 are in addition to any other civil and criminal remedies available. The district court shall hear
15343 and decide all matters arising pursuant to this section.
15344 (16) After a hearing with notice to the affected party, the court may enter an order
15345 requiring any party to pay the costs of the action, including reasonable [~~attorney's~~] attorney
15346 fees.
15347 (17) This chapter does not apply to protective orders or ex parte protective orders
15348 issued pursuant to Title [~~30~~] 78B, Chapter [~~6~~] 7, Part 1, Cohabitant Abuse Act, or to
15349 preliminary injunctions issued pursuant to an action for dissolution of marriage or legal
15350 separation.
15351 Section 249. Section **77-7-6** is amended to read:
15352 **77-7-6. Manner of making arrest.**
15353 (1) The person making the arrest shall inform the person being arrested of his intention,
15354 cause, and authority to arrest him. Such notice shall not be required when:
15355 (a) there is reason to believe the notice will endanger the life or safety of the officer or
15356 another person or will likely enable the party being arrested to escape;
15357 (b) the person being arrested is actually engaged in the commission of, or an attempt to
15358 commit, an offense; or
15359 (c) the person being arrested is pursued immediately after the commission of an offense
15360 or an escape.
15361 (2) (a) If a hearing-impaired person, as defined in Subsection [~~78-24a-1~~] 78B-1-201(2),
15362 is arrested for an alleged violation of a criminal law, including a local ordinance, the arresting
15363 officer shall assess the communicative abilities of the hearing-impaired person and conduct this
15364 notification, and any further notifications of rights, warnings, interrogations, or taking of
15365 statements, in a manner that accurately and effectively communicates with the
15366 hearing-impaired person including qualified interpreters, lip reading, pen and paper,
15367 typewriters, computers with print-out capability, and telecommunications devices for the deaf.
15368 (b) Compliance with this subsection is a factor to be considered by any court when
15369 evaluating whether statements of a hearing-impaired person were made knowingly, voluntarily,
15370 and intelligently.
15371 Section 250. Section **77-10a-5** is amended to read:
15372 **77-10a-5. Grand jurors -- Qualification and selection -- Limits on disclosure.**

15373 (1) Grand jurors shall meet the qualifications provided for jurors generally in Title [~~78~~]
15374 78B, Chapter [~~46~~] 1, Part 1, Jury [~~Selection and Service~~] and Witness Act. Grand jurors shall
15375 be selected from the qualified jury list as provided in Section [~~78-46-12~~] 78B-1-107.
15376 (2) The names of grand jurors are classified as protected records under Title 63,
15377 Chapter 2, Government Records and Access Management Act.
15378 Section 251. Section **77-13-6** is amended to read:
15379 **77-13-6. Withdrawal of plea.**
15380 (1) A plea of not guilty may be withdrawn at any time prior to conviction.
15381 (2) (a) A plea of guilty or no contest may be withdrawn only upon leave of the court
15382 and a showing that it was not knowingly and voluntarily made.
15383 (b) A request to withdraw a plea of guilty or no contest, except for a plea held in
15384 abeyance, shall be made by motion before sentence is announced. Sentence may not be
15385 announced unless the motion is denied. For a plea held in abeyance, a motion to withdraw the
15386 plea shall be made within 30 days of pleading guilty or no contest.
15387 (c) Any challenge to a guilty plea not made within the time period specified in
15388 Subsection (2)(b) shall be pursued under Title [~~78~~] 78B, Chapter [~~35a~~] 9, Post-Conviction
15389 Remedies Act, and Rule 65C, Utah Rules of Civil Procedure.
15390 Section 252. Section **77-18-1** is amended to read:
15391 **77-18-1. Suspension of sentence -- Pleas held in abeyance -- Probation --**
15392 **Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and**
15393 **conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic**
15394 **monitoring.**
15395 (1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea
15396 in abeyance agreement, the court may hold the plea in abeyance as provided in Title 77,
15397 Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.
15398 (2) (a) On a plea of guilty, guilty and mentally ill, no contest, or conviction of any
15399 crime or offense, the court may, after imposing sentence, suspend the execution of the sentence
15400 and place the defendant on probation. The court may place the defendant:
15401 (i) on probation under the supervision of the Department of Corrections except in cases
15402 of class C misdemeanors or infractions;
15403 (ii) on probation with an agency of local government or with a private organization; or

15404 (iii) on bench probation under the jurisdiction of the sentencing court.
15405 (b) (i) The legal custody of all probationers under the supervision of the department is
15406 with the department.
15407 (ii) The legal custody of all probationers under the jurisdiction of the sentencing court
15408 is vested as ordered by the court.
15409 (iii) The court has continuing jurisdiction over all probationers.
15410 (3) (a) The department shall establish supervision and presentence investigation
15411 standards for all individuals referred to the department. These standards shall be based on:
15412 (i) the type of offense;
15413 (ii) the demand for services;
15414 (iii) the availability of agency resources;
15415 (iv) the public safety; and
15416 (v) other criteria established by the department to determine what level of services
15417 shall be provided.
15418 (b) Proposed supervision and investigation standards shall be submitted to the Judicial
15419 Council and the Board of Pardons and Parole on an annual basis for review and comment prior
15420 to adoption by the department.
15421 (c) The Judicial Council and the department shall establish procedures to implement
15422 the supervision and investigation standards.
15423 (d) The Judicial Council and the department shall annually consider modifications to
15424 the standards based upon criteria in Subsection (3)(a) and other criteria as they consider
15425 appropriate.
15426 (e) The Judicial Council and the department shall annually prepare an impact report
15427 and submit it to the appropriate legislative appropriations subcommittee.
15428 (4) Notwithstanding other provisions of law, the department is not required to
15429 supervise the probation of persons convicted of class B or C misdemeanors or infractions or to
15430 conduct presentence investigation reports on class C misdemeanors or infractions. However,
15431 the department may supervise the probation of class B misdemeanants in accordance with
15432 department standards.
15433 (5) (a) Prior to the imposition of any sentence, the court may, with the concurrence of
15434 the defendant, continue the date for the imposition of sentence for a reasonable period of time

15435 for the purpose of obtaining a presentence investigation report from the department or
15436 information from other sources about the defendant.
15437 (b) The presentence investigation report shall include a victim impact statement
15438 according to guidelines set in Section 77-38a-203 describing the effect of the crime on the
15439 victim and the victim's family.
15440 (c) The presentence investigation report shall include a specific statement of pecuniary
15441 damages, accompanied by a recommendation from the department regarding the payment of
15442 restitution with interest by the defendant in accordance with Title 77, Chapter 38a, Crime
15443 Victims Restitution Act.
15444 (d) The presentence investigation report shall include:
15445 (i) findings from any screening and any assessment of the offender conducted under
15446 Section 77-18-1.1; and
15447 (ii) recommendations for treatment of the offender.
15448 (e) The contents of the presentence investigation report, including any diagnostic
15449 evaluation report ordered by the court under Section 76-3-404, are protected and are not
15450 available except by court order for purposes of sentencing as provided by rule of the Judicial
15451 Council or for use by the department.
15452 (6) (a) The department shall provide the presentence investigation report to the
15453 defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the
15454 court for review, three working days prior to sentencing. Any alleged inaccuracies in the
15455 presentence investigation report, which have not been resolved by the parties and the
15456 department prior to sentencing, shall be brought to the attention of the sentencing judge, and
15457 the judge may grant an additional ten working days to resolve the alleged inaccuracies of the
15458 report with the department. If after ten working days the inaccuracies cannot be resolved, the
15459 court shall make a determination of relevance and accuracy on the record.
15460 (b) If a party fails to challenge the accuracy of the presentence investigation report at
15461 the time of sentencing, that matter shall be considered to be waived.
15462 (7) At the time of sentence, the court shall receive any testimony, evidence, or
15463 information the defendant or the prosecuting attorney desires to present concerning the
15464 appropriate sentence. This testimony, evidence, or information shall be presented in open court
15465 on record and in the presence of the defendant.

15466 (8) While on probation, and as a condition of probation, the court may require that the
15467 defendant:
15468 (a) perform any or all of the following:
15469 (i) pay, in one or several sums, any fine imposed at the time of being placed on
15470 probation;
15471 (ii) pay amounts required under Title 77, Chapter 32a, Defense Costs;
15472 (iii) provide for the support of others for whose support he is legally liable;
15473 (iv) participate in available treatment programs, including any treatment program in
15474 which the defendant is currently participating, if the program is acceptable to the court;
15475 (v) serve a period of time, not to exceed one year, in a county jail designated by the
15476 department, after considering any recommendation by the court as to which jail the court finds
15477 most appropriate;
15478 (vi) serve a term of home confinement, which may include the use of electronic
15479 monitoring;
15480 (vii) participate in compensatory service restitution programs, including the
15481 compensatory service program provided in Section [~~78-11-20.7~~] 76-6-107.1;
15482 (viii) pay for the costs of investigation, probation, and treatment services;
15483 (ix) make restitution or reparation to the victim or victims with interest in accordance
15484 with Title 77, Chapter 38a, Crime Victims Restitution Act; and
15485 (x) comply with other terms and conditions the court considers appropriate; and
15486 (b) if convicted on or after May 5, 1997:
15487 (i) complete high school classwork and obtain a high school graduation diploma, a
15488 GED certificate, or a vocational certificate at the defendant's own expense if the defendant has
15489 not received the diploma, GED certificate, or vocational certificate prior to being placed on
15490 probation; or
15491 (ii) provide documentation of the inability to obtain one of the items listed in
15492 Subsection (8)(b)(i) because of:
15493 (A) a diagnosed learning disability; or
15494 (B) other justified cause.
15495 (9) The department shall collect and disburse the account receivable as defined by
15496 Section 76-3-201.1, with interest and any other costs assessed under Section 64-13-21 during:

15497 (a) the parole period and any extension of that period in accordance with Subsection
15498 77-27-6(4); and
15499 (b) the probation period in cases for which the court orders supervised probation and
15500 any extension of that period by the department in accordance with Subsection (10).
15501 (10) (a) (i) Probation may be terminated at any time at the discretion of the court or
15502 upon completion without violation of 36 months probation in felony or class A misdemeanor
15503 cases, or 12 months in cases of class B or C misdemeanors or infractions.
15504 (ii) (A) If, upon expiration or termination of the probation period under Subsection
15505 (10)(a)(i), there remains an unpaid balance upon the account receivable as defined in Section
15506 76-3-201.1, the court may retain jurisdiction of the case and continue the defendant on bench
15507 probation for the limited purpose of enforcing the payment of the account receivable.
15508 (B) In accordance with Section 77-18-6, the court shall record in the registry of civil
15509 judgments any unpaid balance not already recorded and immediately transfer responsibility to
15510 collect the account to the Office of State Debt Collection.
15511 (iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its
15512 own motion, the court may require the defendant to show cause why his failure to pay should
15513 not be treated as contempt of court.
15514 (b) (i) The department shall notify the sentencing court, the Office of State Debt
15515 Collection, and the prosecuting attorney in writing in advance in all cases when termination of
15516 supervised probation will occur by law.
15517 (ii) The notification shall include a probation progress report and complete report of
15518 details on outstanding accounts receivable.
15519 (11) (a) (i) Any time served by a probationer outside of confinement after having been
15520 charged with a probation violation and prior to a hearing to revoke probation does not
15521 constitute service of time toward the total probation term unless the probationer is exonerated
15522 at a hearing to revoke the probation.
15523 (ii) Any time served in confinement awaiting a hearing or decision concerning
15524 revocation of probation does not constitute service of time toward the total probation term
15525 unless the probationer is exonerated at the hearing.
15526 (b) The running of the probation period is tolled upon the filing of a violation report
15527 with the court alleging a violation of the terms and conditions of probation or upon the issuance

15528 of an order to show cause or warrant by the court.
15529 (12) (a) (i) Probation may not be modified or extended except upon waiver of a hearing
15530 by the probationer or upon a hearing and a finding in court that the probationer has violated the
15531 conditions of probation.
15532 (ii) Probation may not be revoked except upon a hearing in court and a finding that the
15533 conditions of probation have been violated.
15534 (b) (i) Upon the filing of an affidavit alleging with particularity facts asserted to
15535 constitute violation of the conditions of probation, the court that authorized probation shall
15536 determine if the affidavit establishes probable cause to believe that revocation, modification, or
15537 extension of probation is justified.
15538 (ii) If the court determines there is probable cause, it shall cause to be served on the
15539 defendant a warrant for his arrest or a copy of the affidavit and an order to show cause why his
15540 probation should not be revoked, modified, or extended.
15541 (c) (i) The order to show cause shall specify a time and place for the hearing and shall
15542 be served upon the defendant at least five days prior to the hearing.
15543 (ii) The defendant shall show good cause for a continuance.
15544 (iii) The order to show cause shall inform the defendant of a right to be represented by
15545 counsel at the hearing and to have counsel appointed for him if he is indigent.
15546 (iv) The order shall also inform the defendant of a right to present evidence.
15547 (d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.
15548 (ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney
15549 shall present evidence on the allegations.
15550 (iii) The persons who have given adverse information on which the allegations are
15551 based shall be presented as witnesses subject to questioning by the defendant unless the court
15552 for good cause otherwise orders.
15553 (iv) The defendant may call witnesses, appear and speak in his own behalf, and present
15554 evidence.
15555 (e) (i) After the hearing the court shall make findings of fact.
15556 (ii) Upon a finding that the defendant violated the conditions of probation, the court
15557 may order the probation revoked, modified, continued, or that the entire probation term
15558 commence anew.

15559 (iii) If probation is revoked, the defendant shall be sentenced or the sentence previously
15560 imposed shall be executed.
15561 (13) The court may order the defendant to commit himself to the custody of the
15562 Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a
15563 condition of probation or stay of sentence, only after the superintendent of the Utah State
15564 Hospital or his designee has certified to the court that:
15565 (a) the defendant is appropriate for and can benefit from treatment at the state hospital;
15566 (b) treatment space at the hospital is available for the defendant; and
15567 (c) persons described in Subsection 62A-15-610(2)(g) are receiving priority for
15568 treatment over the defendants described in this Subsection (13).
15569 (14) Presentence investigation reports, including presentence diagnostic evaluations,
15570 are classified protected in accordance with Title 63, Chapter 2, Government Records Access
15571 and Management Act. Notwithstanding Sections 63-2-403 and 63-2-404, the State Records
15572 Committee may not order the disclosure of a presentence investigation report. Except for
15573 disclosure at the time of sentencing pursuant to this section, the department may disclose the
15574 presentence investigation only when:
15575 (a) ordered by the court pursuant to Subsection 63-2-202(7);
15576 (b) requested by a law enforcement agency or other agency approved by the department
15577 for purposes of supervision, confinement, and treatment of the offender;
15578 (c) requested by the Board of Pardons and Parole;
15579 (d) requested by the subject of the presentence investigation report or the subject's
15580 authorized representative; or
15581 (e) requested by the victim of the crime discussed in the presentence investigation
15582 report or the victim's authorized representative, provided that the disclosure to the victim shall
15583 include only information relating to statements or materials provided by the victim, to the
15584 circumstances of the crime including statements by the defendant, or to the impact of the crime
15585 on the victim or the victim's household.
15586 (15) (a) The court shall consider home confinement as a condition of probation under
15587 the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.
15588 (b) The department shall establish procedures and standards for home confinement,
15589 including electronic monitoring, for all individuals referred to the department in accordance

15590 with Subsection (16).
15591 (16) (a) If the court places the defendant on probation under this section, it may order
15592 the defendant to participate in home confinement through the use of electronic monitoring as
15593 described in this section until further order of the court.
15594 (b) The electronic monitoring shall alert the department and the appropriate law
15595 enforcement unit of the defendant's whereabouts.
15596 (c) The electronic monitoring device shall be used under conditions which require:
15597 (i) the defendant to wear an electronic monitoring device at all times; and
15598 (ii) that a device be placed in the home of the defendant, so that the defendant's
15599 compliance with the court's order may be monitored.
15600 (d) If a court orders a defendant to participate in home confinement through electronic
15601 monitoring as a condition of probation under this section, it shall:
15602 (i) place the defendant on probation under the supervision of the Department of
15603 Corrections;
15604 (ii) order the department to place an electronic monitoring device on the defendant and
15605 install electronic monitoring equipment in the residence of the defendant; and
15606 (iii) order the defendant to pay the costs associated with home confinement to the
15607 department or the program provider.
15608 (e) The department shall pay the costs of home confinement through electronic
15609 monitoring only for those persons who have been determined to be indigent by the court.
15610 (f) The department may provide the electronic monitoring described in this section
15611 either directly or by contract with a private provider.
15612 Section 253. Section **77-18-3** is amended to read:
15613 **77-18-3. Disposition of fines.**
15614 Fines imposed by the district court shall be paid as provided in Section [~~78-3-14.5~~]
15615 78A-5-110.
15616 Section 254. Section **77-18-6** is amended to read:
15617 **77-18-6. Judgment to pay fine or restitution constitutes a lien.**
15618 (1) (a) In cases not supervised by the Department of Corrections, the clerk of the
15619 district court shall:
15620 (i) transfer the responsibility to collect past due accounts receivable to the Office of

15621 State Debt Collection when the accounts receivable are 90 days or more past due; and
15622 (ii) before transferring the responsibility to collect the past due account receivable to
15623 the Office of State Debt Collection, record each judgment of conviction of a crime that orders
15624 the payment of a fine, forfeiture, surcharge, cost permitted by statute, or fee in the registry of
15625 civil judgments, listing the Office of State Debt Collection as the judgment creditor.
15626 (b) (i) The clerk of court shall record each judgment of conviction that orders the
15627 payment of restitution to a victim in the registry of civil judgments, listing the victim, or the
15628 estate of the victim, as the judgment creditor.
15629 (ii) The Department of Corrections shall collect the judgment on behalf of the victim as
15630 provided in Subsection 77-18-1(9).
15631 (iii) The court shall collect the judgment on behalf of the victim as provided in
15632 Subsection [~~78-7-33~~] 78A-2-214(2).
15633 (iv) The victim may collect the judgment.
15634 (v) The victim is responsible for timely renewal of the judgment under Section
15635 [~~78-22-1~~] 78B-5-202.
15636 (2) When a fine, forfeiture, surcharge, cost, fee, or restitution is recorded in the registry
15637 of civil judgments, the judgment:
15638 (a) constitutes a lien;
15639 (b) has the same effect and is subject to the same rules as a judgment for money in a
15640 civil action; and
15641 (c) may be collected by any means authorized by law for the collection of a civil
15642 judgment.
15643 Section 255. Section **77-18-10** is amended to read:
15644 **77-18-10. Petition -- Expungement of records of arrest, investigation, and**
15645 **detention -- Eligibility conditions -- No filing fee.**
15646 (1) A person who has been arrested with or without a warrant may petition the court in
15647 which the proceeding occurred or, if there were no court proceedings, any court in the
15648 jurisdiction where the arrest occurred, for an order expunging any and all records of arrest,
15649 investigation, and detention which may have been made in the case, subject to the following
15650 conditions:
15651 (a) at least 30 days have passed since the arrest for which expungement is sought;

15652 (b) there have been no intervening arrests; and
15653 (c) one of the following occurred:
15654 (i) the person was released without the filing of formal charges;
15655 (ii) proceedings against the person were dismissed;
15656 (iii) the person was discharged without a conviction and no charges were refiled within
15657 30 days;
15658 (iv) the person was acquitted at trial; or
15659 (v) the record of any proceedings against the person has been sealed.
15660 (2) (a) A person seeking expungement under Subsection (1) may petition the court for
15661 expungement before the expiration of the 30 days required by Subsection (1)(a) if he believes
15662 extraordinary circumstances exist and the court orders the division to proceed with the
15663 eligibility process.
15664 (b) A court may, with the receipt of a certificate of eligibility, order expungement if the
15665 court finds that the petitioner is eligible for relief under this subsection and in the interest of
15666 justice the order should be issued prior to the expiration of the 30-day period required by
15667 Subsection (1)(a).
15668 (3) As provided in Subsection [~~78-7-35~~] 78A-2-301(1)(i), there is no fee for a petition
15669 filed under Subsection (2).
15670 (4) The petitioner shall file a certificate of eligibility issued by the division to be
15671 reviewed by the prosecuting attorney and the court prior to issuing an order granting the
15672 expungement.
15673 (5) If the court finds that the petitioner is eligible for relief under this section, it shall
15674 issue an order granting the expungement.
15675 (6) No filing fees or other administrative charges shall be assessed against a successful
15676 petitioner under this section.
15677 (7) A person who has received expungement of an arrest under this section may
15678 respond to any inquiry as though the arrest did not occur, unless otherwise provided by law.
15679 Section 256. Section **77-19-8** is amended to read:
15680 **77-19-8. Judgment of death, when suspended, and by whom.**
15681 (1) Except as stated in Subsection (2), a judge, tribunal, or officer, other than the
15682 governor or the Board of Pardons and Parole, may not stay or suspend the execution of a

15683 judgment of death.
15684 (2) (a) A court of competent jurisdiction shall issue a temporary stay of judgment of
15685 death when:
15686 (i) the judgment is appealed;
15687 (ii) the judgment is automatically reviewed;
15688 (iii) the person sentenced to death files a petition for postconviction relief under Title
15689 [~~78~~] 78B, Chapter [~~35a~~] 9, Post-Conviction Remedies Act;
15690 (iv) the person sentenced to death requests counsel under Subsection [~~78-35a-202~~]
15691 78B-9-202(2)(a) to represent him in an action under Title [~~78~~] 78B, Chapter [~~35a~~] 9,
15692 Post-Conviction Remedies Act; or
15693 (v) counsel enters an appearance to represent the person sentenced to death in an action
15694 under Title [~~78~~] 78B, Chapter [~~35a~~] 9, Post-Conviction Remedies Act.
15695 (b) (i) The executive director of the Department of Corrections or a designee under
15696 Section 77-19-202 may temporarily suspend the execution if the person sentenced to death
15697 appears to be incompetent or pregnant.
15698 (ii) A temporary suspension under Subsection (2)(b)(i) shall end if the person is
15699 determined to be:
15700 (A) competent;
15701 (B) not pregnant; or
15702 (C) no longer incompetent or pregnant.
15703 (3) (a) The court must vacate a stay issued pursuant to Subsection (2)(a) when the
15704 appeal, automatic review, or action under Title [~~78~~] 78B, Chapter [~~35a~~] 9, Post-Conviction
15705 Remedies Act is concluded.
15706 (b) A request for counsel under Section [~~78-35a-202~~] 78B-9-202 does not constitute an
15707 application for postconviction or other collateral review and does not toll the statute of
15708 limitations under Section [~~78-35a-107~~] 78B-9-107.
15709 Section 257. Section **77-20-9** is amended to read:
15710 **77-20-9. Disposition of forfeitures.**
15711 If by reason of the neglect of the defendant to appear, money deposited instead of bail
15712 or money paid by sureties on surety bond is forfeited and the forfeiture is not discharged or
15713 remitted, the clerk with whom it is deposited or paid shall, immediately after final adjournment

15714 of the court, pay over the money forfeited as follows:
15715 (1) the forfeited bail cases in or appealed from district courts shall be distributed as
15716 provided in Section [~~78-3-14.5~~] 78A-5-110;
15717 (2) the forfeited bail in cases in precinct justice courts or in municipal justice courts
15718 shall be distributed as provided in Sections [~~78-5-116~~] 78A-7-120 and [~~78-5-135~~] 78A-7-121;
15719 (3) the forfeited bail in cases in justice courts where the offense is not triable in that
15720 court shall be paid into the General Fund; and
15721 (4) the forfeited bail in cases not provided for in this section shall be paid 50% to the
15722 state treasurer and the remaining 50% to the county treasurer in the county in which the
15723 violation occurred or the forfeited bail is collected.
15724 Section 258. Section **77-32-303** is amended to read:
15725 **77-32-303. Standard for court to appoint noncontracting attorney or defense**
15726 **resource -- Hearing.**
15727 If a county or municipality has contracted for, or otherwise made arrangements for, the
15728 legal defense of indigents, including a competent attorney and defense resources, the court may
15729 not appoint a noncontracting attorney or resource either under this part, Section [~~78-46-33~~]
15730 78B-1-151, or Rule 15, Utah Rules of Criminal Procedure, unless the court:
15731 (1) conducts a hearing with proper notice to the responsible entity to consider the
15732 authorization or designation of a noncontract attorney or resource; and
15733 (2) makes a finding that there is a compelling reason to authorize or designate a
15734 noncontracting attorney or resources for the indigent defendant.
15735 Section 259. Section **77-36-1** is amended to read:
15736 **77-36-1. Definitions.**
15737 As used in this chapter:
15738 (1) "Cohabitant" has the same meaning as in Section [~~30-6-1~~] 78B-7-102.
15739 (2) "Domestic violence" means any criminal offense involving violence or physical
15740 harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to
15741 commit a criminal offense involving violence or physical harm, when committed by one
15742 cohabitant against another. "Domestic violence" also means commission or attempt to commit,
15743 any of the following offenses by one cohabitant against another:
15744 (a) aggravated assault, as described in Section 76-5-103;

15745 (b) assault, as described in Section 76-5-102;
15746 (c) criminal homicide, as described in Section 76-5-201;
15747 (d) harassment, as described in Section 76-5-106;
15748 (e) electronic communication harassment, as described in Section 76-9-201;
15749 (f) kidnaping, child kidnaping, or aggravated kidnaping, as described in Sections
15750 76-5-301, 76-5-301.1, and 76-5-302;
15751 (g) mayhem, as described in Section 76-5-105;
15752 (h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and
15753 Title 76, Chapter 5a, Sexual Exploitation of Children;
15754 (i) stalking, as described in Section 76-5-106.5;
15755 (j) unlawful detention, as described in Section 76-5-304;
15756 (k) violation of a protective order or ex parte protective order, as described in Section
15757 76-5-108;
15758 (l) any offense against property described in Title 76, Chapter 6, Part 1, Property
15759 Destruction, 2, Burglary and Criminal Trespass, or 3, Robbery;
15760 (m) possession of a deadly weapon with intent to assault, as described in Section
15761 76-10-507;
15762 (n) discharge of a firearm from a vehicle, near a highway, or in the direction of any
15763 person, building, or vehicle, as described in Section 76-10-508;
15764 (o) disorderly conduct, as defined in Section 76-9-102, if a conviction of disorderly
15765 conduct is the result of a plea agreement in which the defendant was originally charged with
15766 any of the domestic violence offenses otherwise described in this Subsection (2). Conviction
15767 of disorderly conduct as a domestic violence offense, in the manner described in this
15768 Subsection (2)(o), does not constitute a misdemeanor crime of domestic violence under 18
15769 U.S.C. Section 921, and is exempt from the provisions of the federal Firearms Act, 18 U.S.C.
15770 Section 921 et seq.; or
15771 (p) child abuse as described in Section 76-5-109.1.
15772 (3) "Victim" means a cohabitant who has been subjected to domestic violence.
15773 Section 260. Section **77-36-2.1** is amended to read:
15774 **77-36-2.1. Duties of law enforcement officers -- Notice to victims.**
15775 (1) A law enforcement officer who responds to an allegation of domestic violence shall

15776 use all reasonable means to protect the victim and prevent further violence, including:
15777 (a) taking the action that, in the officer's discretion, is reasonably necessary to provide
15778 for the safety of the victim and any family or household member;
15779 (b) confiscating the weapon or weapons involved in the alleged domestic violence;
15780 (c) making arrangements for the victim and any child to obtain emergency housing or
15781 shelter;
15782 (d) providing protection while the victim removes essential personal effects;
15783 (e) arrange, facilitate, or provide for the victim and any child to obtain medical
15784 treatment; and
15785 (f) arrange, facilitate, or provide the victim with immediate and adequate notice of the
15786 rights of victims and of the remedies and services available to victims of domestic violence, in
15787 accordance with Subsection (2).
15788 (2) (a) A law enforcement officer shall give written notice to the victim in simple
15789 language, describing the rights and remedies available under this chapter, Title [~~30~~] 78B,
15790 Chapter [~~6~~] 7, Part 1, Cohabitant Abuse Act, and Title [~~78~~] 78B, Chapter [~~3h~~] 7, Part 2, Child
15791 Protective Orders.
15792 (b) The written notice shall also include:
15793 (i) a statement that the forms needed in order to obtain an order for protection are
15794 available from the court clerk's office in the judicial district where the victim resides or is
15795 temporarily domiciled;
15796 (ii) a list of shelters, services, and resources available in the appropriate community,
15797 together with telephone numbers, to assist the victim in accessing any needed assistance; and
15798 (iii) the information required to be provided to both parties in accordance with
15799 Subsection 77-36-2.5(7).
15800 Section 261. Section **77-36-2.4** is amended to read:
15801 **77-36-2.4. Violation of protective orders -- Mandatory arrest.**
15802 (1) A law enforcement officer shall, without a warrant, arrest an alleged perpetrator
15803 whenever there is probable cause to believe that the alleged perpetrator has violated any of the
15804 provisions of an ex parte protective order or protective order.
15805 (2) (a) Intentional or knowing violation of any ex parte protective order or protective
15806 order is a class A misdemeanor, in accordance with Section 76-5-108, and is a domestic

15807 violence offense, pursuant to Section 77-36-1.
15808 (b) Second or subsequent violations of ex parte protective orders or protective orders
15809 carry increased penalties, in accordance with Section 77-36-1.1.
15810 (3) As used in this section, "ex parte protective order" or "protective order" includes:
15811 (a) any protective order or ex parte protective order issued under Title [~~30~~] 78B,
15812 Chapter [~~6~~] 7, Part 1, Cohabitant Abuse Act, or Title 77, Chapter 36, Cohabitant Abuse
15813 Procedures Act;
15814 (b) any child protective order or ex parte child protective order issued under Title [~~78~~]
15815 78B, Chapter [~~3h~~] 7. Part 2, Child Protective Orders; or
15816 (c) a foreign protection order enforceable under Title [~~30~~] 78B, Chapter [~~6a~~] 7, Part 3,
15817 Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
15818 Section 262. Section **77-36-2.5** is amended to read:
15819 **77-36-2.5. Conditions for release after arrest for domestic violence.**
15820 (1) Upon arrest for domestic violence, a person may not be released on bail,
15821 recognizance, or otherwise prior to the close of the next court day following the arrest, unless
15822 as a condition of that release he is ordered by the court or agrees in writing that until the
15823 expiration of that time he will:
15824 (a) have no personal contact with the alleged victim;
15825 (b) not threaten or harass the alleged victim; and
15826 (c) not knowingly enter onto the premises of the alleged victim's residence or any
15827 premises temporarily occupied by the alleged victim.
15828 (2) As a condition of release, the court may order the defendant to participate in an
15829 electronic monitoring program and pay the costs associated with the program.
15830 (3) (a) Subsequent to an arrest for domestic violence, an alleged victim may waive in
15831 writing any or all of the requirements described in Subsection (1). Upon waiver, those
15832 requirements shall not apply to the alleged perpetrator.
15833 (b) A court or magistrate may modify the requirements described in Subsections (1)(a)
15834 or (c), in writing or on the record, and only for good cause shown.
15835 (4) (a) Whenever a person is released pursuant to Subsection (1), the releasing agency
15836 shall notify the arresting law enforcement agency of the release, conditions of release, and any
15837 available information concerning the location of the victim. The arresting law enforcement

15838 agency shall then make reasonable effort to notify the victim of that release.
15839 (b) (i) When a person is released pursuant to Subsection (1) based on a written
15840 agreement, the releasing agency shall transmit that information to the statewide domestic
15841 violence network described in Section [~~30-6-8~~] 78B-7-113.
15842 (ii) When a person is released pursuant to Subsection (1) based upon a court order, the
15843 court shall transmit that order to the statewide domestic violence network described in Section
15844 [~~30-6-8~~] 78B-7-113.
15845 (c) This Subsection (4) does not create or increase liability of a law enforcement officer
15846 or agency, and the good faith immunity provided by Section 77-36-8 is applicable.
15847 (5) (a) If a law enforcement officer has probable cause to believe that a person has
15848 violated a court order or agreement executed pursuant to Subsection (1) the officer shall,
15849 without a warrant, arrest the alleged violator.
15850 (b) Any person who knowingly violates a court order or agreement executed pursuant
15851 to Subsection (1) shall be guilty as follows:
15852 (i) if the original arrest was for a felony, an offense under this section is a third degree
15853 felony; or
15854 (ii) if the original arrest was for a misdemeanor, an offense under this section is a class
15855 A misdemeanor.
15856 (c) City attorneys may prosecute class A misdemeanor violations under this section.
15857 (6) An individual who was originally arrested for a felony under this chapter and
15858 released pursuant to this section may subsequently be held without bail if there is substantial
15859 evidence to support a new felony charge against him.
15860 (7) At the time an arrest for domestic violence is made, the arresting officer shall
15861 provide the alleged victim with written notice containing the following information:
15862 (a) the requirements described in Subsection (1), and notice that those requirements
15863 shall be ordered by a court or must be agreed to by the alleged perpetrator prior to release;
15864 (b) notification of the penalties for violation of the court order or any agreement
15865 executed under Subsection (1);
15866 (c) the date and time, absent modification by a court or magistrate, that the
15867 requirements expire;
15868 (d) the address of the appropriate court in the district or county in which the alleged

15869 victim resides;
15870 (e) the availability and effect of any waiver of the requirements; and
15871 (f) information regarding the availability of and procedures for obtaining civil and
15872 criminal protective orders with or without the assistance of an attorney.
15873 (8) At the time an arrest for domestic violence is made, the arresting officer shall
15874 provide the alleged perpetrator with written notice containing the following information:
15875 (a) the requirements described in Subsection (1) and notice that those requirements
15876 shall be ordered by a court or must be agreed to by the alleged perpetrator prior to release;
15877 (b) notification of the penalties for violation of the court or any agreement executed
15878 under Subsection (1); and
15879 (c) the date and time absent modification by a court or magistrate that the requirements
15880 expire.
15881 (9) In addition to the provisions of Subsections (1) through (6), because of the unique
15882 and highly emotional nature of domestic violence crimes, the high recidivism rate of violent
15883 offenders, and the demonstrated increased risk of continued acts of violence subsequent to the
15884 release of an offender who has been arrested for domestic violence, it is the finding of the
15885 Legislature that domestic violence crimes, as defined in Section 77-36-1, are crimes for which
15886 bail may be denied if there is substantial evidence to support the charge, and if the court finds
15887 by clear and convincing evidence that the alleged perpetrator would constitute a substantial
15888 danger to an alleged victim of domestic violence if released on bail. If bail is denied under this
15889 Subsection (9), it shall be under the terms and conditions described in Subsections (1) through
15890 (6).
15891 Section 263. Section **77-36-2.7** is amended to read:
15892 **77-36-2.7. Dismissal -- Diversion prohibited -- Plea in abeyance -- Release before**
15893 **trial.**
15894 (1) Because of the serious nature of domestic violence, the court, in domestic violence
15895 actions:
15896 (a) may not dismiss any charge or delay disposition because of concurrent divorce or
15897 other civil proceedings;
15898 (b) may not require proof that either party is seeking a dissolution of marriage before
15899 instigation of criminal proceedings;

15900 (c) shall waive any requirement that the victim's location be disclosed other than to the
15901 defendant's attorney, upon a showing that there is any possibility of further violence, and order
15902 the defendant's attorney not to disclose the victim's location to his client;
15903 (d) shall identify, on the docket sheets, the criminal actions arising from acts of
15904 domestic violence;
15905 (e) may dismiss a charge on stipulation of the prosecutor and the victim; and
15906 (f) may hold a plea in abeyance, in accordance with the provisions of Chapter 2a,
15907 making treatment or any other requirement for the defendant a condition of that status.
15908 (2) When the court holds a plea in abeyance in accordance with Subsection (1)(f), the
15909 case against a perpetrator of domestic violence may be dismissed only if the perpetrator
15910 successfully completes all conditions imposed by the court. If the defendant fails to complete
15911 any condition imposed by the court under Subsection (1)(f), the court may accept the
15912 defendant's plea.
15913 (3) (a) Because of the likelihood of repeated violence directed at those who have been
15914 victims of domestic violence in the past, when any defendant charged with a crime involving
15915 domestic violence is released from custody before trial, the court authorizing the release may
15916 issue an order:
15917 (i) enjoining the defendant from threatening to commit or committing acts of domestic
15918 violence or abuse against the victim and any designated family or household member;
15919 (ii) prohibiting the defendant from harassing, telephoning, contacting, or otherwise
15920 communicating with the victim, directly or indirectly;
15921 (iii) removing and excluding the defendant from the victim's residence and the
15922 premises of the residence;
15923 (iv) ordering the defendant to stay away from the residence, school, place of
15924 employment of the victim, and the premises of any of these, or any specified place frequented
15925 by the victim and any designated family member; and
15926 (v) ordering any other relief that the court considers necessary to protect and provide
15927 for the safety of the victim and any designated family or household member.
15928 (b) Violation of an order issued pursuant to this section is punishable as follows:
15929 (i) if the original arrest or subsequent charge filed is a felony, an offense under this
15930 section is a third degree felony; and

15931 (ii) if the original arrest or subsequent charge filed is a misdemeanor, an offense under
15932 this section is a class A misdemeanor.
15933 (c) The court shall provide the victim with a certified copy of any order issued pursuant
15934 to this section if the victim can be located with reasonable effort.
15935 (4) When a court dismisses criminal charges or a prosecutor moves to dismiss charges
15936 against a defendant accused of a domestic violence offense, the specific reasons for dismissal
15937 shall be recorded in the court file and made a part of the statewide domestic violence network
15938 described in Section [~~30-6-8~~] 78B-7-113.
15939 (5) When the privilege of confidential communication between spouses, or the
15940 testimonial privilege of spouses is invoked in any criminal proceeding in which a spouse is the
15941 victim of an alleged domestic violence offense, the victim shall be considered to be an
15942 unavailable witness under the Utah Rules of Evidence.
15943 (6) The court may not approve diversion for a perpetrator of domestic violence.
15944 Section 264. Section **77-36-6** is amended to read:
15945 **77-36-6. Enforcement of orders.**
15946 (1) Each law enforcement agency in this state shall enforce all orders of the court
15947 issued pursuant to the requirements and procedures described in this chapter, and shall enforce:
15948 (a) all protective orders and ex parte protective orders issued pursuant to Title [~~30~~]
15949 78B, Chapter [~~6~~] 7, Part 1, Cohabitant Abuse Act; and
15950 (b) all foreign protection orders enforceable under Title [~~30~~] 78B, Chapter [~~6a~~] 7, Part
15951 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
15952 (2) The requirements of this section apply statewide, regardless of the jurisdiction in
15953 which the order was issued or the location of the victim or the perpetrator.
15954 Section 265. Section **77-38-5** is amended to read:
15955 **77-38-5. Application to felonies and misdemeanors of the declaration of the rights**
15956 **of crime victims.**
15957 The provisions of this chapter shall apply to:
15958 (1) any felony filed in the courts of the state;
15959 (2) to any class A and class B misdemeanor filed in the courts of the state; and
15960 (3) to cases in the juvenile court as provided in Section [~~78-3a-115~~] 78A-6-114.
15961 Section 266. Section **77-38-201**, which is renumbered from Section 78-3c-1 is

15962 renumbered and amended to read:

15963 **Part 2. Confidential Communications for Sexual Assault Act**

15964 **[~~78-3c-1~~]. 77-38-201. Title.**

15965 This [~~act shall be~~] part is known and [~~may be~~] cited as the "Confidential
15966 Communications for Sexual Assault Act."

15967 Section 267. Section **77-38-202**, which is renumbered from Section 78-3c-2 is
15968 renumbered and amended to read:

15969 **[~~78-3c-2~~]. 77-38-202. Purpose.**

15970 It is the purpose of this act to enhance and promote the mental, physical and emotional
15971 recovery of victims of sexual assault and to protect the information given by victims to sexual
15972 assault counselors from being disclosed.

15973 Section 268. Section **77-38-203**, which is renumbered from Section 78-3c-3 is
15974 renumbered and amended to read:

15975 **[~~78-3c-3~~]. 77-38-203. Definitions.**

15976 As used in this [~~chapter~~] part:

15977 (1) "Confidential communication" means information given to a sexual assault
15978 counselor by a victim and includes reports or working papers made in the course of the
15979 counseling relationship.

15980 (2) "Rape crisis center" means any office, institution, or center assisting victims of
15981 sexual assault and their families which offers crisis intervention, medical, and legal services,
15982 and counseling.

15983 (3) "Sexual assault counselor" means a person who is employed by or volunteers at a
15984 rape crisis center who has a minimum of 40 hours of training in counseling and assisting
15985 victims of sexual assault and who is under the supervision of the director or designee of a rape
15986 crisis center.

15987 (4) "Victim" means a person who has experienced a sexual assault of whatever nature
15988 including incest and rape and requests counseling or assistance regarding the mental, physical,
15989 and emotional consequences of the sexual assault.

15990 Section 269. Section **77-38-204**, which is renumbered from Section 78-3c-4 is
15991 renumbered and amended to read:

15992 **[~~78-3c-4~~]. 77-38-204. Disclosure of confidential communications.**

15993 The confidential communication between a victim and a sexual assault counselor is
15994 available to a third person only when:
15995 (1) the victim is a minor and the counselor believes it is in the best interest of the
15996 victim to disclose the confidential communication to the victim's parents;
15997 (2) the victim is a minor and the minor's parents or guardian have consented to
15998 disclosure of the confidential communication to a third party based upon representations made
15999 by the counselor that it is in the best interest of the minor victim to make such disclosure;
16000 (3) the victim is not a minor, has given consent, and the counselor believes the
16001 disclosure is necessary to accomplish the desired result of counseling; or
16002 (4) the counselor has an obligation under Title 62A, Chapter 4a, Child and Family
16003 Services, to report information transmitted in the confidential communication.
16004 Section 270. Section **77-38-301** is enacted to read:
16005 **Part 3. Profits from Crime Memorabilia Act**
16006 **77-38-301. Title.**
16007 This part is known as the "Profits from Crime Memorabilia Act."
16008 Section 271. Section **77-38-302**, which is renumbered from Section 78-61-101 is
16009 renumbered and amended to read:
16010 **[~~78-61-101~~]. 77-38-302. Definitions.**
16011 As used in this [~~chapter~~] part:
16012 (1) "Conviction" means an adjudication by a federal or state court resulting from a trial
16013 or plea, including a plea of no contest, nolo contendere, a finding of not guilty due to insanity,
16014 or not guilty but mentally ill regardless of whether the sentence was imposed or suspended.
16015 (2) "Fund" means the Crime Victim Reparation Fund created in Section 63-63a-4.
16016 (3) "Memorabilia" means any tangible property of a person convicted of a first degree
16017 or capital felony, the value of which is enhanced by the notoriety gained from the conviction.
16018 (4) "Profit" means any income or benefit over and above the fair market value of the
16019 property that is received upon the sale or transfer of memorabilia.
16020 Section 272. Section **77-38-303**, which is renumbered from Section 78-61-102 is
16021 renumbered and amended to read:
16022 **[~~78-61-102~~]. 77-38-303. Profit from sale of memorabilia -- Deposit in**
16023 **Crime Victim Reparation Fund -- Penalty.**

16024 (1) Any person who receives a profit from the sale or transfer of memorabilia shall
16025 remit to the fund:
16026 (a) a complete, itemized accounting of the transaction, including:
16027 (i) a description of each item sold;
16028 (ii) the amount received for each item;
16029 (iii) the estimated fair market value of each item; and
16030 (iv) the name and address of the purchaser of each item; and
16031 (b) a check or money order for the amount of the profit, which shall be the difference
16032 between the amount received for the item and the estimated fair market value of the item.
16033 (2) Any person who willfully violates Subsection (1) may be assessed a civil penalty of
16034 up to $1,000 per item sold or transferred or three times the amount of the unremitted profit,
16035 whichever is greater.
16036 Section 273. Section **77-38a-404** is amended to read:
16037 **77-38a-404. Priority.**
16038 (1) Restitution payments made pursuant to a court order shall be disbursed to victims
16039 within 60 days of receipt from the defendant by the court or department:
16040 (a) provided the victim has complied with Subsection 77-38a-203(1)(b); and
16041 (b) if the defendant has tendered a negotiable instrument, funds from the financial
16042 institution are actually received.
16043 (2) If restitution to more than one person, agency, or entity is required at the same time,
16044 the department shall establish the following priorities of payment, except as provided in
16045 Subsection (4):
16046 (a) the crime victim;
16047 (b) the Office of Crime Victim Reparations;
16048 (c) any other government agency which has provided reimbursement to the victim as a
16049 result of the offender's criminal conduct;
16050 (d) the person, entity, or governmental agency that has offered and paid a reward under
16051 Section 76-3-201.1 or [~~78-3a-118~~] 78A-6-117;
16052 (e) any insurance company which has provided reimbursement to the victim as a result
16053 of the offender's criminal conduct; and
16054 (f) any county correctional facility to which the defendant is required to pay restitution

16055 under Subsection 76-3-201(6).
16056 (3) Restitution ordered under Subsection (2)(f) is paid after criminal fines and
16057 surcharges are paid.
16058 (4) If the offender is required under Section 53-10-404 to reimburse the department for
16059 the cost of obtaining the offender's DNA specimen, this reimbursement is the next priority after
16060 restitution to the crime victim under Subsection (2)(a).
16061 (5) All money collected for court-ordered obligations from offenders by the department
16062 will be applied:
16063 (a) first, to victim restitution, except the current and past due amount of $30 per month
16064 required to be collected by the department under Section 64-13-21, if applicable; and
16065 (b) second, if applicable, to the cost of obtaining a DNA specimen under Subsection
16066 (4).
16067 (6) Restitution owed to more than one victim shall be disbursed to each victim
16068 according to the percentage of each victim's share of the total restitution order.
16069 Section 274. Section **78A-1-101**, which is renumbered from Section 78-1-1 is
16070 renumbered and amended to read:
16071 **Part 1. Judiciary**
16072 **[~~78-1-1~~]. 78A-1-101. Courts of justice enumerated -- Courts of record**
16073 **enumerated.**
16074 (1) The following are the courts of justice of this state:
16075 (a) the Supreme Court;
16076 (b) the Court of Appeals;
16077 (c) the district courts;
16078 (d) the juvenile courts; and
16079 (e) the justice courts.
16080 (2) All courts are courts of record, except the justice courts, which are courts not of
16081 record.
16082 Section 275. Section **78A-1-102**, which is renumbered from Section 78-1-2.1 is
16083 renumbered and amended to read:
16084 **[~~78-1-2.1~~]. 78A-1-102. Trial courts of record -- Divisions.**
16085 The [~~trial~~] district and juvenile courts [~~of record~~] shall be divided into eight

16086 geographical divisions:
16087 (1) First District - Box Elder, Cache, and Rich Counties;
16088 (2) Second District - Weber, Davis, and Morgan Counties;
16089 (3) Third District - Salt Lake, Summit, and Tooele Counties;
16090 (4) Fourth District - Utah, Wasatch, Juab, and Millard Counties;
16091 (5) Fifth District - Beaver, Iron, and Washington Counties;
16092 (6) Sixth District - Garfield, Kane, Piute, Sanpete, Sevier, and Wayne Counties;
16093 (7) Seventh District - Carbon, Emery, Grand, and San Juan Counties; and
16094 (8) Eighth District - Daggett, Duchesne, and Uintah Counties.
16095 Section 276. Section **78A-1-103**, which is renumbered from Section 78-1-2.2 is
16096 renumbered and amended to read:
16097 **[~~78-1-2.2~~]. 78A-1-103. Number of district judges.**
16098 The number of district court judges shall be:
16099 (1) four district judges in the First District;
16100 (2) 14 district judges in the Second District;
16101 (3) 28 district judges in the Third District;
16102 (4) 13 district judges in the Fourth District;
16103 (5) five district judges in the Fifth District;
16104 (6) two district judges in the Sixth District;
16105 (7) three district judges in the Seventh District; and
16106 (8) two district judges in the Eighth District.
16107 Section 277. Section **78A-1-104**, which is renumbered from Section 78-1-2.3 is
16108 renumbered and amended to read:
16109 **[~~78-1-2.3~~]. 78A-1-104. Number of juvenile judges and jurisdictions.**
16110 The number of juvenile court judges shall be:
16111 (1) two juvenile judges in the First Juvenile District;
16112 (2) six juvenile judges in the Second Juvenile District;
16113 (3) ten juvenile judges in the Third Juvenile District;
16114 (4) four juvenile judges in the Fourth Juvenile District;
16115 (5) two juvenile judges in the Fifth Juvenile District;
16116 (6) one juvenile judge in the Sixth Juvenile District;

16117 (7) two juvenile judges in the Seventh Juvenile District; and
16118 (8) one juvenile judge in the Eighth Juvenile District.
16119 Section 278. Section **78A-1-105**, which is renumbered from Section 78-1-2 is
16120 renumbered and amended to read:
16121 **[~~78-1-2~~]. 78A-1-105. Merger of district court and circuit court.**
16122 (1) Effective July 1, 1996, the circuit court shall be merged into the district court. The
16123 district court shall have jurisdiction as provided by law for the district court and shall have
16124 jurisdiction over all matters filed in the court formerly denominated the circuit court.
16125 (2) The district court shall continue the judicial offices, judges, staff, cases, authority,
16126 duties, and all other attributes of the court formerly denominated the circuit court.
16127 (3) Judges of the court formerly denominated the circuit court shall:
16128 (a) on July 1, 1996, be judges of the district court; and
16129 (b) next stand for retention election at the first general election held more than three
16130 years after their appointment or at the general election held in the sixth year after their last
16131 retention election, as applicable.
16132 Section 279. Section **78A-2-101**, which is renumbered from Section 78-3-18 is
16133 renumbered and amended to read:
16134 **CHAPTER 2. JUDICIAL ADMINISTRATION**
16135 **Part 1. Judicial Administration**
16136 **[~~78-3-18~~]. 78A-2-101. Title.**
16137 This [~~act~~] chapter is known and [~~may be~~] cited as the "Judicial Administration Act."
16138 Section 280. Section **78A-2-102**, which is renumbered from Section 78-3-19 is
16139 renumbered and amended to read:
16140 **[~~78-3-19~~]. 78A-2-102. Purpose.**
16141 The purpose of this [~~act~~] chapter is to create an administrative system for all courts of
16142 this state, subject to central direction by the Judicial Council, to enable these courts to provide
16143 uniformity and coordination in the administration of justice.
16144 Section 281. Section **78A-2-103**, which is renumbered from Section 78-3-20 is
16145 renumbered and amended to read:
16146 **[~~78-3-20~~]. 78A-2-103. Definitions.**
16147 As used in this [~~act~~] chapter:

16148 (1) "Administrator" means the administrator of the courts appointed under Section
16149 [~~78-3-23~~] 78A-2-105.
16150 (2) "Conference" means the annual statewide judicial conference established by
16151 Section [~~78-3-27~~] 78A-2-111.
16152 (3) "Council" means the Judicial Council established by Article VIII, Sec. 12, Utah
16153 Constitution.
16154 (4) "Courts" mean all courts of this state, including all courts of record and not of
16155 record.
16156 Section 282. Section **78A-2-104**, which is renumbered from Section 78-3-21 is
16157 renumbered and amended to read:
16158 **[~~78-3-21~~]. 78A-2-104. Judicial Council -- Creation -- Members -- Terms and**
16159 **election -- Responsibilities -- Reports.**
16160 (1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution,
16161 shall be composed of:
16162 (a) the chief justice of the Supreme Court;
16163 (b) one member elected by the justices of the Supreme Court;
16164 (c) one member elected by the judges of the Court of Appeals;
16165 (d) five members elected by the judges of the district courts;
16166 (e) two members elected by the judges of the juvenile courts;
16167 (f) three members elected by the justice court judges; and
16168 (g) a member or ex officio member of the Board of Commissioners of the Utah State
16169 Bar who is an active member of the Bar in good standing [~~elected~~] at the time of election by the
16170 Board of Commissioners.
16171 (2) The Judicial Council shall have a seal.
16172 [~~(2)~~] (3) (a) The chief justice of the Supreme Court shall act as presiding officer of the
16173 council and chief administrative officer for the courts. The chief justice shall vote only in the
16174 case of a tie.
16175 (b) All members of the council shall serve for three-year terms.
16176 (i) If a council member should die, resign, retire, or otherwise fail to complete a term
16177 of office, the appropriate constituent group shall elect a member to complete the term of office.
16178 (ii) In courts having more than one member, the members shall be elected to staggered

16179 terms. [~~The person elected to the Judicial Council by the Board of Commissioners shall be a~~
16180 ~~member or ex officio member of the Board of Commissioners and an active member of the Bar~~
16181 ~~in good standing at the time the person is elected.~~]
16182 (iii) The person elected by the Board of Commissioners may complete a three-year
16183 term of office on the Judicial Council even though the person ceases to be a member or ex
16184 officio member of the Board of Commissioners. The person shall be an active member of the
16185 Bar in good standing for the entire term of the Judicial Council.
16186 (c) Elections shall be held under rules made by the Judicial Council.
16187 [~~(3)~~] (4) The council is responsible for the development of uniform administrative
16188 policy for the courts throughout the state. The presiding officer of the Judicial Council is
16189 responsible for the implementation of the policies developed by the council and for the general
16190 management of the courts, with the aid of the administrator. The council has authority and
16191 responsibility to:
16192 (a) establish and assure compliance with policies for the operation of the courts,
16193 including uniform rules and forms; and
16194 (b) publish and submit to the governor, the chief justice of the Supreme Court, and the
16195 Legislature an annual report of the operations of the courts, which shall include financial and
16196 statistical data and may include suggestions and recommendations for legislation.
16197 [~~(4)~~] (5) (a) The Judicial Council shall make rules establishing:
16198 (i) standards for judicial competence; and
16199 (ii) a formal program for the evaluation of judicial performance containing the
16200 elements of and meeting the requirements of this Subsection [~~(4)~~] (5).
16201 (b) The Judicial Council shall ensure that the formal judicial performance evaluation
16202 program has improvement in the performance of individual judges, court commissioners, and
16203 the judiciary as its goal.
16204 (c) The Judicial Council shall ensure that the formal judicial performance evaluation
16205 program includes at least all of the following elements:
16206 (i) a requirement that judges complete a certain number of hours of approved judicial
16207 education each year;
16208 (ii) a requirement that each judge certify that he is:
16209 (A) physically and mentally competent to serve; and

16210 (B) in compliance with the Codes of Judicial Conduct and Judicial Administration; and
16211 (iii) a requirement that the judge receive a satisfactory score on questions identified by
16212 the Judicial Council as relating to judicial certification on a survey of members of the Bar
16213 developed by the Judicial Council in conjunction with the American Bar Association.
16214 (d) The Judicial Council shall ensure that the formal judicial performance evaluation
16215 program considers at least the following criteria:
16216 (i) integrity;
16217 (ii) knowledge;
16218 (iii) understanding of the law;
16219 (iv) ability to communicate;
16220 (v) punctuality;
16221 (vi) preparation;
16222 (vii) attentiveness;
16223 (viii) dignity;
16224 (ix) control over proceedings; and
16225 (x) skills as a manager.
16226 (e) (i) The Judicial Council shall provide the judicial performance evaluation
16227 information and the disciplinary data required by Subsection 20A-7-702(2) to the Lieutenant
16228 Governor for publication in the voter information pamphlet.
16229 (ii) Not later than August 1 of the year before the expiration of the term of office of a
16230 justice court judge, the Judicial Council shall provide the judicial performance evaluation
16231 information required by Subsection 20A-7-702(2) to the appointing authority of a justice court
16232 judge.
16233 [~~(5)~~] (6) The council shall establish standards for the operation of the courts of the state
16234 including, but not limited to, facilities, court security, support services, and staff levels for
16235 judicial and support personnel.
16236 [~~(6)~~] (7) The council shall by rule establish the time and manner for destroying court
16237 records, including computer records, and shall establish retention periods for these records.
16238 [~~(7)~~] (8) (a) Consistent with the requirements of judicial office and security policies,
16239 the council shall establish procedures to govern the assignment of state vehicles to public
16240 officers of the judicial branch.

16241 (b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and
16242 may be assigned for unlimited use, within the state only.
16243 [~~(8)~~] (9) (a) The council shall advise judicial officers and employees concerning ethical
16244 issues and shall establish procedures for issuing informal and formal advisory opinions on
16245 these issues.
16246 (b) Compliance with an informal opinion is evidence of good faith compliance with the
16247 Code of Judicial Conduct.
16248 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial
16249 Conduct.
16250 [~~(9)~~] (10) (a) The council shall establish written procedures authorizing the presiding
16251 officer of the council to appoint judges of courts of record by special or general assignment to
16252 serve temporarily in another level of court in a specific court or generally within that level.
16253 The appointment shall be for a specific period and shall be reported to the council.
16254 (b) These procedures shall be developed in accordance with Subsection [~~78-3-24~~]
16255 78A-2-107(10) regarding temporary appointment of judges.
16256 [~~(10)~~] (11) The Judicial Council may by rule designate municipalities in addition to
16257 those designated by statute as a location of a trial court of record. There shall be at least one
16258 court clerk's office open during regular court hours in each county. Any trial court of record
16259 may hold court in any municipality designated as a location of a court of record. Designations
16260 by the Judicial Council may not be made between July 1, 1997, and July 1, 1998.
16261 [~~(11)~~] (12) The Judicial Council shall by rule determine whether the administration of a
16262 court shall be the obligation of the administrative office of the courts or whether the
16263 administrative office of the courts should contract with local government for court support
16264 services.
16265 [~~(12)~~] (13) The Judicial Council may by rule direct that a district court location be
16266 administered from another court location within the county.
16267 [~~(13)~~] (14) The Judicial Council shall establish and supervise the Office of Guardian
16268 Ad Litem Director, in accordance with [~~the provisions of Sections 78-3a-911 and 78-3a-912~~]
16269 Title 78A, Chapter 6, Part 9, Guardian Ad Litem, and assure compliance of the guardian ad
16270 litem program with state and federal law, regulation, [~~and~~] policy, and court rules.
16271 [~~(14)~~] (15) The Judicial Council shall establish and maintain, in cooperation with the

16272 Office of Recovery Services within the Department of Human Services, the part of the state
16273 case registry that contains records of each support order established or modified in the state on
16274 or after October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec.
16275 654a.
16276 [~~(15) (a) On or before November 1, 2003, the Judicial Council, by rule, shall select one~~
16277 ~~or more districts as pilot districts for purposes of Sections 78-3a-115, 78-3a-115.1, and~~
16278 ~~78-3a-116.~~]
16279 [~~(b) Prior to the 2005 Annual General Session, the Judicial Council shall report to the~~
16280 ~~Child Welfare Legislative Oversight Panel and the Judiciary Interim Committee on the effects~~
16281 ~~of Chapter 332, Laws of Utah 2003 and recommend whether the provisions of Chapter 332,~~
16282 ~~Laws of Utah 2003 should be continued, modified, or repealed.~~]
16283 Section 283. Section **78A-2-105**, which is renumbered from Section 78-3-23 is
16284 renumbered and amended to read:
16285 **[~~78-3-23~~]. 78A-2-105. Administrator of the courts -- Appointment --**
16286 **Qualifications -- Salary.**
16287 The Supreme Court shall appoint a chief administrative officer of the council who shall
16288 have the title of the administrator of the courts and shall serve at the pleasure of the council
16289 and/or the Supreme Court. The administrator shall be selected on the basis of professional
16290 ability and experience in the field of public administration and shall possess an understanding
16291 of court procedures as well as of the nature and significance of other court services. He shall
16292 devote his full time and attention to the duties of his office, and shall receive a salary equal to
16293 that of a district court judge.
16294 Section 284. Section **78A-2-106**, which is renumbered from Section 78-3-22 is
16295 renumbered and amended to read:
16296 **[~~78-3-22~~]. 78A-2-106. Presiding officer -- Compensation -- Duties.**
16297 (1) The chief justice of the Supreme Court shall serve as the presiding officer of the
16298 Judicial Council. The presiding officer shall receive as additional compensation the sum of
16299 $1,000 per annum or fraction thereof for the period served.
16300 (2) The presiding officer of the Judicial Council shall supervise the courts to ensure
16301 uniform adherence to law and to the rules and forms adopted by the council and to promote the
16302 proper and efficient functioning of the courts. The presiding officer of the council may issue

16303 orders as necessary to assure compliance with uniform administrative practices.
16304 Section 285. Section **78A-2-107**, which is renumbered from Section 78-3-24 is
16305 renumbered and amended to read:
16306 **[~~78-3-24~~]. 78A-2-107. Court administrator -- Powers, duties, and**
16307 **responsibilities.**
16308 Under the general supervision of the presiding officer of the Judicial Council, and
16309 within the policies established by the council, the administrator shall:
16310 (1) organize and administer all of the nonjudicial activities of the courts;
16311 (2) assign, supervise, and direct the work of the nonjudicial officers of the courts;
16312 (3) implement the standards, policies, and rules established by the council;
16313 (4) formulate and administer a system of personnel administration, including in-service
16314 training programs;
16315 (5) prepare and administer the state judicial budget, fiscal, accounting, and
16316 procurement activities for the operation of the courts of record, and assist justices' courts in
16317 their budgetary, fiscal, and accounting procedures;
16318 (6) conduct studies of the business of the courts, including the preparation of
16319 recommendations and reports relating to them;
16320 (7) develop uniform procedures for the management of court business, including the
16321 management of court calendars;
16322 (8) maintain liaison with the governmental and other public and private groups having
16323 an interest in the administration of the courts;
16324 (9) establish uniform policy concerning vacations and sick leave for judges and
16325 nonjudicial officers of the courts;
16326 (10) establish uniform hours for court sessions throughout the state and may, with the
16327 consent of the presiding officer of the Judicial Council, call and appoint justices or judges of
16328 courts of record to serve temporarily as Court of Appeals, district court, or juvenile court
16329 judges and set reasonable compensation for their services;
16330 (11) when necessary for administrative reasons, change the county for trial of any case
16331 if no party to the litigation files timely objections to this change;
16332 (12) organize and administer a program of continuing education for judges and support
16333 staff, including training for justice court judges;

16334 (13) provide for an annual meeting for each level of the courts of record, and the
16335 annual judicial conference; and
16336 (14) perform other duties as assigned by the presiding officer of the council.
16337 Section 286. Section **78A-2-108**, which is renumbered from Section 78-3-25 is
16338 renumbered and amended to read:
16339 **[~~78-3-25~~]. 78A-2-108. Assistants for administrator of the courts --**
16340 **Appointment of trial court executives -- Case management program coordinators.**
16341 (1) The administrator of the courts, with the approval of the presiding officer of the
16342 council, is responsible for the establishment of positions and salaries of assistants as necessary
16343 to enable him to perform the powers and duties vested in him by this chapter, including the
16344 positions of appellate court administrator, district court administrator, juvenile court
16345 administrator, and justices' court administrator, whose appointments shall be made by the
16346 administrator of the courts with the concurrence of the respective boards as established by the
16347 council.
16348 (2) The district court administrator, with the concurrence of the presiding judge of a
16349 district or the district court judge in single judge districts, may appoint in each district a trial
16350 court executive. The trial court executive may appoint, subject to budget limitations, necessary
16351 support personnel including clerks, research clerks, secretaries, and other persons required to
16352 carry out the work of the court. The trial court executive shall supervise the work of all
16353 nonjudicial court staff and serve as administrative officer of the district.
16354 (3) Administrators and assistants appointed under this section shall be known
16355 collectively as the Administrative Office of the Courts.
16356 (4) (a) There is established in the district and juvenile courts of the Third Judicial
16357 District the position of case management program coordinator. The requirements for this
16358 position are as follows:
16359 (i) a graduate degree in court administration; or
16360 (ii) a graduate degree in business or public administration supplemented with course
16361 work in case management.
16362 (b) The case management coordinator shall be appointed and supervised by the
16363 respective trial court executives.
16364 (c) The case management program coordinator shall, in conjunction with judges, staff,

16365 and others:
16366 (i) develop, institute, monitor, and evaluate case management practices for all case
16367 types; and
16368 (ii) encourage and facilitate the implementation of problem solving courts, mediation,
16369 case coordination, and similar programs to improve the dispute resolution process, outcomes,
16370 and the use of court resources, including available calendar time.
16371 (d) The administrator of the courts shall report to the Judiciary Interim Committee not
16372 later than November 30, 2008 on the efficiency and effectiveness of the case management
16373 program. The report shall contain a recommendation on whether to expand the case
16374 management program statewide.
16375 (e) The case management coordinator positions will expire on June 30, 2009, unless
16376 reauthorized by the Legislature.
16377 Section 287. Section **78A-2-109**, which is renumbered from Section 78-3-26 is
16378 renumbered and amended to read:
16379 **[~~78-3-26~~]. 78A-2-109. Courts to provide information and statistical data to**
16380 **administrator of the courts.**
16381 The judges, clerks of the courts, and all other officers, state and local, shall comply with
16382 all requests made by the administrator or his assistants for information and statistical data
16383 bearing on the state of the dockets of the courts and such other information as may reflect the
16384 business transacted by them and the expenditure of public moneys for the maintenance and
16385 operation of the judicial system.
16386 Section 288. Section **78A-2-110**, which is renumbered from Section 78-3-21.5 is
16387 renumbered and amended to read:
16388 **[~~78-3-21.5~~]. 78A-2-110. Data bases for judicial boards.**
16389 (1) As used in this section, "judicial board" means any judicial branch board,
16390 commission, council, committee, working group, task force, study group, advisory group, or
16391 other body with a defined limited membership that is created to operate for more than six
16392 months by the constitution, by statute, by judicial order, by any justice or judge, by the Judicial
16393 Council, or by the state court administrator, a district court administrator, trial court executive,
16394 or by any clerk or administrator in the judicial branch of state government.
16395 (2) The Judicial Council shall designate a person from its staff to maintain a

16396 computerized data base containing information about all judicial boards.
16397 (3) The person designated to maintain the data base shall ensure that the data base
16398 contains:
16399 (a) the name of the judicial board;
16400 (b) the statutory or constitutional authority for the creation of the judicial board;
16401 (c) the court or other judicial entity under whose jurisdiction the judicial board operates
16402 or with which the judicial board is affiliated, if any;
16403 (d) the name, address, gender, telephone number, and county of each person currently
16404 serving on the judicial board, along with a notation of all vacant or unfilled positions;
16405 (e) the title of the position held by the person who appointed each member of the
16406 judicial board;
16407 (f) the length of the term to which each member of the judicial board was appointed
16408 and the month and year that each judicial board member's term expires;
16409 (g) the organization, interest group, profession, local government entity, or geographic
16410 area that the member of the judicial board represents, if any;
16411 (h) whether or not the judicial board allocates state or federal funds and the amount of
16412 those funds allocated during the last fiscal year;
16413 (i) whether the judicial board is a policy board or an advisory board;
16414 (j) whether or not the judicial board has or exercises rulemaking authority; and
16415 (k) any compensation and expense reimbursement that members of the executive board
16416 are authorized to receive.
16417 (4) The person designated to maintain the data base shall:
16418 (a) make the information contained in the data base available to the public upon
16419 request; and
16420 (b) cooperate with other entities of state government to publish the data or useful
16421 summaries of the data.
16422 (5) (a) The person designated to maintain the data bases shall prepare, publish, and
16423 distribute an annual report by April 1 of each year that includes, as of March 1 of that year:
16424 (i) the total number of judicial boards;
16425 (ii) the name of each of those judicial boards and the court, council, administrator,
16426 executive, or clerk under whose jurisdiction the executive board operates or with which the

16427 judicial board is affiliated, if any;
16428 (iii) for each court, council, administrator, executive, or clerk, the total number of
16429 judicial boards under the jurisdiction of or affiliated with that court, council, administrator,
16430 executive, or clerk;
16431 (iv) the total number of members for each of those judicial boards;
16432 (v) whether each board is a policymaking board or an advisory board and the total
16433 number of policy boards and the total number of advisory boards; and
16434 (vi) the compensation, if any, paid to the members of each of those judicial boards.
16435 (b) The person designated to maintain the data bases shall distribute copies of the
16436 report to:
16437 (i) the chief justice of the Utah Supreme Court;
16438 (ii) the state court administrator;
16439 (iii) the governor;
16440 (iv) the president of the Utah Senate;
16441 (v) the speaker of the Utah House;
16442 (vi) the Office of Legislative Research and General Counsel; and
16443 (vii) any other persons who request a copy of the annual report.
16444 Section 289. Section **78A-2-111**, which is renumbered from Section 78-3-27 is
16445 renumbered and amended to read:
16446 **[~~78-3-27~~]. 78A-2-111. Annual judicial conference.**
16447 (1) There is established an annual judicial conference for all courts of this state, to
16448 facilitate the exchange of ideas among all courts and judges, and to study and improve the
16449 administration of the courts.
16450 (2) All elections provided in this act shall be conducted during the annual judicial
16451 conference.
16452 Section 290. Section **78A-2-112**, which is renumbered from Section 78-3-24.1 is
16453 renumbered and amended to read:
16454 **[~~78-3-24.1~~]. 78A-2-112. Grants to nonprofit legal assistance organization.**
16455 Subject to legislative appropriation, the state court administrator shall, in accordance
16456 with Title 63, Chapter 56, Utah Procurement Code, solicit requests for proposals and award
16457 grants to nonprofit legal assistance providers to provide legal assistance throughout the state to:

16458 (1) low to moderate income victims of domestic violence; and
16459 (2) low to moderate income individuals in family law matters.
16460 Section 291. Section **78A-2-201**, which is renumbered from Section 78-7-5 is
16461 renumbered and amended to read:
16462 **Part 2. General Provisions Applicable to Courts and Judges**
16463 **[~~78-7-5~~]. 78A-2-201. Powers of every court.**
16464 Every court has authority to:
16465 (1) preserve and enforce order in its immediate presence;
16466 (2) enforce order in the proceedings before it, or before a person authorized to conduct
16467 a judicial investigation under its authority;
16468 (3) provide for the orderly conduct of proceedings before it or its officers;
16469 (4) compel obedience to its judgments, orders, and process, and to the orders of a judge
16470 out of court, in a pending action or proceeding;
16471 (5) control in furtherance of justice the conduct of its ministerial officers, and of all
16472 other persons in any manner connected with a judicial proceeding before it in every matter;
16473 (6) compel the attendance of persons to testify in a pending action or proceeding, as
16474 provided by law;
16475 (7) administer oaths in a pending action or proceeding, and in all other cases where
16476 necessary in the exercise of its authority and duties;
16477 (8) amend and control its process and orders to conform to law and justice;
16478 (9) devise and make new process and forms of proceedings, consistent with law,
16479 necessary to carry into effect its authority and jurisdiction; and
16480 (10) enforce rules of the Supreme Court and Judicial Council.
16481 Section 292. Section **78A-2-202**, which is renumbered from Section 78-7-24 is
16482 renumbered and amended to read:
16483 **[~~78-7-24~~]. 78A-2-202. Courts of justice -- Authority.**
16484 (1) All courts of justice have the authority necessary to exercise their jurisdiction.
16485 (2) If a procedure for an action is not established, a process may be adopted that
16486 conforms with the apparent intent of the statute or rule of procedure.
16487 Section 293. Section **78A-2-203**, which is renumbered from Section 78-7-6 is
16488 renumbered and amended to read:

16489 **[~~78-7-6~~]. 78A-2-203. Rules -- Right to make -- Limitation -- Security.**
16490 (1) Every court of record may make rules, not inconsistent with law, for its own
16491 government and the government of its officers; but such rules must neither impose any tax or
16492 charge upon any legal proceeding nor give any allowance to any officer for service.
16493 (2) (a) The judicial council may provide, through the rules of judicial administration,
16494 for security in or about a courthouse or courtroom, or establish a secure area as prescribed in
16495 Section 76-8-311.1.
16496 (b) (i) If the council establishes a secure area under Subsection (2)(a), it shall provide a
16497 secure firearms storage area on site so that persons with lawfully carried firearms may store
16498 them while they are in the secure area.
16499 (ii) The entity operating the facility with the secure area shall be responsible for the
16500 firearms while they are stored in the storage area referred to in Subsection (2)(b)(i).
16501 (iii) The entity may not charge a fee to individuals for storage of their firearms under
16502 Subsection (2)(b)(i).
16503 (3) (a) Unless authorized by the rules of judicial administration, any person who
16504 knowingly or intentionally possesses a firearm, ammunition, or dangerous weapon within a
16505 secure area established by the judicial council under this section is guilty of a third degree
16506 felony.
16507 (b) Any person is guilty of violating Section 76-10-306 who transports, possesses,
16508 distributes, or sells an explosive, chemical, or incendiary device, as defined by Section
16509 76-10-306, within a secure area, established by the Judicial Council under this section.
16510 Section 294. Section **78A-2-204**, which is renumbered from Section 78-7-14 is
16511 renumbered and amended to read:
16512 **[~~78-7-14~~]. 78A-2-204. Judicial Council and courts have seals.**
16513 The Judicial Council [~~shall have a seal and~~] shall approve a seal for all courts of justice.
16514 Section 295. Section **78A-2-205**, which is renumbered from Section 78-7-15 is
16515 renumbered and amended to read:
16516 **[~~78-7-15~~]. 78A-2-205. When seal is affixed.**
16517 The seal of the court need not be affixed to any document of the court, except to:
16518 (1) a writ;
16519 (2) a certificate of the probate of a will, or of appointment of an executor,

16520 administrator, or guardian; or
16521 (3) the authentication of:
16522 (a) a copy of a record or document on file with the court; or
16523 (b) the signature of an officer of the court.
16524 Section 296. Section **78A-2-206**, which is renumbered from Section 78-7-22 is
16525 renumbered and amended to read:
16526 **[~~78-7-22~~]. 78A-2-206. English language for proceedings.**
16527 Judicial proceedings shall be conducted in the English language.
16528 Section 297. Section **78A-2-207**, which is renumbered from Section 78-7-32 is
16529 renumbered and amended to read:
16530 **[~~78-7-32~~]. 78A-2-207. Domestic relations cases -- Party designation.**
16531 Parties in domestic relations cases, including divorce, annulment, property division,
16532 child custody, support, parent-time, adoption, and paternity, shall be designated as petitioner
16533 and respondent.
16534 Section 298. Section **78A-2-208**, which is renumbered from Section 78-7-3 is
16535 renumbered and amended to read:
16536 **[~~78-7-3~~]. 78A-2-208. Sittings of courts -- To be public -- Right to exclude in**
16537 **certain cases.**
16538 (1) The sittings of every court of justice are public, except as provided in [~~Section~~
16539 ~~78-7-4~~] Subsections (2) and (3).
16540 (2) The court may, in its discretion, during the examination of a witness exclude any
16541 and all other witnesses in the proceedings.
16542 (3) In an action of divorce, criminal conversation, seduction, abortion, rape, or assault
16543 with intent to commit rape, the court may, in its discretion, exclude all persons who do not
16544 have a direct interest in the proceedings, except jurors, witnesses and officers of the court.
16545 Section 299. Section **78A-2-209**, which is renumbered from Section 78-7-13 is
16546 renumbered and amended to read:
16547 **[~~78-7-13~~]. 78A-2-209. Sheriff to supply court rooms when the county**
16548 **legislative body neglects.**
16549 If suitable rooms for holding the district court and for chambers of the judge are not
16550 provided in the place appointed for holding [~~said~~] court in any county, together with attendants,

16551 furniture, lights, and stationery sufficient for the transaction of business, the court or the judge
16552 [~~thereof~~] may direct the sheriff to provide [~~such~~] rooms, attendants, furniture, fuel, lights, and
16553 stationery[~~; and the~~]. All expenses incurred, certified by the judge to be correct, are a charge
16554 against the county and [~~must~~] shall be paid out of the county's general fund [~~thereof~~].
16555 Section 300. Section **78A-2-210**, which is renumbered from Section 78-7-12 is
16556 renumbered and amended to read:
16557 **[~~78-7-12~~]. 78A-2-210. Change of place of trial because of calamity.**
16558 [~~The judge or judges authorized to hold or preside at a court appointed to be held in a~~
16559 ~~county, city or town may, by an order filed with the clerk and published as he or they may~~
16560 ~~prescribe, direct that the court may be held or continued at any other place in the city, town or~~
16561 ~~county than that appointed, when war, insurrection, pestilence or other public calamity, or~~
16562 ~~danger thereof, or the destruction of or danger to the building appointed for holding courts,~~
16563 ~~may render it necessary, and may in the same manner revoke the order, and in his or their~~
16564 ~~discretion appoint another place in the same city, town or county for holding court.~~]
16565 (1) The presiding judge may order court proceedings to be held at another location
16566 within the jurisdiction if the presiding judge determines it is necessary because of:
16567 (a) war;
16568 (b) insurrection;
16569 (c) pestilence;
16570 (d) public calamity or natural disaster; or
16571 (e) destruction of or danger to the building in which court is held.
16572 (2) Any order to move court proceedings shall be reduced to writing and filed with the
16573 clerk of the court for publication.
16574 Section 301. Section **78A-2-211**, which is renumbered from Section 78-7-7 is
16575 renumbered and amended to read:
16576 **[~~78-7-7~~]. 78A-2-211. Court days.**
16577 Courts of justice are open and judicial business may be transacted on any day, except as
16578 [~~otherwise~~] provided in Section 78A-2-212.
16579 Section 302. Section **78A-2-212**, which is renumbered from Section 78-7-8 is
16580 renumbered and amended to read:
16581 **[~~78-7-8~~]. 78A-2-212. Days on which court closed -- Exceptions.**

16582 Judicial business on Sunday, on any day on which general election is held, or on any
16583 legal holiday, is limited to the following purposes:
16584 (1) to give, upon their request, instructions to a jury when deliberating on their verdict;
16585 (2) to receive a verdict or discharge a jury;
16586 (3) for the exercise of the powers of a magistrate in a criminal action, or in a
16587 proceeding of a criminal nature; and
16588 (4) judicial business not involving a trial or hearing unless the judge finds it necessary
16589 for the fair administration of justice.
16590 Section 303. Section **78A-2-213**, which is renumbered from Section 78-7-21 is
16591 renumbered and amended to read:
16592 **[~~78-7-21~~]. 78A-2-213. Proceedings unaffected by vacancy in office of judge.**
16593 No proceeding in any court of justice[~~, in an action or special proceeding pending~~
16594 ~~therein,~~] is affected by a vacancy in the office of all or any of the judges, or by the failure of a
16595 term [~~thereof~~] of a judge.
16596 Section 304. Section **78A-2-214**, which is renumbered from Section 78-7-33 is
16597 renumbered and amended to read:
16598 **[~~78-7-33~~]. 78A-2-214. Collection of accounts receivable.**
16599 (1) As used in this section:
16600 (a) "Accounts receivable" means any amount due the state from an entity for which
16601 payment has not been received by the state agency that is servicing the debt.
16602 (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments,
16603 fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third
16604 party claims, sale of goods, sale of services, claims, and damages.
16605 (2) If the Department of Corrections does not have responsibility under Subsection
16606 77-18-1(9) for collecting an account receivable and if the Office of State Debt Collection does
16607 not have responsibility under Subsection 63A-8-201(6), the district court shall collect the
16608 account receivable.
16609 (3) (a) In the juvenile court, monies collected by the court from past-due accounts
16610 receivable may be used to offset system, administrative, legal, and other costs of collection.
16611 (b) The juvenile court shall allocate monies collected above the cost of collection on a
16612 pro rata basis to the various revenue types that generated the accounts receivable.

16613 (4) The interest charge established by the Office of State Debt Collection under
16614 Subsection 63A-8-201(4)(g)(iii) may not be assessed on an account receivable subject to the
16615 postjudgment interest rate established by Section 15-1-4.
16616 Section 305. Section **78A-2-215**, which is renumbered from Section 78-7-23 is
16617 renumbered and amended to read:
16618 **[~~78-7-23~~]. 78A-2-215. Abbreviations and numerals.**
16619 [~~Such~~] Common abbreviations [~~as are in common use~~] may be used, and numbers may
16620 be expressed by customary figures or numerals in [~~the customary manner~~] court documents.
16621 Section 306. Section **78A-2-216**, which is renumbered from Section 78-7-44 is
16622 renumbered and amended to read:
16623 **[~~78-7-44~~]. 78A-2-216. Fees for writ of garnishment -- Single or continuing.**
16624 (1) Any creditor who serves or causes to be served a writ of garnishment upon the
16625 garnishee shall pay to the garnishee:
16626 (a) $10 for a single garnishment; and
16627 (b) $25 for a continuing garnishment.
16628 (2) The creditor shall pay the fee directly to the garnishee.
16629 Section 307. Section **78A-2-217**, which is renumbered from Section 78-7-34 is
16630 renumbered and amended to read:
16631 **[~~78-7-34~~]. 78A-2-217. Electronic writing.**
16632 (1) Except as restricted by the Constitution of the United States or of this state, any
16633 writing required or permitted by this code to be filed with or prepared by a court may be filed
16634 or prepared in an electronic medium and by electronic transmission subject to the ability of the
16635 recipient to accept and process the electronic writing.
16636 (2) Any writing required to be signed that is filed with or prepared by a court in an
16637 electronic medium or by electronic transmission shall be signed by electronic signature in
16638 accordance with Title 46, Chapter 4, Uniform Electronic Transactions Act.
16639 Section 308. Section **78A-2-218**, which is renumbered from Section 78-7-17 is
16640 renumbered and amended to read:
16641 **[~~78-7-17~~]. 78A-2-218. Powers of every judicial officer -- Contempt.**
16642 Every judicial officer has power:
16643 (1) to preserve and enforce order in his immediate presence, and in proceedings before

16644 him, when he is engaged in the performance of official duty;
16645 (2) to compel obedience to his lawful orders as provided by law;
16646 (3) to compel the attendance of persons to testify in a proceeding before him in the
16647 cases and manner provided by law;
16648 (4) to administer oaths to persons in a proceeding pending before him, and in all other
16649 cases where it may be necessary in the exercise of his powers and duties[~~.~~]; and
16650 (5) punish for contempt as provided by law to enforce compliance with Subsections (1)
16651 through (4).
16652 Section 309. Section **78A-2-219**, which is renumbered from Section 78-7-16 is
16653 renumbered and amended to read:
16654 **[~~78-7-16~~]. 78A-2-219. Powers of judge contradistinguished from court.**
16655 A judge may exercise out of court all the powers expressly conferred upon a judge as
16656 contradistinguished from the court.
16657 Section 310. Section **78A-2-220**, which is renumbered from Section 78-7-17.5 is
16658 renumbered and amended to read:
16659 **[~~78-7-17.5~~]. 78A-2-220. Authority of magistrate.**
16660 (1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3
16661 shall have the authority to:
16662 (a) commit a person to incarceration prior to trial;
16663 (b) set or deny bail under Section 77-20-1 and release upon the payment of bail and
16664 satisfaction of any other conditions of release;
16665 (c) issue to any place in the state summonses and warrants of search and arrest and
16666 authorize administrative traffic checkpoints under Section 77-23-104;
16667 (d) conduct an initial appearance in a felony;
16668 (e) conduct arraignments;
16669 (f) conduct a preliminary examination to determine probable cause;
16670 (g) appoint attorneys and order recoupment of attorney fees;
16671 (h) order the preparation of presentence investigations and reports;
16672 (i) issue temporary orders as provided by rule of the Judicial Council; and
16673 (j) perform any other act or function authorized by statute.
16674 (2) A judge of the justice court may exercise the authority of a magistrate specified in

16675 Subsection (1) with the following limitations:
16676 (a) a judge of the justice court may conduct an initial appearance, preliminary
16677 examination, or arraignment in a felony case as provided by rule of the Judicial Council;
16678 (b) a judge of the justice court may not set bail in a capital felony nor deny bail in any
16679 case; and
16680 (c) a judge of the justice court may authorize administrative traffic checkpoints under
16681 Section 77-23-104 and issue search warrants only within the judicial district.
16682 Section 311. Section **78A-2-221**, which is renumbered from Section 78-7-2 is
16683 renumbered and amended to read:
16684 **[~~78-7-2~~]. 78A-2-221. Justices and judges -- Limitations during terms.**
16685 [~~No~~] A justice or judge of any court of record may not, during his term of office:
16686 (1) practice law or have a partner engaged in the practice of law;
16687 (2) hold office in or make any contribution to any political party or organization
16688 engaged in political activity; or
16689 (3) use, in his efforts to obtain or retain judicial office, any political party designation,
16690 reference, or description.
16691 Section 312. Section **78A-2-222**, which is renumbered from Section 78-7-1 is
16692 renumbered and amended to read:
16693 **[~~78-7-1~~]. 78A-2-222. Disqualification for interest or relation to parties.**
16694 (1) Except by consent of all parties, [~~no~~] a justice, judge, or justice court judge may not
16695 sit or act in any action or proceeding:
16696 (a) to which he is a party, or in which he is interested;
16697 (b) when he is related to either party by consanguinity or affinity within the third
16698 degree, computed according to the rules of the common law; or
16699 (c) when he has been attorney or counsel for either party in the action or proceeding.
16700 (2) The provisions of this section do not apply to the arrangement of the calendar or
16701 the regulation of the order of business, nor to the power of transferring the action or proceeding
16702 to some other court.
16703 Section 313. Section **78A-2-223**, which is renumbered from Section 78-7-25 is
16704 renumbered and amended to read:
16705 **[~~78-7-25~~]. 78A-2-223. Decisions to be rendered within two months --**

16706 **Procedures for decisions not rendered.**
16707 (1) A [~~judge of a~~] trial court judge shall decide all matters submitted for final
16708 determination within two months of submission, unless circumstances causing the delay are
16709 beyond the judge's personal control.
16710 (2) The Judicial Council shall establish reporting procedures for all matters not decided
16711 within two months of final submission.
16712 Section 314. Section **78A-2-224**, which is renumbered from Section 78-7-46 is
16713 renumbered and amended to read:
16714 **[~~78-7-46~~]. 78A-2-224. Bases for certain decisions limited.**
16715 (1) Except as provided in Subsection (2), no court may rule on the custody, placement,
16716 including foster placement, or other disposition alternative for a minor, or the termination of
16717 parental rights, based on the fact that a parent or guardian of the minor lawfully does one or
16718 more of the following:
16719 (a) legally possesses or uses a firearm or other weapon;
16720 (b) espouses particular religious beliefs; or
16721 (c) schools the minor or other minors outside the public education system or is
16722 otherwise sympathetic to schooling a minor outside the public education system.
16723 (2) Subsection (1) does not prohibit a ruling based on the compatibility of a minor with
16724 a particular custody, placement, or other disposition alternative as determined by the presence
16725 of any of the factors in Subsections (1)(a) through (1)(c).
16726 Section 315. Section **78A-2-225**, which is renumbered from Section 78-7-9.5 is
16727 renumbered and amended to read:
16728 **[~~78-7-9.5~~]. 78A-2-225. Judge of court of record -- Service in other division or**
16729 **court.**
16730 A judge of a court of record may serve temporarily as a judge in another geographic
16731 division or in another court of record, in accordance with the Utah Constitution and the rules of
16732 the Judicial Council.
16733 Section 316. Section **78A-2-226**, which is renumbered from Section 78-7-19 is
16734 renumbered and amended to read:
16735 **[~~78-7-19~~]. 78A-2-226. Repeated application for orders forbidden --**
16736 **Disobedience -- Contempt.**

16737 (1) If an application for an order, made to a judge of a court in which the action or
16738 proceeding is pending, is refused in whole or in part or is granted conditionally, a subsequent
16739 application for the same order may not be made to any other judge, except of a higher court.
16740 (2) This section does not apply to motions refused for any informality in the papers or
16741 proceedings necessary to obtain the order, or to motions refused with liberty to renew them.
16742 (3) A notice of appeal for a trial de novo is not a subsequent application for the same
16743 order.
16744 (4) A violation of Subsection (1) may be punished by contempt and any subsequent
16745 order may be revoked by the issuing judge or vacated by a judge of the court in which the
16746 action or proceeding is pending.
16747 Section 317. Section **78A-2-227**, which is renumbered from Section 78-7-9 is
16748 renumbered and amended to read:
16749 **[~~78-7-9~~]. 78A-2-227. Appointment of attorney guardian ad litem in child**
16750 **abuse and neglect proceedings.**
16751 [~~(1) If child abuse, child sexual abuse, or neglect is alleged in any proceeding in any~~
16752 ~~state court, the court may upon its own motion or shall upon the motion of any party to the~~
16753 ~~proceeding appoint an attorney guardian ad litem to represent the best interest of the child, in~~
16754 ~~accordance with Sections 78-3a-911 and 78-3a-912.~~]
16755 [~~(2) The court may appoint an attorney guardian ad litem, when it considers it~~
16756 ~~necessary and appropriate, to represent the best interest of the child in all related proceedings~~
16757 ~~conducted in any state court involving the alleged abuse, child sexual abuse, or neglect.~~]
16758 [~~(3) The attorney guardian ad litem shall be appointed in accordance with and meet the~~
16759 ~~requirements of Sections 78-3a-911 and 78-3a-912.~~]
16760 (1) An attorney guardian ad litem may be appointed in accordance with Title 78A,
16761 Chapter 6, Part 9, Guardian Ad Litem, if:
16762 (a) child abuse, child sexual abuse, or neglect is alleged in any proceeding; or
16763 (b) the court considers it appropriate in any proceedings involving alleged abuse, child
16764 sexual abuse, or neglect.
16765 [~~(4)~~] (2) If an attorney guardian ad litem has been appointed for the child by any court
16766 in the state in any prior proceeding or related matter, the court may continue that appointment
16767 or may reappoint that attorney guardian ad litem, if still available, to act on behalf of the child.

16768 [~~(5)~~] (3) The court is responsible for all costs resulting from the appointment of an
16769 attorney guardian ad litem and shall use funds appropriated by the Legislature for the guardian
16770 ad litem program to cover those costs.
16771 [~~(6)~~] (4) (a) If the court appoints the Office of the Guardian Ad Litem in a civil case
16772 pursuant to this section, the court may assess all or part of those [~~attorney's~~] attorney fees, court
16773 costs, paralegal, staff, and volunteer expenses against the minor's parent, parents, or legal
16774 guardian in an amount that the court determines to be just and appropriate.
16775 (b) The court may not assess those fees or costs against a legal guardian, when that
16776 guardian is the state, or against a parent, parents, or legal guardian who is found to be
16777 impecunious. If a person claims to be impecunious, the court shall require of that person an
16778 affidavit of impecuniosity as provided in Section [~~78-7-36~~] 78A-2-302 and the court shall
16779 follow the procedures and make the determinations as provided in Section [~~78-7-36~~]
16780 78A-2-302.
16781 (c) If the court appoints the Office of the Guardian Ad Litem in a criminal case
16782 pursuant to this section and if the defendant is convicted of a crime which includes child abuse
16783 or neglect, the court shall include as part of the defendant's sentence all or part of the
16784 [~~attorney's~~] attorney fees, court costs, and paralegal, staff, and volunteer expenses of the Office
16785 of the Guardian Ad Litem.
16786 [~~(7)~~] (5) An attorney guardian ad litem appointed in accordance with the requirements
16787 of this section and [~~Sections 78-3a-911 and 78-3a-912~~] Title 78A, Chapter 6, Part 9, Guardian
16788 Ad Litem is, when serving in the scope of duties of an attorney guardian ad litem, considered
16789 an employee of this state for purposes of indemnification under the Governmental Immunity
16790 Act.
16791 Section 318. Section **78A-2-228**, which is renumbered from Section 78-7-45 is
16792 renumbered and amended to read:
16793 **[~~78-7-45~~]. 78A-2-228. Private attorney guardian ad litem -- Appointment --**
16794 **Costs and fees -- Duties -- Conflicts of interest -- Pro bono obligation -- Indemnification --**
16795 **Minimum qualifications.**
16796 (1) (a) The court may appoint a private attorney as guardian ad litem to represent the
16797 best interests of the minor in any district court action in which the custody of or visitation with
16798 a minor is at issue. The attorney guardian ad litem shall be certified by the Director of the

16799 Office of the Guardian Ad Litem as having met the minimum qualifications for appointment,
16800 but [~~shall~~] may not be employed by or under contract with the Office of the Guardian Ad
16801 Litem.
16802 (b) If an attorney guardian ad litem has been appointed for the minor in any prior or
16803 concurrent action and that attorney guardian ad litem is available, the court shall appoint that
16804 attorney guardian ad litem, unless good cause is shown why another attorney guardian ad litem
16805 should be appointed.
16806 (c) If, after appointment of the attorney guardian ad litem, an allegation of abuse,
16807 neglect, or dependency of the minor is made the court shall:
16808 (i) determine whether it is in the best interests of the minor to continue the
16809 appointment; or
16810 (ii) order the withdrawal of the private attorney guardian ad litem and appoint the
16811 Office of the Guardian Ad Litem.
16812 (2) (a) The court shall assess all or part of the attorney guardian ad litem fees, courts
16813 costs, and paralegal, staff, and volunteer expenses against the parties in a proportion the court
16814 determines to be just.
16815 (b) If the court finds a party to be impecunious, under the provisions of Section
16816 [~~78-7-36~~] 78A-2-302, the court may direct the impecunious party's share of the assessment to
16817 be covered by the attorney guardian ad litem pro bono obligation established in Subsection
16818 (6)(b).
16819 (3) The attorney guardian ad litem appointed under the provisions of this section shall:
16820 (a) represent the best interests of the minor from the date of the appointment until
16821 released by the court;
16822 (b) conduct or supervise an independent investigation in order to obtain a clear
16823 understanding of the situation and needs of the minor;
16824 (c) interview witnesses and review relevant records pertaining to the minor and the
16825 minor's family, including medical, psychological, and school records;
16826 (d) if the minor is old enough to communicate and unless it would be detrimental to the
16827 minor:
16828 (i) meet with and interview the minor;
16829 (ii) determine the minor's goals and concerns regarding custody or visitation; and

16830 (iii) counsel the minor regarding the nature, purpose, status, and implications of the
16831 case, of hearings, of recommendations, and proposals by parties and of court orders;
16832 (e) conduct discovery, file pleadings and other papers, prepare and review orders, and
16833 otherwise comply with the Utah Rules of Civil Procedure as necessary to protect the best
16834 interest of the minor;
16835 (f) unless excused by the court, prepare for and attend all mediation hearings and all
16836 court conferences and hearings, and present witnesses and exhibits as necessary to protect the
16837 best interests of the minor;
16838 (g) identify community resources to protect the best interests of the minor and advocate
16839 for those resources; and
16840 (h) participate in all appeals unless excused by the court.
16841 (4) (a) The attorney guardian ad litem shall represent the best interests of a minor. If
16842 the minor's wishes differ from the attorney's determination of the minor's best interests, the
16843 attorney guardian ad litem shall communicate to the court the minor's wishes and the attorney's
16844 determination of the minor's best interests. A difference between the minor's wishes and the
16845 attorney's determination of best interests is not sufficient to create a conflict of interest.
16846 (b) The court may appoint one attorney guardian ad litem to represent the best interests
16847 of more than one minor child of a marriage.
16848 (5) An attorney guardian ad litem appointed under this section is immune from any
16849 civil liability that might result by reason of acts performed within the scope of duties of the
16850 attorney guardian ad litem.
16851 (6) (a) Upon the advice of the Director of the Office of the Guardian Ad Litem, the
16852 Judicial Council shall by rule establish the minimum qualifications and requirements for
16853 appointment by the court as an attorney guardian ad litem.
16854 (b) An attorney guardian ad litem may be required to appear pro bono in one case for
16855 every five cases in which the attorney is appointed with compensation.
16856 [~~(7) This section shall be effective in the Second, Third, and Fourth Judicial Districts~~
16857 ~~on July 1, 2001, and in the remaining judicial districts of the state on July 1, 2002.~~]
16858 Section 319. Section **78A-2-301**, which is renumbered from Section 78-7-35 is
16859 renumbered and amended to read:
16860 **Part 3. Court Fees and Waivers**

16861 **[~~78-7-35~~]. 78A-2-301. Civil fees of the courts of record -- Courts complex**
16862 **design.**
16863 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
16864 court of record not governed by another subsection is $155.
16865 (b) The fee for filing a complaint or petition is:
16866 (i) $50 if the claim for damages or amount in interpleader exclusive of court costs,
16867 interest, and attorney fees is $2,000 or less;
16868 (ii) $95 if the claim for damages or amount in interpleader exclusive of court costs,
16869 interest, and attorney fees is greater than $2,000 and less than $10,000;
16870 (iii) $155 if the claim for damages or amount in interpleader is $10,000 or more;
16871 (iv) $155 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
16872 4, Separate Maintenance; and
16873 (v) $25 for a motion for temporary separation order filed under Section 30-3-4.5.
16874 (c) The fee for filing a small claims affidavit is:
16875 (i) $45 if the claim for damages or amount in interpleader exclusive of court costs,
16876 interest, and attorney fees is $2,000 or less; and
16877 (ii) $70 if the claim for damages or amount in interpleader exclusive of court costs,
16878 interest, and attorney fees is greater than $2,000.
16879 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
16880 complaint, or other claim for relief against an existing or joined party other than the original
16881 complaint or petition is:
16882 (i) $45 if the claim for relief exclusive of court costs, interest, and attorney fees is
16883 $2,000 or less;
16884 (ii) $75 if the claim for relief exclusive of court costs, interest, and attorney fees is
16885 greater than $2,000 and less than $10,000;
16886 (iii) $105 if the original petition is filed under Subsection (1)(a), the claim for relief is
16887 $10,000 or more, or the party seeks relief other than monetary damages; and
16888 (iv) $85 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
16889 Chapter 4, Separate Maintenance.
16890 (e) The fee for filing a small claims counter affidavit is:
16891 (i) $35 if the claim for relief exclusive of court costs, interest, and attorney fees is

16892 $2,000 or less; and
16893 (ii) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is
16894 greater than $2,000.
16895 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
16896 action already before the court is determined under Subsection (1)(b) based on the amount
16897 deposited.
16898 (g) The fee for filing a petition is:
16899 (i) $75 for trial de novo of an adjudication of the justice court or of the small claims
16900 department; and
16901 (ii) $55 for an appeal of a municipal administrative determination in accordance with
16902 Section 10-3-703.7.
16903 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
16904 petition for writ of certiorari is $205.
16905 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a
16906 petition for expungement is $65.
16907 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).
16908 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
16909 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
16910 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
16911 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
16912 Act.
16913 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be
16914 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
16915 Defense Account, as provided in Section 63-63a-8.
16916 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),
16917 and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in
16918 Section [~~78-31b-9~~] 78B-6-209.
16919 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
16920 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
16921 deposited in the restricted account, Court Security Account, as provided in Section
16922 [~~63-63c-102~~] 78A-2-602.

16923 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
16924 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
16925 Security Account, as provided in Section [~~63-63c-102~~] 78A-2-602.
16926 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
16927 United States is $25.
16928 (l) The fee for filing probate or child custody documents from another state is $25.
16929 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
16930 Utah State Tax Commission is $30.
16931 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
16932 or a judgment, order, or decree of an administrative agency, commission, board, council, or
16933 hearing officer of this state or of its political subdivisions other than the Utah State Tax
16934 Commission, is $40.
16935 (n) The fee for filing a judgment by confession without action under Section [~~78-22-3~~]
16936 78B-5-205 is $25.
16937 (o) The fee for filing an award of arbitration for confirmation, modification, or
16938 vacation under Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act, that is not part
16939 of an action before the court is $25.
16940 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is $40.
16941 (q) The fee for filing any accounting required by law is:
16942 (i) $10 for an estate valued at $50,000 or less;
16943 (ii) $20 for an estate valued at $75,000 or less but more than $50,000;
16944 (iii) $40 for an estate valued at $112,000 or less but more than $75,000;
16945 (iv) $80 for an estate valued at $168,000 or less but more than $112,000; and
16946 (v) $150 for an estate valued at more than $168,000.
16947 (r) The fee for filing a demand for a civil jury is $75.
16948 (s) The fee for filing a notice of deposition in this state concerning an action pending in
16949 another state under Utah Rule of Civil Procedure 26 is $25.
16950 (t) The fee for filing documents that require judicial approval but are not part of an
16951 action before the court is $25.
16952 (u) The fee for a petition to open a sealed record is $25.
16953 (v) The fee for a writ of replevin, attachment, execution, or garnishment is $35 in

16954 addition to any fee for a complaint or petition.
16955 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
16956 30-1-9 is $5.
16957 (ii) The fee for a petition for emancipation of a minor provided in Title [~~78~~] 78A,
16958 Chapter [~~3a~~] 6, Part [~~10~~] 8, Emancipation, is $50.
16959 (x) The fee for a certificate issued under Section 26-2-25 is $2.
16960 (y) The fee for a certified copy of a document is $4 per document plus 50 cents per
16961 page.
16962 (z) The fee for an exemplified copy of a document is $6 per document plus 50 cents
16963 per page.
16964 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
16965 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
16966 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
16967 credited to the court as a reimbursement of expenditures.
16968 (bb) There is no fee for services or the filing of documents not listed in this section or
16969 otherwise provided by law.
16970 (cc) Except as provided in this section, all fees collected under this section are paid to
16971 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
16972 accepts the pleading for filing or performs the requested service.
16973 (dd) The filing fees under this section may not be charged to the state, its agencies, or
16974 political subdivisions filing or defending any action. In judgments awarded in favor of the
16975 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
16976 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
16977 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,
16978 order, fine, tax, lien, or other penalty and costs permitted by law.
16979 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
16980 shall transfer all revenues representing the difference between the fees in effect after May 2,
16981 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
16982 Facilities Construction and Management Capital Projects Fund.
16983 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
16984 Construction and Management shall use up to $3,750,000 of the revenue deposited in the

16985 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
16986 initiate the development of a courts complex in Salt Lake City.
16987 (B) If the Legislature approves funding for construction of a courts complex in Salt
16988 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
16989 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
16990 (2)(a)(ii) to construct a courts complex in Salt Lake City.
16991 (C) After the courts complex is completed and all bills connected with its construction
16992 have been paid, the Division of Facilities Construction and Management shall use any monies
16993 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
16994 District Court building.
16995 (iii) The Division of Facilities Construction and Management may enter into
16996 agreements and make expenditures related to this project before the receipt of revenues
16997 provided for under this Subsection (2)(a)(iii).
16998 (iv) The Division of Facilities Construction and Management shall:
16999 (A) make those expenditures from unexpended and unencumbered building funds
17000 already appropriated to the Capital Projects Fund; and
17001 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
17002 under this Subsection (2).
17003 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
17004 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
17005 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
17006 account.
17007 (c) The Division of Finance shall deposit all revenues received from the court
17008 administrator into the restricted account created by this section.
17009 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
17010 transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
17011 Vehicles, in a court of record to the Division of Facilities Construction and Management
17012 Capital Projects Fund. The division of money pursuant to Section [~~78-3-14.5~~] 78A-5-110 shall
17013 be calculated on the balance of the fine or bail forfeiture paid.
17014 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
17015 $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in

17016 a court of record to the Division of Finance for deposit in the restricted account created by this
17017 section. The division of money pursuant to Section [~~78-3-14.5~~] 78A-5-110 shall be calculated
17018 on the balance of the fine or bail forfeiture paid.
17019 (3) (a) There is created within the General Fund a restricted account known as the State
17020 Courts Complex Account.
17021 (b) The Legislature may appropriate monies from the restricted account to the
17022 administrator of the courts for the following purposes only:
17023 (i) to repay costs associated with the construction of the court complex that were
17024 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and
17025 (ii) to cover operations and maintenance costs on the court complex.
17026 Section 320. Section **78A-2-302**, which is renumbered from Section 78-7-36 is
17027 renumbered and amended to read:
17028 **[~~78-7-36~~]. 78A-2-302. Impecunious litigants -- Affidavit.**
17029 (1) For purposes of [~~this section~~] Sections 78A-2-302 through 78A-2-309:
17030 (a) "Convicted" means a conviction by entry of a plea of guilty or nolo contendere,
17031 guilty and mentally ill, no contest, and conviction of any crime or offense.
17032 (b) "Prisoner" means a person who has been convicted of a crime and is incarcerated
17033 for that crime or is being held in custody for trial or sentencing.
17034 (2) As provided in this chapter, any person may institute, prosecute, defend, and appeal
17035 any cause in any court in this state without prepayment of fees and costs or security, by taking
17036 and subscribing, before any officer authorized to administer an oath, an affidavit of
17037 impecuniosity demonstrating financial inability to pay fees and costs or give security.
17038 (3) The affidavit shall contain complete information on the party's:
17039 (a) identity and residence;
17040 (b) amount of income, including government financial support, alimony, child support;
17041 (c) assets owned, including real and personal property;
17042 (d) business interests;
17043 (e) accounts receivable;
17044 (f) securities, checking and savings account balances;
17045 (g) debts; and
17046 (h) monthly expenses.

17047 (4) If the party is a prisoner, he shall also disclose the amount of money held in his
17048 prisoner trust account at the time the affidavit is executed as provided in Section [~~78-7-38~~]
17049 78A-2-305.
17050 (5) In addition to the financial disclosures, the affidavit shall state the following:
17051 I, A B, do solemnly swear or affirm that due to my poverty I am unable to bear the
17052 expenses of the action or legal proceedings which I am about to commence or the appeal which
17053 I am about to take, and that I believe I am entitled to the relief sought by the action, legal
17054 proceedings, or appeal.
17055 Section 321. Section **78A-2-303**, which is renumbered from Section 78-7-43 is
17056 renumbered and amended to read:
17057 **[~~78-7-43~~]. 78A-2-303. False affidavit -- Penalty.**
17058 [~~If it is made to appear to the court by affidavit that the affidavit or affirmation is~~
17059 ~~untrue, or that the action or appeal is frivolous or malicious or without merit, the court may~~
17060 ~~make a rule on the affiant, fixing a day not less than five days from the date of service of such~~
17061 ~~notice, requiring such affiant to appear at a fixed time and place to show cause, if any he has,~~
17062 ~~why he should not give bond and security for the costs of his action or appeal, or pay the legal~~
17063 ~~fees therefor, and, on failure so to do, why his action or appeal should not be dismissed. Should~~
17064 ~~the court be of the opinion that the affidavit or affirmation is untrue, or that said action or~~
17065 ~~appeal is frivolous, malicious or without merit, the court in which such action or appeal is~~
17066 ~~pending may dismiss it.~~]
17067 (1) A person may assert by affidavit that an affidavit of impecuniosity, action, or
17068 appeal is:
17069 (a) false;
17070 (b) frivolous or without merit; or
17071 (c) malicious.
17072 (2) Upon receipt of an affidavit in accordance with Subsection (1), the court may notify
17073 the affiant of the challenge and set a date, not less than five days from receipt of the notice,
17074 requiring the affiant to appear and show cause why the affiant should not be required to:
17075 (a) post a bond for the costs of the action or appeal; or
17076 (b) pay the legal fees for the action or appeal.
17077 (3) The court may dismiss the action or appeal if:

17078 (a) the affiant does not appear;
17079 (b) the affiant appears and the court determines the affidavit is false, frivolous, without
17080 merit, or malicious; or
17081 (c) the court orders the affiant to post a bond or pay the legal fees and the affiant fails
17082 to do so.
17083 Section 322. Section **78A-2-304**, which is renumbered from Section 78-7-37 is
17084 renumbered and amended to read:
17085 **[~~78-7-37~~]. 78A-2-304. Effect of filing affidavit -- Nonprisoner.**
17086 (1) Upon the filing of the oath or affirmation with any Utah court by a nonprisoner, the
17087 court shall review the affidavit and make an independent determination based on the
17088 information provided whether court costs and fees should be waived entirely or in part.
17089 Notwithstanding the party's statement of inability to pay court costs, the court shall require a
17090 partial or full filing fee where the financial information provided demonstrates an ability to pay
17091 a fee.
17092 (2) In instances where fees or costs are completely waived, the court shall immediately
17093 file any complaint or papers on appeal and do what is necessary or proper as promptly as if the
17094 litigant had fully paid all the regular fees. The constable or sheriff shall immediately serve any
17095 summonses, writs, process and subpoenas, and papers necessary or proper in the prosecution or
17096 defense of the cause, for the impecunious person as if all the necessary fees and costs had been
17097 fully paid.
17098 (3) However, in cases where an impecunious affidavit is filed, the judge shall question
17099 the person who filed the affidavit at the time of hearing the cause as to his ability to pay. If the
17100 judge opines that the person is reasonably able to pay the costs, the judge shall direct the
17101 judgment or decree not be entered in favor of that person until the costs are paid. The order
17102 may be cancelled later upon petition if the facts warrant cancellation.
17103 Section 323. Section **78A-2-305**, which is renumbered from Section 78-7-38 is
17104 renumbered and amended to read:
17105 **[~~78-7-38~~]. 78A-2-305. Effect of filing affidavit -- Procedure for review and**
17106 **collection.**
17107 [~~(1) As used in this section, "prisoner" means a person who has been convicted of a~~
17108 ~~crime and is incarcerated for that crime or is being held in custody for trial or sentencing.~~]

17109 [~~(2)~~] (1) (a) Upon receipt of the oath or affirmation filed with any Utah court by a
17110 prisoner, the court shall immediately request the institution or facility where the prisoner is
17111 incarcerated to provide an account statement detailing all financial activities in the prisoner's
17112 trust account for the previous six months or since the time of incarceration, whichever is
17113 shorter.
17114 (b) The incarcerating facility shall:
17115 (i) prepare and produce to the court the prisoner's six-month trust account statement,
17116 current trust account balance, and aggregate disposable income; and
17117 (ii) calculate aggregate disposable income by totaling all deposits made in the
17118 prisoner's trust account during the six-month period and subtracting all funds automatically
17119 deducted or otherwise garnished from the account during the same period.
17120 [~~(3)~~] (2) The court shall:
17121 (a) review both the affidavit of impecuniosity and the financial account statement; and
17122 (b) based upon the review, independently determine whether or not the prisoner is
17123 financially capable of paying all the regular fees and costs associated with filing the action.
17124 [~~(4)~~] (3) When the court concludes that the prisoner is unable to pay full fees and costs,
17125 the court shall assess an initial partial filing fee equal to 50% of the prisoner's current trust
17126 account balance or 10% of the prisoner's six-month aggregate disposable income, whichever is
17127 greater.
17128 [~~(5)~~] (4) (a) After payment of the initial partial filing fee, the court shall require the
17129 prisoner to make monthly payments of 20% of the preceding month's aggregate disposable
17130 income until the regular filing fee associated with the civil action is paid in full.
17131 (b) The agency having custody of the prisoner shall:
17132 (i) garnish the prisoner's account each month; and
17133 (ii) once the collected fees exceed $10, forward payments to the clerk of the court until
17134 the filing fees are paid.
17135 (c) Nothing in this section may be construed to prevent the agency having custody of
17136 the prisoner from withdrawing funds from the prisoner's account to pay court-ordered
17137 restitution.
17138 [~~(6)~~] (5) Collection of the filing fees continues despite dismissal of the action.
17139 [~~(7)~~] (6) The filing fee collected may not exceed the amount of fees permitted by

17140 statute for the commencement of a civil action or an appeal of a civil action.
17141 Section 324. Section **78A-2-306**, which is renumbered from Section 78-7-39 is
17142 renumbered and amended to read:
17143 **[~~78-7-39~~]. 78A-2-306. Notice of filing fee -- Consequence of nonpayment.**
17144 (1) When an affidavit of impecuniosity has been filed and the court assesses an initial
17145 filing fee, the court shall immediately notify the litigant in writing of:
17146 (a) the initial filing fee required as a prerequisite to proceeding with the action;
17147 (b) the procedure available to challenge the initial filing fee assessment as provided in
17148 Section [~~78-7-40~~] 78A-2-307; and
17149 (c) the inmate's ongoing obligation to make monthly payments until the entire filing fee
17150 is paid.
17151 (2) The court may not authorize service of process or otherwise proceed with the
17152 action, except as provided in Section [~~78-7-40~~] 78A-2-307, until the initial filing fee has been
17153 completely paid to the clerk of the court.
17154 Section 325. Section **78A-2-307**, which is renumbered from Section 78-7-40 is
17155 renumbered and amended to read:
17156 **[~~78-7-40~~]. 78A-2-307. Filing fee challenge -- Court powers.**
17157 (1) Within ten days of receiving court notice requiring an initial filing fee under
17158 Section [~~78-7-39~~] 78A-2-306, the litigant may contest the fee assessment by filing a
17159 memorandum and supporting documentation with the court demonstrating inability to pay the
17160 fee.
17161 (2) The court shall review the memorandum and supporting documents challenging the
17162 fee assessment for facial validity.
17163 (3) The court may reduce the initial filing fee, authorize service of process, or
17164 otherwise proceed with the action without prepayment of costs and fees if the memorandum
17165 shows the litigant:
17166 (a) has lost his source of income;
17167 (b) has unaccounted nondiscretionary expenses limiting his ability to pay;
17168 (c) will suffer immediate irreparable harm if the action is unnecessarily delayed; or
17169 (d) will otherwise lose the cause of action by unnecessary delays associated with
17170 securing funds necessary to satisfy the assessed filing fee.

17171 (4) Nothing in this section shall be construed to relieve the litigant from the ongoing
17172 obligation of monthly payments until the filing fee is paid in full.
17173 Section 326. Section **78A-2-308**, which is renumbered from Section 78-7-41 is
17174 renumbered and amended to read:
17175 **[~~78-7-41~~]. 78A-2-308. Failure to serve papers -- Penalty.**
17176 Any justice court judge, clerk, or officer refusing to file or serve the papers is guilty of a
17177 class B misdemeanor.
17178 Section 327. Section **78A-2-309**, which is renumbered from Section 78-7-42 is
17179 renumbered and amended to read:
17180 **[~~78-7-42~~]. 78A-2-309. Liability for fees if successful in litigation.**
17181 Nothing [~~herein contained~~] in this part shall prevent a justice court judge, clerk,
17182 constable, or sheriff from collecting [~~his~~] their regular fees for all services [~~so~~] rendered for
17183 [~~such poor~~] the impecunious person, in the event the [~~poor~~] person is successful in [~~his~~]
17184 litigation[~~, and all~~]. All fees and costs shall be regularly taxed and included in any judgment
17185 recovered by the [~~poor~~] person[~~, and the~~]. The fees and costs shall be paid to a justice court
17186 judge, clerk, constable, or sheriff. If the [~~poor~~] person fails in [~~his~~] the action or appeal, then
17187 the costs of the action or appeal shall be adjudged against [~~him~~] the person.
17188 Section 328. Section **78A-2-401**, which is renumbered from Section 78-56-101 is
17189 renumbered and amended to read:
17190 **Part 4. Court Reporter Act**
17191 **[~~78-56-101~~]. 78A-2-401. Title.**
17192 This [~~chapter~~] part is known as the "Court Reporter Act."
17193 Section 329. Section **78A-2-402**, which is renumbered from Section 78-56-102 is
17194 renumbered and amended to read:
17195 **[~~78-56-102~~]. 78A-2-402. Definitions.**
17196 As used in this [~~chapter~~] part:
17197 (1) "Certified court reporter" has the same meaning as in Title 58, Chapter 74, Certified
17198 Court Reporters Licensing Act.
17199 (2) "Folio" means 100 words. A number expressed as a numeral counts as one word;
17200 however, any portion of the last folio is not counted.
17201 (3) "Official court reporter" means a certified court reporter employed by the courts.

17202 (4) "Official court transcriber" means a person certified in accordance with rules of the
17203 Judicial Council as competent to transcribe into written form an audio or video recording of
17204 court proceedings.
17205 Section 330. Section **78A-2-403**, which is renumbered from Section 78-56-103 is
17206 renumbered and amended to read:
17207 **[~~78-56-103~~]. 78A-2-403. Appointment of reporters -- Eligibility -- Oath --**
17208 **Bond -- Action on bond.**
17209 (1) A person may not be appointed to the position of court reporter nor act in the
17210 capacity of a court reporter in any court of record of this state, or before any referee, master,
17211 board, or commission of this state without a currently valid license from the Division of
17212 Occupational and Professional Licensing as provided in Title 58, Chapter 74, Certified Court
17213 Reporters Licensing Act.
17214 (2) Before any person may act as a court reporter [~~begins his duties, he~~], the person
17215 shall:
17216 (a) take, subscribe, and file the constitutional oath; and
17217 (b) give a bond with sufficient surety, conditioned [~~for~~] upon the faithful performance
17218 of [~~his~~] all duties, in the sum of $2,500, or larger sum if ordered by the judge.
17219 (3) The bond shall run to the state of Utah, but an action on it may be maintained by
17220 any person whose rights are affected by the failure of the reporter to perform [~~his~~] the reporter's
17221 official duties.
17222 Section 331. Section **78A-2-404**, which is renumbered from Section 78-56-104 is
17223 renumbered and amended to read:
17224 **[~~78-56-104~~]. 78A-2-404. Contract restrictions.**
17225 (1) Any contract for court reporting services, not related to a particular case or
17226 reporting incident, is prohibited between a court reporter or any other person with whom a
17227 court reporter has a principal and agency relationship and any attorney, party to an action, or
17228 party having a financial interest in an action. Negotiating or bidding reasonable fees, equal to
17229 all the parties, on a case-by-case basis may not be prohibited.
17230 (2) A certified court reporter is an officer of the court whose impartiality shall remain
17231 beyond question.
17232 (3) This section does not apply to the courts or the administrative tribunals of this state.

17233 (4) Violation of this section shall be considered unprofessional conduct as provided in
17234 Sections 58-74-102 and 58-74-502, and shall be grounds for revocation of licensure only.
17235 Section 332. Section **78A-2-405**, which is renumbered from Section 78-56-105 is
17236 renumbered and amended to read:
17237 **[~~78-56-105~~]. 78A-2-405. Record of court proceedings -- Duties of court**
17238 **reporter.**
17239 (1) The Judicial Council shall by rule provide for the means of maintaining the record
17240 of proceedings in the courts of record by official court reporters or by electronic recording
17241 devices.
17242 (2) The official court reporter assigned to a session of court shall take full verbatim
17243 stenographic notes of the session, except when the judge dispenses with the verbatim record.
17244 (3) The official court reporter shall immediately file with the clerk of the court the
17245 original stenographic notes of the court session and the computer disk on which the notes are
17246 stored. If not already on file with the clerk of the court, the official court reporter shall file a
17247 computer disk containing the reporter's most current dictionary showing the meaning of the
17248 reporter's stenographic notes.
17249 (4) Upon request and the payment of fees established by Section [~~78-56-108~~]
17250 78A-2-408, the official court reporter shall transcribe the stenographic notes or video or audio
17251 recording of the court session and furnish the transcript to the requesting party.
17252 Section 333. Section **78A-2-406**, which is renumbered from Section 78-56-106 is
17253 renumbered and amended to read:
17254 **[~~78-56-106~~]. 78A-2-406. Substitute reporters.**
17255 A certified court reporter other than an official court reporter may be assigned
17256 temporarily to the duties of an official court reporter in accordance with rules of the Judicial
17257 Council.
17258 Section 334. Section **78A-2-407**, which is renumbered from Section 78-56-107 is
17259 renumbered and amended to read:
17260 **[~~78-56-107~~]. 78A-2-407. Compensation -- Traveling expenses --**
17261 **Frequency of payment.**
17262 The compensation of an official court reporter shall be fixed in accordance with salary
17263 schedules for state court employees. The official court reporter shall also be paid for traveling

17264 expenses actually and necessarily incurred in the performance of duties in accordance with
17265 Judicial Council policy.
17266 Section 335. Section **78A-2-408**, which is renumbered from Section 78-56-108 is
17267 renumbered and amended to read:
17268 **[~~78-56-108~~]. 78A-2-408. Transcripts and copies -- Fees -- Establishment**
17269 **of Court Reporting Technology Account.**
17270 (1) The Judicial Council shall by rule provide for a standard page format for transcripts
17271 of court hearings.
17272 (2) (a) The fee for a transcript of a court session, or any part of a court session, shall be
17273 $3.50 per page, which includes the initial preparation of the transcript and one certified copy.
17274 The preparer shall deposit the original transcript with the clerk of the court and provide the
17275 person requesting the transcript with the certified copy. The cost of additional copies shall be
17276 as provided in Subsection [~~78-7-35~~] 78A-2-301(1). The transcript for an appeal shall be
17277 prepared within the time period permitted by the rules of Appellate Procedure. The fee for a
17278 transcript prepared within three business days of the request shall be 1-1/2 times the base rate.
17279 The fee for a transcript prepared within one business day of the request shall be double the base
17280 rate.
17281 (b) When a transcript is ordered by the court, the fees shall be paid by the parties to the
17282 action in equal proportion or as ordered by the court. The fee for a transcript in a criminal case
17283 in which the defendant is found to be impecunious shall be paid pursuant to Section 77-32-305.
17284 (c) There is established within the General Fund a restricted account known as the
17285 Court Reporting Technology Account. The clerk of the court shall transfer to the state
17286 treasurer for deposit into this account all fees received under this section. The state court
17287 administrator may draw upon this account for the purchase, development, and maintenance of
17288 court reporting technologies and for other expenses necessary for maintaining a verbatim
17289 record of court sessions.
17290 (3) The fee for the preparation of a transcript of a court hearing by an official court
17291 transcriber other than an official court reporter and the fee for the preparation of the transcript
17292 by a certified shorthand reporter of a hearing before any referee, master, board, or commission
17293 of this state shall be as provided in Subsection (2)(a), and shall be payable to the person
17294 preparing the transcript.

17295 Section 336. Section **78A-2-409**, which is renumbered from Section 78-56-109 is
17296 renumbered and amended to read:
17297 **[~~78-56-109~~]. 78A-2-409. Certified transcripts prima facie correct.**
17298 A transcript of an official court reporter's notes, written in longhand or typewritten,
17299 certified by [~~him~~] the court reporter as being a correct transcript of evidence and proceedings,
17300 is prima facie a correct statement of the evidence and proceedings.
17301 Section 337. Section **78A-2-410**, which is renumbered from Section 78-56-110 is
17302 renumbered and amended to read:
17303 **[~~78-56-110~~]. 78A-2-410. Transcripts taxed as costs.**
17304 A transcript may not be taxed as costs, unless the preparation of the transcript is ordered
17305 either by a party or by the court.
17306 Section 338. Section **78A-2-411**, which is renumbered from Section 78-56-111 is
17307 renumbered and amended to read:
17308 **[~~78-56-111~~]. 78A-2-411. Crimes.**
17309 Any violation of the provisions of this chapter, except Section [~~78-56-104~~] 78A-2-404,
17310 is a misdemeanor.
17311 Section 339. Section **78A-2-501**, which is renumbered from Section 78-28-1 is
17312 renumbered and amended to read:
17313 **Part 5. Online Court Assistance Act**
17314 **[~~78-28-1~~]. 78A-2-501. Online court assistance program -- Purpose of program**
17315 **-- User's fee.**
17316 (1) There is established an online court assistance program administered by the
17317 Administrative Office of the Courts to provide the public with information about civil
17318 procedures and to assist the public in preparing and filing civil pleadings and other papers in:
17319 (a) uncontested divorces;
17320 (b) enforcement of orders in the divorce decree;
17321 (c) landlord and tenant actions; and
17322 (d) other types of proceedings approved by the Online Court Assistance Program
17323 Policy Board.
17324 (2) The purpose of the online court assistance program shall be to:
17325 (a) minimize the costs of civil litigation;

17326 (b) improve access to the courts; and
17327 (c) provide for informed use of the courts and the law by pro se litigants.
17328 (3) (a) An additional $20 shall be added to the filing fee established by Section
17329 [~~78-7-35~~] 78A-2-301 if a person files a complaint, petition, answer, or response prepared
17330 through the program. There shall be no fee for using the program or for papers filed
17331 subsequent to the initial pleading.
17332 (b) There is created within the General Fund a restricted account known as the Online
17333 Court Assistance Account. The fee collected under this Subsection (3) shall be deposited in the
17334 restricted account and appropriated by the Legislature to the Administrative Office of the
17335 Courts to develop, operate, and maintain the program and to support the use of the program
17336 through education of the public.
17337 Section 340. Section **78A-2-502**, which is renumbered from Section 78-28-2 is
17338 renumbered and amended to read:
17339 **[~~78-28-2~~]. 78A-2-502. Creation of policy board -- Membership -- Terms --**
17340 **Chair -- Quorum -- Expenses.**
17341 (1) There is created a 13 member policy board to be known as the " Online Court
17342 Assistance Program Policy Board" which shall:
17343 (a) identify the subject matter included in the Online Court Assistance Program;
17344 (b) develop information and forms in conformity with the rules of procedure and
17345 evidence; and
17346 (c) advise the Administrative Office of the Courts regarding the administration of the
17347 program.
17348 (2) The voting membership shall consist of:
17349 (a) two members of the House of Representatives [~~to be~~] designated by the speaker,
17350 with one member from each party;
17351 (b) two members of the Senate designated by the president, with one member from
17352 each party;
17353 (c) two attorneys actively practicing in domestic relations designated by the Family
17354 Law Section of the Utah State Bar;
17355 (d) one attorney actively practicing in civil litigation designated by the Civil Litigation
17356 Section of the Utah State Bar;

17357 (e) one court commissioner designated by the chief justice of the Utah Supreme Court;
17358 (f) one district court judge designated by the chief justice of the Utah Supreme Court;
17359 (g) one attorney from Utah Legal Services designated by its director;
17360 (h) one attorney from Legal Aid designated by its director; and
17361 (i) two persons from the Administrative Office of the Courts designated by the state
17362 court administrator.
17363 (3) (a) The terms of the members shall be four years and staggered so that
17364 approximately half of the board expires every two years.
17365 (b) The board shall meet as needed.
17366 (4) The board shall select one of its members to serve as chair.
17367 (5) A majority of the members of the board constitutes a quorum.
17368 (6) (a) (i) Members who are not government employees shall receive no compensation
17369 or benefits for their services, but may receive per diem and expenses incurred in the
17370 performance of the member's official duties at the rates established by the Division of Finance
17371 under Sections 63A-3-106 and 63A-3-107.
17372 (ii) Members may decline to receive per diem and expenses for their service.
17373 (b) (i) State government officer and employee members who do not receive salary, per
17374 diem, or expenses from their agency for their service may receive per diem and expenses
17375 incurred in the performance of their official duties from the board at the rates established by the
17376 Division of Finance under Sections 63A-3-106 and 63A-3-107.
17377 (ii) State government officer and employee members may decline to receive per diem
17378 and expenses for their service.
17379 (c) Legislators on the committee shall receive compensation and expenses as provided
17380 by law and legislative rule.
17381 Section 341. Section **78A-2-601**, which is renumbered from Section 63-63c-101 is
17382 renumbered and amended to read:
17383 **Part 6. Court Security**
17384 **[~~63-63c-101~~]. 78A-2-601. Security surcharge -- Application and**
17385 **exemptions -- Deposit in restricted account.**
17386 (1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge
17387 of $25 shall be assessed in all courts of record on all criminal convictions and juvenile

17388 delinquency judgments.
17389 (2) The security surcharge may not be imposed upon:
17390 (a) nonmoving traffic violations;
17391 (b) community service; and
17392 (c) penalties assessed by the juvenile court as part of the nonjudicial adjustment of a
17393 case under Section [~~78-3a-502~~] 78A-6-602.
17394 (3) The security surcharge shall be collected after the surcharge under Section
17395 63-63a-1, but before any fine, and deposited with the state treasurer. A fine that would
17396 otherwise have been charged may not be reduced due to the imposition of the security
17397 surcharge.
17398 (4) The state treasurer shall deposit the collected security surcharge in the restricted
17399 account, Court Security Account, as provided in Section [~~63-63c-102~~] 78A-2-602.
17400 Section 342. Section **78A-2-602**, which is renumbered from Section 63-63c-102 is
17401 renumbered and amended to read:
17402 **[~~63-63c-102~~]. 78A-2-602. Court Security Account established -- Funding --**
17403 **Uses.**
17404 (1) There is created a restricted account in the General Fund known as the Court
17405 Security Account.
17406 (2) The state treasurer shall deposit in the Court Security Account:
17407 (a) collected monies from the surcharge established in Section [~~63-63c-101~~]
17408 78A-2-601;
17409 (b) monies from the portion of filing fees established in Subsections [~~78-7-35~~]
17410 78A-2-301(1)(j)(iv) and (v); and
17411 (c) amounts designated by Subsection [~~78-5-116.5~~] 78A-7-122(3)(b)(ii).
17412 (3) The Administrative Office of the Courts shall use the allocation only to contract for
17413 court security at all district and juvenile courts, including perimeter security at stand alone
17414 juvenile courts, throughout the state.
17415 Section 343. Section **78A-3-101**, which is renumbered from Section 78-2-1 is
17416 renumbered and amended to read:
17417 **[~~78-2-1~~]. 78A-3-101. Number of justices -- Terms -- Chief justice and**
17418 **associate chief justice -- Selection and functions.**

17419 (1) The Supreme Court consists of five justices.
17420 (2) A justice of the Supreme Court shall be appointed initially to serve until the first
17421 general election held more than three years after the effective date of the appointment.
17422 Thereafter, the term of office of a justice of the Supreme Court is ten years and commences on
17423 the first Monday in January following the date of election. A justice whose term expires may
17424 serve upon request of the Judicial Council until a successor is appointed and qualified.
17425 (3) The justices of the Supreme Court shall elect a chief justice from among the
17426 members of the court by a majority vote of all justices. The term of the office of chief justice is
17427 four years. The chief justice may serve successive terms. The chief justice may resign from
17428 the office of chief justice without resigning from the Supreme Court. The chief justice may be
17429 removed from the office of chief justice by a majority vote of all justices of the Supreme Court.
17430 (4) If the justices are unable to elect a chief justice within 30 days of a vacancy in that
17431 office, the associate chief justice shall act as chief justice until a chief justice is elected under
17432 this section. If the associate chief justice is unable or unwilling to act as chief justice, the most
17433 senior justice shall act as chief justice until a chief justice is elected under this section.
17434 (5) In addition to the chief justice's duties as a member of the Supreme Court, the chief
17435 justice has duties as provided by law.
17436 (6) There is created the office of associate chief justice. The term of office of the
17437 associate chief justice is two years. The associate chief justice may serve in that office no more
17438 than two successive terms. The associate chief justice shall be elected by a majority vote of the
17439 members of the Supreme Court and shall be allocated duties as the chief justice determines. If
17440 the chief justice is absent or otherwise unable to serve, the associate chief justice shall serve as
17441 chief justice. The chief justice may delegate responsibilities to the associate chief justice as
17442 consistent with law.
17443 Section 344. Section **78A-3-102**, which is renumbered from Section 78-2-2 is
17444 renumbered and amended to read:
17445 **[~~78-2-2~~]. 78A-3-102. Supreme Court jurisdiction.**
17446 (1) The Supreme Court has original jurisdiction to answer questions of state law
17447 certified by a court of the United States.
17448 (2) The Supreme Court has original jurisdiction to issue all extraordinary writs and
17449 authority to issue all writs and process necessary to carry into effect its orders, judgments, and

17450 decrees or in aid of its jurisdiction.
17451 (3) The Supreme Court has appellate jurisdiction, including jurisdiction of
17452 interlocutory appeals, over:
17453 (a) a judgment of the Court of Appeals;
17454 (b) cases certified to the Supreme Court by the Court of Appeals prior to final
17455 judgment by the Court of Appeals;
17456 (c) discipline of lawyers;
17457 (d) final orders of the Judicial Conduct Commission;
17458 (e) final orders and decrees in formal adjudicative proceedings originating with:
17459 (i) the Public Service Commission;
17460 (ii) the State Tax Commission;
17461 (iii) the School and Institutional Trust Lands Board of Trustees;
17462 (iv) the Board of Oil, Gas, and Mining;
17463 (v) the state engineer; or
17464 (vi) the executive director of the Department of Natural Resources reviewing actions of
17465 the Division of Forestry, Fire and State Lands;
17466 (f) final orders and decrees of the district court review of informal adjudicative
17467 proceedings of agencies under Subsection (3)(e);
17468 (g) a final judgment or decree of any court of record holding a statute of the United
17469 States or this state unconstitutional on its face under the Constitution of the United States or the
17470 Utah Constitution;
17471 (h) interlocutory appeals from any court of record involving a charge of a first degree
17472 or capital felony;
17473 (i) appeals from the district court involving a conviction or charge of a first degree
17474 felony or capital felony;
17475 (j) orders, judgments, and decrees of any court of record over which the Court of
17476 Appeals does not have original appellate jurisdiction; and
17477 (k) appeals from the district court of orders, judgments, or decrees ruling on legislative
17478 subpoenas.
17479 (4) The Supreme Court may transfer to the Court of Appeals any of the matters over
17480 which the Supreme Court has original appellate jurisdiction, except:

17481 (a) capital felony convictions or an appeal of an interlocutory order of a court of record
17482 involving a charge of a capital felony;
17483 (b) election and voting contests;
17484 (c) reapportionment of election districts;
17485 (d) retention or removal of public officers;
17486 (e) matters involving legislative subpoenas; and
17487 (f) those matters described in Subsections (3)(a) through (d).
17488 (5) The Supreme Court has sole discretion in granting or denying a petition for writ of
17489 certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall
17490 review those cases certified to it by the Court of Appeals under Subsection (3)(b).
17491 (6) The Supreme Court shall comply with the requirements of Title 63, Chapter 46b,
17492 Administrative Procedures Act, in its review of agency adjudicative proceedings.
17493 Section 345. Section **78A-3-103**, which is renumbered from Section 78-2-4 is
17494 renumbered and amended to read:
17495 **[~~78-2-4~~]. 78A-3-103. Supreme Court -- Rulemaking, judges pro tempore, and**
17496 **practice of law.**
17497 (1) The Supreme Court shall adopt rules of procedure and evidence for use in the
17498 courts of the state and shall by rule manage the appellate process. The Legislature may amend
17499 the rules of procedure and evidence adopted by the Supreme Court upon a vote of two-thirds of
17500 all members of both houses of the Legislature.
17501 (2) Except as otherwise provided by the Utah Constitution, the Supreme Court by rule
17502 may authorize retired justices and judges and judges pro tempore to perform any judicial
17503 duties. Judges pro tempore shall be citizens of the United States, Utah residents, and admitted
17504 to practice law in Utah.
17505 (3) The Supreme Court shall by rule govern the practice of law, including admission to
17506 practice law and the conduct and discipline of persons admitted to the practice of law.
17507 Section 346. Section **78A-3-104**, which is renumbered from Section 78-2-6 is
17508 renumbered and amended to read:
17509 **[~~78-2-6~~]. 78A-3-104. Appellate court administrator.**
17510 The appellate court administrator shall appoint clerks and support staff as necessary for
17511 the operation of the Supreme Court and the Court of Appeals. The duties of the clerks and

17512 support staff shall be established by the appellate court administrator, and powers established
17513 by rule of the Supreme Court.
17514 Section 347. Section **78A-3-105**, which is renumbered from Section 78-2-7.5 is
17515 renumbered and amended to read:
17516 **[~~78-2-7.5~~]. 78A-3-105. Service of sheriff to court.**
17517 The court may at any time require the attendance and services of any sheriff in the state.
17518 Section 348. Section **78A-4-101**, which is renumbered from Section 78-2a-1 is
17519 renumbered and amended to read:
17520 **[~~78-2a-1~~]. 78A-4-101. Creation -- Seal.**
17521 There is created a court known as the Court of Appeals. The Court of Appeals is a
17522 court of record and shall have a seal.
17523 Section 349. Section **78A-4-102**, which is renumbered from Section 78-2a-2 is
17524 renumbered and amended to read:
17525 **[~~78-2a-2~~]. 78A-4-102. Number of judges -- Terms -- Functions -- Filing fees.**
17526 (1) The Court of Appeals consists of seven judges. The term of appointment to office
17527 as a judge of the Court of Appeals is until the first general election held more than three years
17528 after the effective date of the appointment. Thereafter, the term of office of a judge of the
17529 Court of Appeals is six years and commences on the first Monday in January, next following
17530 the date of election. A judge whose term expires may serve, upon request of the Judicial
17531 Council, until a successor is appointed and qualified. The presiding judge of the Court of
17532 Appeals shall receive as additional compensation $1,000 per annum or fraction thereof for the
17533 period served.
17534 (2) The Court of Appeals shall sit and render judgment in panels of three judges.
17535 Assignment to panels shall be by random rotation of all judges of the Court of Appeals. The
17536 Court of Appeals by rule shall provide for the selection of a chair for each panel. The Court of
17537 Appeals may not sit en banc.
17538 (3) The judges of the Court of Appeals shall elect a presiding judge from among the
17539 members of the court by majority vote of all judges. The term of office of the presiding judge
17540 is two years and until a successor is elected. A presiding judge of the Court of Appeals may
17541 serve in that office no more than two successive terms. The Court of Appeals may by rule
17542 provide for an acting presiding judge to serve in the absence or incapacity of the presiding

17543 judge.
17544 (4) The presiding judge may be removed from the office of presiding judge by majority
17545 vote of all judges of the Court of Appeals. In addition to the duties of a judge of the Court of
17546 Appeals, the presiding judge shall:
17547 (a) administer the rotation and scheduling of panels;
17548 (b) act as liaison with the Supreme Court;
17549 (c) call and preside over the meetings of the Court of Appeals; and
17550 (d) carry out duties prescribed by the Supreme Court and the Judicial Council.
17551 (5) Filing fees for the Court of Appeals are the same as for the Supreme Court.
17552 Section 350. Section **78A-4-103**, which is renumbered from Section 78-2a-3 is
17553 renumbered and amended to read:
17554 **[~~78-2a-3~~]. 78A-4-103. Court of Appeals jurisdiction.**
17555 (1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue
17556 all writs and process necessary:
17557 (a) to carry into effect its judgments, orders, and decrees; or
17558 (b) in aid of its jurisdiction.
17559 (2) The Court of Appeals has appellate jurisdiction, including jurisdiction of
17560 interlocutory appeals, over:
17561 (a) the final orders and decrees resulting from formal adjudicative proceedings of state
17562 agencies or appeals from the district court review of informal adjudicative proceedings of the
17563 agencies, except the Public Service Commission, State Tax Commission, School and
17564 Institutional Trust Lands Board of Trustees, Division of Forestry, Fire and State Lands actions
17565 reviewed by the executive director of the Department of Natural Resources, Board of Oil, Gas,
17566 and Mining, and the state engineer;
17567 (b) appeals from the district court review of:
17568 (i) adjudicative proceedings of agencies of political subdivisions of the state or other
17569 local agencies; and
17570 (ii) a challenge to agency action under Section 63-46a-12.1;
17571 (c) appeals from the juvenile courts;
17572 (d) interlocutory appeals from any court of record in criminal cases, except those
17573 involving a charge of a first degree or capital felony;

17574 (e) appeals from a court of record in criminal cases, except those involving a
17575 conviction or charge of a first degree felony or capital felony;
17576 (f) appeals from orders on petitions for extraordinary writs sought by persons who are
17577 incarcerated or serving any other criminal sentence, except petitions constituting a challenge to
17578 a conviction of or the sentence for a first degree or capital felony;
17579 (g) appeals from the orders on petitions for extraordinary writs challenging the
17580 decisions of the Board of Pardons and Parole except in cases involving a first degree or capital
17581 felony;
17582 (h) appeals from district court involving domestic relations cases, including, but not
17583 limited to, divorce, annulment, property division, child custody, support, parent-time,
17584 visitation, adoption, and paternity;
17585 (i) appeals from the Utah Military Court; and
17586 (j) cases transferred to the Court of Appeals from the Supreme Court.
17587 (3) The Court of Appeals upon its own motion only and by the vote of four judges of
17588 the court may certify to the Supreme Court for original appellate review and determination any
17589 matter over which the Court of Appeals has original appellate jurisdiction.
17590 (4) The Court of Appeals shall comply with the requirements of Title 63, Chapter 46b,
17591 Administrative Procedures Act, in its review of agency adjudicative proceedings.
17592 Section 351. Section **78A-4-104**, which is renumbered from Section 78-2a-5 is
17593 renumbered and amended to read:
17594 **[~~78-2a-5~~]. 78A-4-104. Location of Court of Appeals.**
17595 The Court of Appeals has its principal location in Salt Lake City. The Court of Appeals
17596 may perform any of its functions in any location within the state.
17597 Section 352. Section **78A-4-105**, which is renumbered from Section 78-2a-4 is
17598 renumbered and amended to read:
17599 **[~~78-2a-4~~]. 78A-4-105. Review of actions by Supreme Court.**
17600 Review of the judgments, orders, and decrees of the Court of Appeals shall be by
17601 petition for writ of certiorari to the Supreme Court.
17602 Section 353. Section **78A-4-106**, which is renumbered from Section 78-2a-6 is
17603 renumbered and amended to read:
17604 **[~~78-2a-6~~]. 78A-4-106. Appellate Mediation Office -- Protected records and**

17605 **information -- Governmental immunity.**
17606 (1) Unless a more restrictive rule of court is adopted pursuant to Subsection
17607 63-2-201(3)(b), information and records relating to any matter on appeal received or generated
17608 by the Chief Appellate Mediator or other staff of the Appellate Mediation Office as a result of
17609 any party's participation or lack of participation in the settlement program shall be maintained
17610 as protected records pursuant to Subsections 63-2-304(16), (17), (18), and (33).
17611 (2) In addition to the access restrictions on protected records provided in Section
17612 63-2-202, the information and records may not be disclosed to judges, staff, or employees of
17613 any court of this state.
17614 (3) The Chief Appellate Mediator may disclose statistical and other demographic
17615 information as may be necessary and useful to report on the status and to allow supervision and
17616 oversight of the Appellate Mediation Office.
17617 (4) When acting as mediators, the Chief Appellate Mediator and other professional
17618 staff of the Appellate Mediation Office shall be immune from liability pursuant to Title 63,
17619 Chapter 30d, Governmental Immunity Act of Utah.
17620 (5) Pursuant to Utah Constitution, Article VIII, Section 4, the Supreme Court may
17621 exercise overall supervision of the Appellate Mediation Office as part of the appellate process.
17622 Section 354. Section **78A-5-101**, which is renumbered from Section 78-3-11.5 is
17623 renumbered and amended to read:
17624 **CHAPTER 5. DISTRICT COURT**
17625 **Part 1. General Provisions**
17626 **[~~78-3-11.5~~]. 78A-5-101. State District Court Administrative System.**
17627 (1) The district court is a trial court of general jurisdiction.
17628 [~~(1)~~] (2) There is established a State District Court Administrative System. The
17629 Judicial Council shall administer the operation of the system.
17630 [~~(2)~~] (3) In this chapter, "court system" means the State District Court Administrative
17631 System.
17632 [~~(3) The~~] (4) A district court shall be located in the county seat of each county [~~shall~~
17633 ~~be a location of the district court~~].
17634 Section 355. Section **78A-5-102**, which is renumbered from Section 78-3-4 is
17635 renumbered and amended to read:

17636 **[~~78-3-4~~]. 78A-5-102. Jurisdiction -- Appeals.**
17637 (1) The district court has original jurisdiction in all matters civil and criminal, not
17638 excepted in the Utah Constitution and not prohibited by law.
17639 (2) The district court judges may issue all extraordinary writs and other writs necessary
17640 to carry into effect their orders, judgments, and decrees.
17641 (3) The district court has jurisdiction over matters of lawyer discipline consistent with
17642 the rules of the Supreme Court.
17643 (4) The district court has jurisdiction over all matters properly filed in the circuit court
17644 prior to July 1, 1996.
17645 (5) The district court has appellate jurisdiction to adjudicate trials de novo of the
17646 judgments of the justice court and of the small claims department of the district court.
17647 (6) Appeals from the final orders, judgments, and decrees of the district court are under
17648 Sections [~~78-2-2~~] 78A-3-102 and [~~78-2a-3~~] 78A-4-103.
17649 (7) The district court has jurisdiction to review:
17650 (a) agency adjudicative proceedings as set forth in Title 63, Chapter 46b,
17651 Administrative Procedures Act, and shall comply with the requirements of that chapter, in its
17652 review of agency adjudicative proceedings; and
17653 (b) municipal administrative proceedings in accordance with Section 10-3-703.7.
17654 (8) Notwithstanding Subsection (1), the district court has subject matter jurisdiction in
17655 class B misdemeanors, class C misdemeanors, infractions, and violations of ordinances only if:
17656 (a) there is no justice court with territorial jurisdiction;
17657 [~~(b) the matter was properly filed in the circuit court prior to July 1, 1996;~~]
17658 [~~(c)~~] (b) the offense occurred within the boundaries of the municipality in which the
17659 district courthouse is located and that municipality has not formed a justice court; or
17660 [~~(d)~~] (c) they are included in an indictment or information covering a single criminal
17661 episode alleging the commission of a felony or a class A misdemeanor.
17662 (9) The district court has jurisdiction of actions under Title [~~78~~] 78B, Chapter [~~3h~~] 7,
17663 Part 2, Child Protective Orders, if the juvenile court transfers the case to the district court.
17664 Section 356. Section **78A-5-103**, which is renumbered from Section 78-3-14.2 is
17665 renumbered and amended to read:
17666 **[~~78-3-14.2~~]. 78A-5-103. District court case management.**

17667 (1) The district court of each district shall develop systems of case management.
17668 (2) The case management systems developed by a district court shall:
17669 (a) ensure judicial accountability for the just and timely disposition of cases; and
17670 (b) provide for each judge a full judicial work load that accommodates differences in
17671 the subject matter or complexity of cases assigned to different judges[~~; and~~].
17672 [~~(c) provide that judges of the district court and judges of the court formerly~~
17673 ~~denominated the circuit court who took office prior to July 1, 1991, are entitled to be assigned~~
17674 ~~only cases from the subject matter jurisdiction of their respective courts as that jurisdiction~~
17675 ~~existed on June 30, 1996. If the volume of such cases does not constitute a full work load,~~
17676 ~~other cases shall be assigned.~~]
17677 (3) A district court may establish divisions within the court for the efficient
17678 management of different types of cases. The existence of divisions within the court may not:
17679 (a) affect the jurisdiction of the court nor the validity of court orders[~~. The existence of~~
17680 ~~divisions within the court may not~~]; or
17681 (b) impede public access to the courts.
17682 Section 357. Section **78A-5-104**, which is renumbered from Section 78-3-6 is
17683 renumbered and amended to read:
17684 **[~~78-3-6~~]. 78A-5-104. Terms -- Minimum of once quarterly.**
17685 Each district court shall hold court at the county seat of each county within the district
17686 at least once in each quarter of the year.
17687 Section 358. Section **78A-5-105**, which is renumbered from Section 78-3-3 is
17688 renumbered and amended to read:
17689 **[~~78-3-3~~]. 78A-5-105. Term of judges -- Vacancy.**
17690 (1) Judges of the district courts shall be appointed initially until the first general
17691 election held more than three years after the effective date of the appointment. Thereafter, the
17692 term of office for judges of the district courts is six years, and commences on the first Monday
17693 in January, next following the date of election.
17694 (2) A judge whose term expires may serve, upon request of the Judicial Council, until a
17695 successor is appointed and qualified.
17696 Section 359. Section **78A-5-106**, which is renumbered from Section 78-3-29 is
17697 renumbered and amended to read:

17698 **[~~78-3-29~~]. 78A-5-106. Presiding judge -- Associate presiding judge -- Election**
17699 **-- Term -- Compensation -- Powers -- Duties.**
17700 (1) In judicial districts having more than one judge, the district court judges shall elect
17701 one judge of the district to the office of presiding judge.
17702 (2) In judicial districts having more than two judges, the district court judges may elect
17703 one judge of the district to the office of associate presiding judge.
17704 (3) In districts having five or more full-time judges, court commissioners, referees, or
17705 hearing officers, the presiding judge shall receive an additional $2,000 per annum as
17706 compensation.
17707 (4) In districts having ten or more full-time judges, court commissioners, referees, or
17708 hearing officers, the associate presiding judge shall receive an additional $2,000 per annum as
17709 compensation.
17710 (5) The presiding judge has the following authority and responsibilities, consistent with
17711 the policies of the Judicial Council:
17712 (a) implementing policies of the Judicial Council; and
17713 (b) exercising powers and performing administrative duties as authorized by the
17714 Judicial Council.
17715 (6) When the presiding judge is unavailable, the associate presiding judge shall assume
17716 the responsibilities of the presiding judge. The associate presiding judge shall perform other
17717 duties assigned by the presiding judge.
17718 Section 360. Section **78A-5-107**, which is renumbered from Section 78-3-31 is
17719 renumbered and amended to read:
17720 **[~~78-3-31~~]. 78A-5-107. Court commissioners -- Qualifications -- Appointment --**
17721 **Functions governed by rule.**
17722 (1) (a) Court commissioners are quasi-judicial officers of courts of record and have
17723 limited judicial authority as provided by this section and rules of the Judicial Council.
17724 (b) Court commissioners serve full-time and are subject to the restrictions of Section
17725 [~~78-7-2~~] 78A-2-221, which prohibits the practice of law.
17726 (2) (a) The Judicial Council shall appoint court commissioners with the concurrence of
17727 a majority of the judges of trial courts in the district the court commissioner primarily serves.
17728 (b) The Judicial Council may assign court commissioners appointed under this section

17729 to serve in one or more judicial districts.
17730 (3) A person appointed as a court commissioner shall have the following
17731 qualifications:
17732 (a) be 25 years of age or older;
17733 (b) be a citizen of the United States;
17734 (c) be a resident of this state while serving as court commissioner;
17735 (d) be admitted to the practice of law in this state; and
17736 (e) possess ability and experience in the areas of law in which the commissioner will
17737 be serving.
17738 (4) A court commissioner shall take and subscribe to the oath of office as required by
17739 Article IV, Sec. 10, Utah Constitution, prior to assuming the duties of the office.
17740 (5) Court commissioners shall:
17741 (a) comply with applicable constitutional and statutory provisions, court rules and
17742 procedures, and rules of the Judicial Council;
17743 (b) comply with the Code of Judicial Conduct to the same extent as full-time judges;
17744 and
17745 (c) successfully complete orientation and education programs as required by the
17746 Judicial Council.
17747 (6) The presiding judge of the district the commissioner primarily serves:
17748 (a) shall develop a performance plan for the court commissioner and annually conduct
17749 an evaluation of the commissioner's performance, and shall provide the plan and evaluations to
17750 the Judicial Council upon request; and
17751 (b) is responsible for the day-to-day supervision of the court commissioner.
17752 (7) The Judicial Council shall:
17753 (a) establish by rule procedures for the investigation and review of complaints and the
17754 discipline and removal of court commissioners; and
17755 (b) evaluate court commissioners under the requirements of Subsection [~~78-3-21(4)~~]
17756 78A-2-104(5).
17757 (8) The Judicial Council shall make uniform statewide rules defining the duties and
17758 authority of court commissioners for each level of court they serve. The rules shall not exceed
17759 constitutional limitations upon the delegation of judicial authority. The rules shall at a

17760 minimum establish:
17761 (a) types of cases and matters commissioners may hear;
17762 (b) types of orders commissioners may recommend;
17763 (c) types of relief commissioners may recommend; and
17764 (d) procedure for timely judicial review of recommendations and orders made by court
17765 commissioners.
17766 Section 361. Section **78A-5-108**, which is renumbered from Section 78-3-30 is
17767 renumbered and amended to read:
17768 **[~~78-3-30~~]. 78A-5-108. Duties of the clerk of the district court.**
17769 The clerk of the district court shall:
17770 (1) take charge of and safely keep the court seal;
17771 (2) take charge of and safely keep or dispose of all books, papers, and records filed or
17772 deposited with the clerk, and all other records required by law or the rules of the Judicial
17773 Council;
17774 (3) issue all notices, processes, and summonses as authorized by law;
17775 (4) keep a record of all proceedings, actions, orders, judgments, and decrees of the
17776 court;
17777 (5) take and certify acknowledgments and administer oaths;
17778 (6) supervise the deputy clerks as required to perform the duties of the clerk's office;
17779 and
17780 (7) perform other duties as required by the presiding judge, the court executive,
17781 applicable law, and the rules of the Judicial Council.
17782 Section 362. Section **78A-5-109**, which is renumbered from Section 78-3-12.5 is
17783 renumbered and amended to read:
17784 **[~~78-3-12.5~~]. 78A-5-109. Costs of system.**
17785 (1) The cost of salaries, travel, and training required for the discharge of the duties of
17786 district court judges, court commissioners, secretaries of judges or court executives, court
17787 executives, and court reporters shall be paid from appropriations made by the Legislature.
17788 (2) Except as provided in Subsection (1), the Judicial Council may directly provide for
17789 the actual and necessary expenses of operation of the district court, including personnel salary
17790 and benefits, travel, training, facilities, security, equipment, furniture, supplies, legal reference

17791 materials, and other operating expenses, or may contract with the county in a county seat or
17792 with the unit of local government in municipalities other than a county seat for the actual and
17793 necessary expenses of the district court. Any necessary contract with the county or unit of local
17794 government shall be pursuant to Subsection [~~78-3-13.4~~] 78A-5-111(4).
17795 Section 363. Section **78A-5-110**, which is renumbered from Section 78-3-14.5 is
17796 renumbered and amended to read:
17797 **[~~78-3-14.5~~]. 78A-5-110. Allocation of district court fees and forfeitures.**
17798 (1) Except as provided in this section, district court fines and forfeitures collected for
17799 violation of state statutes shall be paid to the state treasurer.
17800 (2) Fines and forfeitures collected by the court for violation of a state statute or county
17801 or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the
17802 state treasurer and 1/2 to the treasurer of the state or local governmental entity which
17803 prosecutes or which would prosecute the violation.
17804 (3) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code
17805 of Utah, Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter 18, State Boating
17806 Act, shall be paid to the state treasurer.
17807 (a) For violations of Title 23, the state treasurer shall allocate 85% to the Division of
17808 Wildlife Resources and 15% to the General Fund.
17809 (b) For violations of Title 41, Chapter 22, or Title 73, Chapter 18, the state treasurer
17810 shall allocate 85% to the Division of Parks and Recreation and 15% to the General Fund.
17811 (4) Fines and forfeitures collected for violation of Section 72-7-404 or 72-7-406, less
17812 fees established by the Judicial Council, shall be paid to the state treasurer for deposit in the B
17813 and C road account. Fees established by the Judicial Council shall be deposited in the state
17814 General Fund. Money deposited in the class B and C road account is supplemental to the
17815 money appropriated under Section 72-2-107 but shall be expended in the same manner as other
17816 class B and C road funds.
17817 (5) Until July 1, 2007, fines and forfeitures collected by the court for a violation of
17818 Subsection 41-1a-1303(2) related to registration of vehicles after establishing residency shall
17819 be remitted:
17820 (a) 50% to the state or local governmental entity which issued the citation for a
17821 violation to be used for law enforcement purposes; and

17822 (b) 50% in accordance with Subsection (2).
17823 (6) Fines and forfeitures collected for any violations not specified in this chapter or
17824 otherwise provided for by law shall be paid to the state treasurer.
17825 (7) Fees collected in connection with civil actions filed in the district court shall be
17826 paid to the state treasurer.
17827 (8) The court shall remit money collected in accordance with Title 51, Chapter 7, State
17828 Money Management Act.
17829 Section 364. Section **78A-5-111**, which is renumbered from Section 78-3-13.4 is
17830 renumbered and amended to read:
17831 **[~~78-3-13.4~~]. 78A-5-111. Transfer of court operating responsibilities -- Facilities**
17832 **-- Staff -- Budget.**
17833 (1) A county's determination to transfer responsibility for operation of the district court
17834 to the state is irrevocable.
17835 (2) (a) Court space suitable for the conduct of judicial business as specified by the
17836 Judicial Council shall be provided by the state from appropriations made by the Legislature for
17837 these purposes.
17838 (b) The state may, in order to carry out its obligation to provide these facilities, lease
17839 space from a county, or reimburse a county for the number of square feet used by the district.
17840 Any lease and reimbursement shall be determined in accordance with the standards of the State
17841 Building Board applicable to state agencies generally. A county or municipality terminating a
17842 lease with the court shall provide written notice to the Judicial Council at least one year prior to
17843 the effective date of the termination.
17844 (c) District courts shall be located in municipalities that are sites for the district court
17845 or circuit court as of January 1, 1994. Removal of the district court from the municipality shall
17846 require prior legislative approval by joint resolution.
17847 (3) The state shall provide legal reference materials for all district judges' chambers
17848 and courtrooms, as required by Judicial Council rule. Maintenance of county law libraries shall
17849 be in consultation with the court executive of the district court.
17850 (4) (a) At the request of the Judicial Council, the county or municipality shall provide
17851 staff for the district court in county seats or municipalities under contract with the
17852 administrative office of the courts.

17853 (b) Payment for necessary expenses shall be by a contract entered into annually
17854 between the state and the county or municipality, which shall specifically state the agreed costs
17855 of personnel, supplies, and services, as well as the method and terms of payment.
17856 (c) Workload measures prepared by the state court administrator and projected costs
17857 for the next fiscal year shall be considered in the negotiation of contracts.
17858 (d) Each May 1 preceding the general session of the Legislature, the county or
17859 municipality shall submit a budget request to the Judicial Council, the governor, and the
17860 legislative fiscal analyst for services to be rendered as part of the contract under Subsection (b)
17861 for the fiscal year immediately following the legislative session. The Judicial Council shall
17862 consider this information in developing its budget request. The legislative fiscal analyst shall
17863 provide the Legislature with the county's or municipality's original estimate of expenses. By
17864 June 15 preceding the state's fiscal year, the county and the state court administrator shall
17865 negotiate a contract to cover expenses in accordance with the appropriation approved by the
17866 Legislature. The contracts may not include payments for expenses of service of process,
17867 indigent defense costs, or other costs or expenses provided by law as an obligation of the
17868 county or municipality.
17869 Section 365. Section **78A-5-201**, which is renumbered from Section 78-3-32 is
17870 renumbered and amended to read:
17871 **Part 2. Drug Court**
17872 **[~~78-3-32~~]. 78A-5-201. Creation and expansion of existing drug court programs**
17873 **-- Definition of drug court program -- Criteria for participation in drug court programs**
17874 **-- Reporting requirements.**
17875 (1) There may be created a drug court program in any judicial district that
17876 demonstrates:
17877 (a) the need for a drug court program; and
17878 (b) the existence of a collaborative strategy between the court, prosecutors, defense
17879 counsel, corrections, and substance abuse treatment services to reduce substance abuse by
17880 offenders.
17881 (2) The collaborative strategy in each drug court program shall:
17882 (a) include monitoring and evaluation components to measure program effectiveness;
17883 and

17884 (b) be submitted to, for the purpose of coordinating the disbursement of funding, the:
17885 (i) executive director of the Department of Human Services;
17886 (ii) executive director of the Department of Corrections; and
17887 (iii) state court administrator.
17888 (3) (a) Funds disbursed to a drug court program shall be allocated as follows:
17889 (i) 87% to the Department of Human Services for testing, treatment, and case
17890 management; and
17891 (ii) 13% to the Administrative Office of the Courts for increased judicial and court
17892 support costs.
17893 (b) This provision does not apply to Federal Block Grant funds.
17894 (4) A drug court program shall include continuous judicial supervision using a
17895 cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment
17896 services, juvenile court probation, and the Division of Child and Family Services as appropriate
17897 to promote public safety, protect participants' due process rights, and integrate substance abuse
17898 treatment with justice system case processing.
17899 (5) Screening criteria for participation in a drug court program shall include:
17900 (a) a plea to, conviction of, or adjudication for a nonviolent drug offense or
17901 drug-related offense;
17902 (b) an agreement to frequent alcohol and other drug testing;
17903 (c) participation in one or more substance abuse treatment programs; and
17904 (d) an agreement to submit to sanctions for noncompliance with drug court program
17905 requirements.
17906 Section 366. Section **78A-5-202**, which is renumbered from Section 78-3-33 is
17907 renumbered and amended to read:
17908 **[~~78-3-33~~]. 78A-5-202. Creation of Drug Board Pilot Project -- Definition of**
17909 **Drug Board Pilot Project -- Criteria for parolee participation in the Drug Board Pilot**
17910 **Project -- Reporting requirements.**
17911 (1) There may be created a Drug Board Pilot Project in Davis and Weber counties that
17912 includes intensive substance abuse treatment, frequent drug testing, and other additional
17913 conditions of parole, with the expectation that the offender will be required to complete the
17914 substance abuse treatment, remain drug free, and meet all other conditions of parole.

17915 (2) Screening criteria for parolee participation in the Drug Board Pilot Project shall:
17916 (a) be determined by the Board of Pardons and Parole and the Department of
17917 Corrections; and
17918 (b) include parolees who are facing an eminent return to prison due to substance abuse.
17919 Section 367. Section **78A-6-101**, which is renumbered from Section 78-3a-101 is
17920 renumbered and amended to read:
17921 **CHAPTER 6. JUVENILE COURT ACT OF 1996**
17922 **Part 1. General Provisions**
17923 **[~~78-3a-101~~]. 78A-6-101. Title.**
17924 This chapter is known as the "Juvenile Court Act of 1996."
17925 Section 368. Section **78A-6-102**, which is renumbered from Section 78-3a-102 is
17926 renumbered and amended to read:
17927 **[~~78-3a-102~~]. 78A-6-102. Establishment of juvenile court -- Organization**
17928 **and status of court -- Purpose.**
17929 (1) There is established for the state a juvenile court.
17930 (2) The juvenile court is a court of record. It shall have a seal, and its judges, clerks,
17931 and referees have the power to administer oaths and affirmations.
17932 (3) The juvenile court is of equal status with the district courts of the state.
17933 (4) The juvenile court is established as a forum for the resolution of all matters
17934 properly brought before it, consistent with applicable constitutional and statutory requirements
17935 of due process.
17936 (5) The purpose of the court under this chapter is to:
17937 (a) promote public safety and individual accountability by the imposition of
17938 appropriate sanctions on persons who have committed acts in violation of law;
17939 (b) order appropriate measures to promote guidance and control, preferably in the
17940 minor's own home, as an aid in the prevention of future unlawful conduct and the development
17941 of responsible citizenship;
17942 (c) where appropriate, order rehabilitation, reeducation, and treatment for persons who
17943 have committed acts bringing them within the court's jurisdiction;
17944 (d) adjudicate matters that relate to minors who are beyond parental or adult control
17945 and to establish appropriate authority over these minors by means of placement and control

17946 orders;
17947 (e) adjudicate matters that relate to abused, neglected, and dependent children and to
17948 provide care and protection for minors by placement, protection, and custody orders;
17949 (f) remove a minor from parental custody only where the minor's safety or welfare, or
17950 the public safety, may not otherwise be adequately safeguarded; and
17951 (g) consistent with the ends of justice, act in the best interests of the minor in all cases
17952 and preserve and strengthen family ties.
17953 Section 369. Section **78A-6-103**, which is renumbered from Section 78-3a-104 is
17954 renumbered and amended to read:
17955 **[~~78-3a-104~~]. 78A-6-103. Jurisdiction of juvenile court -- Original --**
17956 **Exclusive.**
17957 (1) Except as otherwise provided by law, the juvenile court has exclusive original
17958 jurisdiction in proceedings concerning:
17959 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
17960 person younger than 21 years of age who has violated any law or ordinance before becoming
17961 18 years of age, regardless of where the violation occurred, excluding traffic laws and boating
17962 and ordinances;
17963 (b) a person 21 years of age or older who has failed or refused to comply with an order
17964 of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's
17965 21st birthday; however, the continuing jurisdiction is limited to causing compliance with
17966 existing orders;
17967 (c) a child who is an abused child, neglected child, or dependent child, as those terms
17968 are defined in Section [~~78-3a-103~~] 78A-6-105;
17969 (d) a protective order for a child pursuant to the provisions of Title [~~78~~] 78B, Chapter
17970 [~~3h~~] 7, Part 2, Child Protective Orders, which the juvenile court may transfer to the district
17971 court if the juvenile court has entered an ex parte protective order and finds that:
17972 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
17973 parent of the child who is the object of the petition;
17974 (ii) the district court has a petition pending or an order related to custody or parent-time
17975 entered under Title 30, Chapter 3, Divorce, Title [~~30~~] 78B, Chapter [~~6~~] 7, Part 1, Cohabitant
17976 Abuse Act, or Title [~~78~~] 78B, Chapter [~~45g~~] 15, Utah Uniform Parentage Act, in which the

17977 petitioner and the respondent are parties; and
17978 (iii) the best interests of the child will be better served in the district court;
17979 (e) appointment of a guardian of the person or other guardian of a minor who comes
17980 within the court's jurisdiction under other provisions of this section;
17981 (f) the emancipation of a minor in accordance with Part [~~10~~] 8, Emancipation;
17982 (g) the termination of the legal parent-child relationship in accordance with Part [~~4~~] 5,
17983 Termination of Parental Rights Act, including termination of residual parental rights and
17984 duties;
17985 (h) the treatment or commitment of a mentally retarded minor;
17986 (i) a minor who is a habitual truant from school;
17987 (j) the judicial consent to the marriage of a child under age 16 upon a determination of
17988 voluntariness or where otherwise required by law, employment, or enlistment of a child when
17989 consent is required by law;
17990 (k) any parent or parents of a child committed to a secure youth corrections facility, to
17991 order, at the discretion of the court and on the recommendation of a secure facility, the parent
17992 or parents of a child committed to a secure facility for a custodial term, to undergo group
17993 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of
17994 that parent's or parents' child, or any other therapist the court may direct, for a period directed
17995 by the court as recommended by a secure facility;
17996 (l) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;
17997 (m) the treatment or commitment of a mentally ill child. The court may commit a child
17998 to the physical custody of a local mental health authority in accordance with the procedures and
17999 requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to
18000 Division of Substance Abuse and Mental Health. The court may not commit a child directly to
18001 the Utah State Hospital;
18002 (n) the commitment of a child in accordance with Section 62A-15-301;
18003 (o) de novo review of final agency actions resulting from an informal adjudicative
18004 proceeding as provided in Section 63-46b-15; and
18005 (p) adoptions conducted in accordance with the procedures described in Title [~~78~~] 78B,
18006 Chapter [~~30,~~] 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an
18007 order terminating the rights of a parent and finds that adoption is in the best interest of the

18008 child.
18009 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive
18010 jurisdiction over any traffic or boating offense committed by a person under 16 years of age
18011 and concurrent jurisdiction over all other traffic or boating offenses committed by a person 16
18012 years of age or older, except that the court shall have exclusive jurisdiction over the following
18013 offenses committed by a child:
18014 (a) Section 76-5-207, automobile homicide;
18015 (b) Section 41-6a-502, operating a vehicle while under the influence of alcohol or
18016 drugs;
18017 (c) Section 41-6a-528, reckless driving or Section 73-18-12, reckless operation;
18018 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or
18019 semitrailer for an extended period of time; and
18020 (e) Section 41-6a-210 or 73-18-20, fleeing a peace officer.
18021 (3) The court also has jurisdiction over traffic and boating offenses that are part of a
18022 single criminal episode filed in a petition that contains an offense over which the court has
18023 jurisdiction.
18024 (4) The juvenile court has jurisdiction over an ungovernable or runaway child who is
18025 referred to it by the Division of Child and Family Services or by public or private agencies that
18026 contract with the division to provide services to that child where, despite earnest and persistent
18027 efforts by the division or agency, the child has demonstrated that the child:
18028 (a) is beyond the control of the child's parent, guardian, lawful custodian, or school
18029 authorities to the extent that the child's behavior or condition endangers the child's own welfare
18030 or the welfare of others; or
18031 (b) has run away from home.
18032 (5) This section does not restrict the right of access to the juvenile court by private
18033 agencies or other persons.
18034 (6) The juvenile court has jurisdiction of all magistrate functions relative to cases
18035 arising under Section [~~78-3a-602~~] 78A-6-702.
18036 (7) The juvenile court has jurisdiction to make a finding of substantiated,
18037 unsubstantiated, or without merit, in accordance with Section [~~78-3a-320~~] 78A-6-323.
18038 Section 370. Section **78A-6-104**, which is renumbered from Section 78-3a-105 is

18039 renumbered and amended to read:
18040 **[~~78-3a-105~~]. 78A-6-104. Concurrent jurisdiction -- District court and**
18041 **juvenile court.**
18042 (1) The district court or other court has concurrent jurisdiction with the juvenile court
18043 as follows:
18044 (a) when a person who is 18 years of age or older and who is under the continuing
18045 jurisdiction of the juvenile court under Section [~~78-3a-118~~] 78A-6-117 violates any federal,
18046 state, or local law or municipal ordinance; and
18047 (b) in establishing paternity and ordering testing for the purposes of establishing
18048 paternity, in accordance with Title [~~78~~] 78B, Chapter [~~45g~~] 15, Utah Uniform Parentage Act,
18049 with regard to proceedings initiated under Part 3, Abuse, Neglect, and Dependency
18050 Proceedings, or Part [~~4~~] 5, Termination of Parental Rights Act.
18051 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth
18052 certificate if the court otherwise has jurisdiction over the minor.
18053 (3) This section does not deprive the district court of jurisdiction to appoint a guardian
18054 for a child, or to determine the support, custody, and parent-time of a child upon writ of habeas
18055 corpus or when the question of support, custody, and parent-time is incidental to the
18056 determination of a cause in the district court.
18057 (4) (a) Where a support, custody, or parent-time award has been made by a district
18058 court in a divorce action or other proceeding, and the jurisdiction of the district court in the
18059 case is continuing, the juvenile court may acquire jurisdiction in a case involving the same
18060 child if the child is dependent, abused, neglected, or otherwise comes within the jurisdiction of
18061 the juvenile court under Section [~~78-3a-104~~] 78A-6-103.
18062 (b) The juvenile court may, by order, change the custody, subject to Subsection
18063 30-3-10(4), support, parent-time, and visitation rights previously ordered in the district court as
18064 necessary to implement the order of the juvenile court for the safety and welfare of the child.
18065 The juvenile court order remains in effect so long as the jurisdiction of the juvenile court
18066 continues.
18067 (c) When a copy of the findings and order of the juvenile court has been filed with the
18068 district court, the findings and order of the juvenile court are binding on the parties to the
18069 divorce action as though entered in the district court.

18070 (5) The juvenile court has jurisdiction over questions of custody, support, and
18071 parent-time, of a minor who comes within the court's jurisdiction under this section or Section
18072 [~~78-3a-104~~] 78A-6-103.
18073 Section 371. Section **78A-6-105**, which is renumbered from Section 78-3a-103 is
18074 renumbered and amended to read:
18075 **[~~78-3a-103~~]. 78A-6-105. Definitions.**
18076 [~~(1)~~] As used in this chapter:
18077 [~~(a)~~] (1) "Abused child" includes a child who:
18078 [~~(i)~~] (a) has suffered or been threatened with nonaccidental physical or mental harm,
18079 negligent treatment, or sexual exploitation; or
18080 [~~(ii)~~] (b) has been the victim of any sexual abuse.
18081 [~~(b)~~] (2) "Adjudication" means a finding by the court, incorporated in a decree, that the
18082 facts alleged in the petition have been proved.
18083 [~~(c)~~] (3) "Adult" means a person 18 years of age or over, except that a person 18 years
18084 or over under the continuing jurisdiction of the juvenile court pursuant to Section [~~78-3a-121~~]
18085 78A-6-120 shall be referred to as a minor.
18086 [~~(d)~~] (4) "Board" means the Board of Juvenile Court Judges.
18087 [~~(e)~~] (5) "Child" means a person under 18 years of age.
18088 [~~(f)~~] (6) "Child placement agency" means:
18089 [~~(i)~~] (a) a private agency licensed to receive a child for placement or adoption under
18090 this code; or
18091 [~~(ii)~~] (b) a private agency that receives a child for placement or adoption in another
18092 state, which agency is licensed or approved where such license or approval is required by law.
18093 [~~(g)~~] (7) "Clandestine laboratory operation" is as defined in Section 58-37d-3.
18094 [~~(h)~~] (8) "Commit" means, unless specified otherwise:
18095 [~~(i)~~] (a) with respect to a child, to transfer legal custody; and
18096 [~~(ii)~~] (b) with respect to a minor who is at least 18 years of age, to transfer custody.
18097 [~~(i)~~] (9) "Court" means the juvenile court.
18098 [~~(j)~~] (10) "Dependent child" includes a child who is homeless or without proper care
18099 through no fault of the child's parent, guardian, or custodian.
18100 [~~(k)~~] (11) "Deprivation of custody" means transfer of legal custody by the court from a

18101 parent or the parents or a previous legal custodian to another person, agency, or institution.
18102 [~~(l)~~] (12) "Detention" means home detention and secure detention as defined in Section
18103 62A-7-101 for the temporary care of a minor who requires secure custody in a physically
18104 restricting facility:
18105 [~~(i)~~] (a) pending court disposition or transfer to another jurisdiction; or
18106 [~~(ii)~~] (b) while under the continuing jurisdiction of the court.
18107 [~~(m)~~] (13) "Division" means the Division of Child and Family Services.
18108 [~~(n)~~] (14) "Formal referral" means a written report from a peace officer or other person
18109 informing the court that a minor is or appears to be within the court's jurisdiction and that a
18110 petition may be filed.
18111 [~~(o)~~] (15) "Group rehabilitation therapy" means psychological and social counseling of
18112 one or more persons in the group, depending upon the recommendation of the therapist.
18113 [~~(p)~~] (16) "Guardianship of the person" includes the authority to consent to:
18114 [~~(i)~~] (a) marriage;
18115 [~~(ii)~~] (b) enlistment in the armed forces;
18116 [~~(iii)~~] (c) major medical, surgical, or psychiatric treatment; or
18117 [~~(iv)~~] (d) legal custody, if legal custody is not vested in another person, agency, or
18118 institution.
18119 [~~(q)~~] (17) "Habitual truant" is as defined in Section 53A-11-101.
18120 [~~(r)~~] (18) "Legal custody" means a relationship embodying the following rights and
18121 duties:
18122 [~~(i)~~] (a) the right to physical custody of the minor;
18123 [~~(ii)~~] (b) the right and duty to protect, train, and discipline the minor;
18124 [~~(iii)~~] (c) the duty to provide the minor with food, clothing, shelter, education, and
18125 ordinary medical care;
18126 [~~(iv)~~] (d) the right to determine where and with whom the minor shall live; and
18127 [~~(v)~~] (e) the right, in an emergency, to authorize surgery or other extraordinary care.
18128 [~~(s)~~] (19) "Minor" means:
18129 [~~(i)~~] (a) a child; or
18130 [~~(ii)~~] (b) a person who is:
18131 [~~(A)~~] (i) at least 18 years of age and younger than 21 years of age; and

18132 [~~(B)~~] (ii) under the jurisdiction of the juvenile court.
18133 [~~(t)~~] (20) "Natural parent" means a minor's biological or adoptive parent, and includes
18134 the minor's noncustodial parent.
18135 [~~(u) (i)~~] (21) (a) "Neglected child" means a child:
18136 [~~(A)~~] (i) whose parent, guardian, or custodian has abandoned the child, except as
18137 provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;
18138 [~~(B)~~] (ii) whose parent, guardian, or custodian has subjected the child to mistreatment
18139 or abuse;
18140 [~~(C)~~] (iii) who lacks proper parental care by reason of the fault or habits of the parent,
18141 guardian, or custodian;
18142 [~~(D)~~] (iv) whose parent, guardian, or custodian fails or refuses to provide proper or
18143 necessary subsistence, education, or medical care, including surgery or psychiatric services
18144 when required, or any other care necessary for health, safety, morals, or well-being;
18145 [~~(E)~~] (v) who is at risk of being a neglected or abused child as defined in this chapter
18146 because another child in the same home is a neglected or abused child as defined in this
18147 chapter; or
18148 [~~(F)~~] (vi) whose parent permits the minor to reside, on a permanent or temporary basis,
18149 at the location of a clandestine laboratory operation.
18150 [~~(ii)~~] (b) The aspect of neglect related to education, described in Subsection
18151 [~~(1)(u)(i)(D)~~] (21)(a)(iv), means that, after receiving notice that a child has been frequently
18152 absent from school without good cause, or that the child has failed to cooperate with school
18153 authorities in a reasonable manner, a parent or guardian fails to make a good faith effort to
18154 ensure that the child receives an appropriate education.
18155 [~~(iii)~~] (c) A parent or guardian legitimately practicing religious beliefs and who, for
18156 that reason, does not provide specified medical treatment for a child, is not guilty of neglect.
18157 [~~(iv)~~] (d) Notwithstanding Subsection [~~(1)(u)(i)~~] (21)(a), a health care decision made
18158 for a child by the child's parent or guardian does not constitute neglect unless the state or other
18159 party to the proceeding shows, by clear and convincing evidence, that the health care decision
18160 is not reasonable and informed.
18161 [~~(v)~~] (e) Nothing in Subsection [~~(1)(u)(iv)~~] (21)(d) may prohibit a parent or guardian
18162 from exercising the right to obtain a second health care opinion.

18163 [~~(v)~~] (22) "Nonjudicial adjustment" means closure of the case by the assigned
18164 probation officer without judicial determination upon the consent in writing of:
18165 [~~(i)~~] (a) the assigned probation officer; and
18166 [~~(ii) (A)~~] (b) (i) the minor; or
18167 [~~(B)~~] (ii) the minor and the minor's parent, legal guardian, or custodian.
18168 [~~(w)~~] (23) "Probation" means a legal status created by court order following an
18169 adjudication on the ground of a violation of law or under Section [~~78-3a-104~~] 78A-6-103,
18170 whereby the minor is permitted to remain in the minor's home under prescribed conditions and
18171 under supervision by the probation department or other agency designated by the court, subject
18172 to return to the court for violation of any of the conditions prescribed.
18173 [~~(x)~~] (24) "Protective supervision" means a legal status created by court order
18174 following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor
18175 is permitted to remain in the minor's home, and supervision and assistance to correct the abuse,
18176 neglect, or dependency is provided by the probation department or other agency designated by
18177 the court.
18178 [~~(y) (i)~~] (25) (a) "Residual parental rights and duties" means those rights and duties
18179 remaining with the parent after legal custody or guardianship, or both, have been vested in
18180 another person or agency, including:
18181 [~~(A)~~] (i) the responsibility for support;
18182 [~~(B)~~] (ii) the right to consent to adoption;
18183 [~~(C)~~] (iii) the right to determine the child's religious affiliation; and
18184 [~~(D)~~] (iv) the right to reasonable parent-time unless restricted by the court.
18185 [~~(ii)~~] (b) If no guardian has been appointed, "residual parental rights and duties" also
18186 include the right to consent to:
18187 [~~(A)~~] (i) marriage;
18188 [~~(B)~~] (ii) enlistment; and
18189 [~~(C)~~] (iii) major medical, surgical, or psychiatric treatment.
18190 [~~(z)~~] (26) "Secure facility" means any facility operated by or under contract with the
18191 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
18192 youth offenders committed to the division for custody and rehabilitation.
18193 [~~(aa)~~] (27) "Shelter" means the temporary care of a child in a physically unrestricted

18194 facility pending court disposition or transfer to another jurisdiction.
18195 [~~(bb)~~] (28) "State supervision" means a disposition that provides a more intensive level
18196 of intervention than standard probation but is less intensive or restrictive than a community
18197 placement with the Division of Juvenile Justice Services.
18198 [~~(cc)~~] (29) "Substantiated" is as defined in Section 62A-4a-101.
18199 [~~(dd)~~] (30) "Supported" is as defined in Section 62A-4a-101.
18200 [~~(ee)~~] (31) "Termination of parental rights" means the permanent elimination of all
18201 parental rights and duties, including residual parental rights and duties, by court order.
18202 [~~(ff)~~] (32) "Therapist" means:
18203 [~~(i)~~] (a) a person employed by a state division or agency for the purpose of conducting
18204 psychological treatment and counseling of a minor in its custody; or
18205 [~~(ii)~~] (b) any other person licensed or approved by the state for the purpose of
18206 conducting psychological treatment and counseling.
18207 [~~(gg)~~] (33) "Unsubstantiated" is as defined in Section 62A-4a-101.
18208 [~~(hh)~~] (34) "Without merit" is as defined in Section 62A-4a-101.
18209 [~~(2) As used in Part 3, Abuse, Neglect, and Dependency Proceedings, with regard to~~
18210 ~~the Division of Child and Family Services:~~]
18211 [~~(a) "Custody" means the custody of a minor in the Division of Child and Family~~
18212 ~~Services as of the date of disposition.~~]
18213 [~~(b) "Protective custody" means the shelter of a child by the Division of Child and~~
18214 ~~Family Services from the time the child is removed from home until the earlier of:~~]
18215 [~~(i) the shelter hearing; or~~]
18216 [~~(ii) the child's return home.~~]
18217 [~~(c) "Temporary custody" means the custody of a child in the Division of Child and~~
18218 ~~Family Services from the date of the shelter hearing until disposition.~~]
18219 Section 372. Section **78A-6-106**, which is renumbered from Section 78-3a-106 is
18220 renumbered and amended to read:
18221 **[~~78-3a-106~~]. 78A-6-106. Search warrants and subpoenas -- Authority to**
18222 **issue -- Protective custody -- Expedited hearing.**
18223 (1) The court has authority to issue search warrants, subpoenas, or investigative
18224 subpoenas in criminal cases, delinquency, and abuse, neglect, and dependency proceedings for

18225 the same purposes, in the same manner and pursuant to the same procedures set forth in the
18226 code of criminal procedure for the issuance of search warrants, subpoenas, or investigative
18227 subpoenas in other trial courts in the state.
18228 (2) A peace officer or child welfare worker may not enter the home of a child who is
18229 not under the jurisdiction of the court, remove a child from the child's home or school, or take a
18230 child into protective custody unless:
18231 (a) there exist exigent circumstances sufficient to relieve the peace officer or child
18232 welfare worker of the requirement to obtain a warrant;
18233 (b) the peace officer or child welfare worker obtains a search warrant under Subsection
18234 (3);
18235 (c) the peace officer or child welfare worker obtains a court order after the parent or
18236 guardian of the child is given notice and an opportunity to be heard; or
18237 (d) the peace officer or child welfare worker obtains the consent of the child's parent or
18238 guardian.
18239 (3) (a) The court may issue a warrant authorizing a child protective services worker or
18240 peace officer to search for a child and take the child into protective custody if it appears to the
18241 court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace
18242 officer or any other person, and upon the examination of other witnesses, if required by the
18243 judge, that there is probable cause to believe that:
18244 (i) there is a threat of substantial harm to the child's health or safety;
18245 (ii) it is necessary to take the child into protective custody to avoid the harm described
18246 in Subsection (3)(a)(i); and
18247 (iii) it is likely that the child will suffer substantial harm if the parent or guardian of the
18248 child is given notice and an opportunity to be heard before the child is taken into protective
18249 custody.
18250 (b) Pursuant to Section 77-23-210, a peace officer making the search may enter a house
18251 or premises by force, if necessary, in order to remove the child.
18252 (c) The person executing the warrant shall then take the child to the place of shelter
18253 designated by the court or the division.
18254 (4) (a) Consistent with Subsection (5), the court shall hold an expedited hearing to
18255 determine whether a child should be placed in protective custody if:

18256 (i) a person files a petition under Section [~~78-3a-305~~] 78A-6-304;
18257 (ii) a party to the proceeding files a "Motion for Expedited Placement in Temporary
18258 Custody"; and
18259 (iii) notice of the hearing described in this Subsection (4)(a) is served consistent with
18260 the requirements for notice of a shelter hearing under Section [~~78-3a-306~~] 78A-6-306.
18261 (b) The hearing described in Subsection (4)(a):
18262 (i) shall be held within 72 hours, excluding weekends and holidays, of the filing of the
18263 motion described in Subsection (4)(a)(ii); and
18264 (ii) shall be considered a shelter hearing under Section [~~78-3a-306~~] 78A-6-306 and
18265 Utah Rules of Juvenile Procedure, Rule 13.
18266 (5) (a) The hearing and notice described in Subsection (4) are subject to:
18267 (i) Section [~~78-3a-306~~] 78A-6-306;
18268 (ii) Section [~~78-3a-307~~] 78A-6-307; and
18269 (iii) the Utah Rules of Juvenile Procedure.
18270 (b) After the hearing described in Subsection (4), a court may order a child placed in
18271 the temporary custody of the division.
18272 (6) When notice to a parent or guardian is required by this section:
18273 (a) the parent or guardian to be notified must be:
18274 (i) the child's primary caregiver; or
18275 (ii) the parent or guardian who has custody of the child, when the order is sought; and
18276 (b) the person required to provide notice shall make a good faith effort to provide
18277 notice to a parent or guardian who:
18278 (i) is not required to be notified under Subsection (6)(a); and
18279 (ii) has the right to parent-time with the child.
18280 Section 373. Section **78A-6-107**, which is renumbered from Section 78-3a-106.5 is
18281 renumbered and amended to read:
18282 **[~~78-3a-106.5~~]. 78A-6-107. Expedited filing of petition -- Expedited**
18283 **hearings.**
18284 (1) For purposes of this section, "petition" means a petition, under Section [~~78-3a-305~~]
18285 78A-6-304, to commence proceedings in a juvenile court alleging that a child is:
18286 (a) abused;

18287 (b) neglected; or
18288 (c) dependent.
18289 (2) If a petition is requested by the division, the attorney general shall file the petition
18290 within 72 hours of the completion of the division's investigation and request, excluding
18291 weekends and holidays, if:
18292 (a) the child who is the subject of the requested petition is not removed from the child's
18293 home by the division; and
18294 (b) without an expedited hearing and services ordered under the protective supervision
18295 of the court, the child will likely be taken into protective custody.
18296 (3) The court shall give scheduling priority to the pretrial and adjudication hearings on
18297 a petition if:
18298 (a) the child who is the subject of the petition is not in:
18299 (i) protective custody; or
18300 (ii) temporary custody; and
18301 (b) the division indicates in the petition that, without expedited hearings and services
18302 ordered under the protective supervision of the court, the child will likely be taken into
18303 protective custody.
18304 Section 374. Section **78A-6-108**, which is renumbered from Section 78-3a-109 is
18305 renumbered and amended to read:
18306 **[~~78-3a-109~~]. 78A-6-108. Title of petition and other court documents --**
18307 **Form and contents of petition -- Order for temporary custody or protective services --**
18308 **Physical or psychological examination of minor, parent, or guardian -- Dismissal of**
18309 **petition.**
18310 (1) The petition and all subsequent court documents in the proceeding shall be entitled:
18311 "State of Utah, in the interest of....., a person under 18 years of age (or a
18312 person under 21 years of age)."
18313 (2) The petition shall be verified and statements in the petition may be made upon
18314 information and belief.
18315 (3) The petition shall be written in simple and brief language and include the facts
18316 which bring the minor within the jurisdiction of the court, as provided in Section [~~78-3a-104~~]
18317 78A-6-103.

18318 (4) The petition shall further state:
18319 (a) the name, age, and residence of the minor;
18320 (b) the names and residences of the minor's parents;
18321 (c) the name and residence of the guardian, if there is one;
18322 (d) the name and address of the nearest known relative, if no parent or guardian of a
18323 minor is known; and
18324 (e) the name and residence of the person having physical custody of the minor. If any
18325 of the facts required are not known by the petitioner, the petition shall so state.
18326 (5) At any time after a petition is filed, the court may make an order:
18327 (a) providing for temporary custody of the minor; or
18328 (b) that the Division of Child and Family Services provide protective services to the
18329 child, if the court determines that:
18330 (i) the child is at risk of being removed from the child's home due to abuse or neglect;
18331 and
18332 (ii) the provision of protective services may make the removal described in Subsection
18333 (5)(b)(i) unnecessary.
18334 (6) The court may order that a minor concerning whom a petition has been filed shall
18335 be examined by a physician, surgeon, psychiatrist, or psychologist and may place the minor in a
18336 hospital or other facility for examination. After notice and a hearing set for the specific
18337 purpose, the court may order a similar examination of a parent or guardian whose ability to care
18338 for a minor is at issue, if the court finds from the evidence presented at the hearing that the
18339 parent's or guardian's physical, mental, or emotional condition may be a factor in causing the
18340 neglect, dependency, or delinquency of the minor.
18341 (7) Pursuant to Rule 506(d)(3), Utah Rules of Evidence, examinations conducted
18342 pursuant to Subsection (6) are not privileged communications, but are exempt from the general
18343 rule of privilege.
18344 (8) The court may dismiss a petition at any stage of the proceedings.
18345 (9) If the petition is filed under Section [~~78-3a-305~~] 78A-6-304 or [~~78-3a-405~~]
18346 78A-6-505 or if the matter is referred to the court under Subsection [~~78-3a-105~~] 78A-6-104(5),
18347 the court may require the parties to participate in mediation in accordance with Title [~~78~~] 78B,
18348 Chapter [~~31b~~] 6, Part 2, Alternative Dispute Resolution.

18349 Section 375. Section **78A-6-109**, which is renumbered from Section 78-3a-110 is
18350 renumbered and amended to read:
18351 **[~~78-3a-110~~]. 78A-6-109. Summons -- Service and process -- Issuance and**
18352 **contents -- Notice to absent parent or guardian -- Emergency medical or surgical**
18353 **treatment -- Compulsory process for attendance of witnesses when authorized.**
18354 (1) After a petition is filed the court shall promptly issue a summons, unless the judge
18355 directs that a further investigation is needed. No summons is required as to any person who
18356 appears voluntarily or who files a written waiver of service with the clerk of the court at or
18357 prior to the hearing.
18358 (2) The summons shall contain:
18359 (a) the name of the court;
18360 (b) the title of the proceedings; and
18361 (c) except for a published summons, a brief statement of the substance of the
18362 allegations in the petition.
18363 (3) A published summons shall state:
18364 (a) that a proceeding concerning the minor is pending in the court; and
18365 (b) an adjudication will be made.
18366 (4) The summons shall require the person or persons who have physical custody of the
18367 minor to appear personally and bring the minor before the court at a time and place stated. If
18368 the person or persons summoned are not the parent, parents, or guardian of the minor, the
18369 summons shall also be issued to the parent, parents, or guardian, as the case may be, notifying
18370 them of the pendency of the case and of the time and place set for the hearing.
18371 (5) Summons may be issued requiring the appearance of any other person whose
18372 presence the court finds necessary.
18373 (6) If it appears to the court that the welfare of the minor or of the public requires that
18374 the minor be taken into custody, the court may by endorsement upon the summons direct that
18375 the person serving the summons take the minor into custody at once.
18376 (7) Subject to Subsection [~~78-3a-118~~] 78A-6-117(2)(n)(iii), upon the sworn testimony
18377 of one or more reputable physicians, the court may order emergency medical or surgical
18378 treatment that is immediately necessary for a minor concerning whom a petition has been filed
18379 pending the service of summons upon the minor's parents, guardian, or custodian.

18380 (8) A parent or guardian is entitled to the issuance of compulsory process for the
18381 attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor. A
18382 guardian ad litem or a probation officer is entitled to compulsory process for the attendance of
18383 witnesses on behalf of the minor.
18384 (9) Service of summons and process and proof of service shall be made in the manner
18385 provided in the Utah Rules of Civil Procedure.
18386 (10) Service of summons or process shall be made by the sheriff of the county where
18387 the service is to be made, or by his deputy; but upon request of the court service shall be made
18388 by any other peace officer, or by another suitable person selected by the court.
18389 (11) Service of summons in the state shall be made personally, by delivering a copy to
18390 the person summoned; provided, however, that parents of a minor living together at their usual
18391 place of abode may both be served by personal delivery to either parent of copies of the
18392 summons, one copy for each parent.
18393 (12) If the judge makes a written finding that he has reason to believe that personal
18394 service of the summons will be unsuccessful, or will not accomplish notification within a
18395 reasonable time after issuance of the summons, he may order service by registered mail, with a
18396 return receipt to be signed by the addressee only, to be addressed to the last-known address of
18397 the person to be served in the state. Service shall be complete upon return to the court of the
18398 signed receipt.
18399 (13) If the parents, parent, or guardian required to be summoned under Subsection (4)
18400 cannot be found within the state, the fact of their minor's presence within the state shall confer
18401 jurisdiction on the court in proceedings in a minor's case under this chapter as to any absent
18402 parent or guardian, provided that due notice has been given in the following manner:
18403 (a) If the address of the parent or guardian is known, due notice is given by sending
18404 him a copy of the summons by registered mail with a return receipt to be signed by the
18405 addressee only, or by personal service outside the state, as provided in the Utah Rules of Civil
18406 Procedure. Service by registered mail shall be complete upon return to the court of the signed
18407 receipt.
18408 (b) If the address or whereabouts of the parent or guardian outside the state cannot after
18409 diligent inquiry be ascertained, due notice is given by publishing a summons in a newspaper
18410 having general circulation in the county in which the proceeding is pending. The summons

18411 shall be published once a week for four successive weeks. Service shall be complete on the
18412 day of the last publication.
18413 (c) Service of summons as provided in this subsection shall vest the court with
18414 jurisdiction over the parent or guardian served in the same manner and to the same extent as if
18415 the person served was served personally within the state.
18416 (14) In the case of service in the state, service completed not less than 48 hours before
18417 the time set in the summons for the appearance of the person served, shall be sufficient to
18418 confer jurisdiction. In the case of service outside the state, service completed not less than five
18419 days before the time set in the summons for appearance of the person served, shall be sufficient
18420 to confer jurisdiction.
18421 (15) Computation of periods of time under this chapter shall be made in accordance
18422 with the Utah Rules of Civil Procedure.
18423 Section 376. Section **78A-6-110**, which is renumbered from Section 78-3a-111 is
18424 renumbered and amended to read:
18425 **[~~78-3a-111~~]. 78A-6-110. Venue -- Transfer or certification to other**
18426 **districts -- Dismissal without adjudication on merits.**
18427 (1) Proceedings in minor's cases shall be commenced in the court of the district in
18428 which the minor is living or is found, or in which an alleged violation of law or ordinance
18429 occurred.
18430 (2) After the filing of a petition, the court may transfer the case to the district where the
18431 minor resides or to the district where the violation of law or ordinance is alleged to have
18432 occurred. The court may, in its discretion, after adjudication certify the case for disposition to
18433 the court of the district in which the minor resides.
18434 (3) The transferring or certifying court shall transmit all documents and legal and social
18435 records, or certified copies to the receiving court, and the receiving court shall proceed with the
18436 case as if the petition had been originally filed or the adjudication had been originally made in
18437 that court.
18438 (4) The dismissal of a petition in one district where the dismissal is without prejudice
18439 and where there has been no adjudication upon the merits shall not preclude refiling within the
18440 same district or another district where there is venue of the case.
18441 Section 377. Section **78A-6-111**, which is renumbered from Section 78-3a-112 is

18442 renumbered and amended to read:
18443 **[~~78-3a-112~~]. 78A-6-111. Appearances -- Parents, guardian, or legal**
18444 **custodian to appear with minor or child -- Failure to appear -- Contempt -- Warrant of**
18445 **arrest, when authorized -- Parent's employer to grant time off -- Appointment of**
18446 **guardian ad litem.**
18447 (1) Any person required to appear who, without reasonable cause, fails to appear may
18448 be proceeded against for contempt of court, and the court may cause a bench warrant to issue to
18449 produce the person in court.
18450 (2) In all cases when a minor is required to appear in court, the parents, guardian, or
18451 other person with legal custody of the minor shall appear with the minor unless excused by the
18452 judge.
18453 (a) An employee may request permission to leave the workplace for the purpose of
18454 attending court if the employee has been notified by the juvenile court that his minor is
18455 required to appear before the court.
18456 (b) An employer must grant permission to leave the workplace with or without pay if
18457 the employee has requested permission at least seven days in advance or within 24 hours of the
18458 employee receiving notice of the hearing.
18459 (3) If a parent or other person who signed a written promise to appear and bring the
18460 child to court under Section [~~78-3a-113~~] 78A-6-112 or [~~78-3a-114~~] 78A-6-113 fails to appear
18461 and bring the child to court on the date set in the promise, or, if the date was to be set, after
18462 notification by the court, a warrant may be issued for the apprehension of that person or the
18463 child, or both.
18464 (4) Willful failure to perform the promise is a misdemeanor if, at the time of the
18465 execution of the promise, the promisor is given a copy of the promise which clearly states that
18466 failure to appear and have the child appear as promised is a misdemeanor. The juvenile court
18467 shall have jurisdiction to proceed against the promisor in adult proceedings pursuant to Part [~~8~~]
18468 10, Adult Offenses.
18469 (5) The court shall endeavor, through use of the warrant of arrest if necessary, as
18470 provided in Subsection (6), or by other means, to ensure the presence at all hearings of one or
18471 both parents or of the guardian of a child. If neither a parent nor guardian is present at the
18472 court proceedings, the court may appoint a guardian ad litem to protect the interest of a minor.

18473 A guardian ad litem may also be appointed whenever necessary for the welfare of a minor,
18474 whether or not a parent or guardian is present.
18475 (6) A warrant may be issued for a parent, a guardian, a custodian, or a minor if:
18476 (a) a summons is issued but cannot be served;
18477 (b) it is made to appear to the court that the person to be served will not obey the
18478 summons;
18479 (c) serving the summons will be ineffectual; or
18480 (d) the welfare of the minor requires that he be brought immediately into the custody of
18481 the court.
18482 Section 378. Section **78A-6-112**, which is renumbered from Section 78-3a-113 is
18483 renumbered and amended to read:
18484 **[~~78-3a-113~~]. 78A-6-112. Minor taken into custody by peace officer,**
18485 **private citizen, or probation officer -- Grounds -- Notice requirements -- Release or**
18486 **detention -- Grounds for peace officer to take adult into custody.**
18487 (1) A minor may be taken into custody by a peace officer without order of the court if:
18488 (a) in the presence of the officer the minor has violated a state law, federal law, local
18489 law, or municipal ordinance;
18490 (b) there are reasonable grounds to believe the minor has committed an act which if
18491 committed by an adult would be a felony;
18492 (c) the minor:
18493 (i) (A) is seriously endangered in the minor's surroundings; or
18494 (B) seriously endangers others; and
18495 (ii) immediate removal appears to be necessary for the minor's protection or the
18496 protection of others;
18497 (d) there are reasonable grounds to believe the minor has run away or escaped from the
18498 minor's parents, guardian, or custodian; or
18499 (e) there is reason to believe that the minor is:
18500 (i) subject to the state's compulsory education law; and
18501 (ii) absent from school without legitimate or valid excuse, subject to Section
18502 53A-11-105.
18503 (2) (a) A private citizen or a probation officer may take a minor into custody if under

18504 the circumstances he could make a citizen's arrest if the minor was an adult.
18505 (b) A probation officer may also take a minor into custody under Subsection (1) or if
18506 the minor has violated the conditions of probation, if the minor is under the continuing
18507 jurisdiction of the juvenile court or in emergency situations in which a peace officer is not
18508 immediately available.
18509 (3) (a) (i) If an officer or other person takes a minor into temporary custody, he shall
18510 without unnecessary delay notify the parents, guardian, or custodian.
18511 (ii) The minor shall then be released to the care of the minor's parent or other
18512 responsible adult, unless the minor's immediate welfare or the protection of the community
18513 requires the minor's detention.
18514 (b) If the minor is taken into custody or detention for a violent felony, as defined in
18515 Section 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the
18516 officer or other law enforcement agent taking the minor into custody shall, as soon as
18517 practicable or as established under Subsection 53A-11-1001(2), notify the school
18518 superintendent of the district in which the minor resides or attends school for the purposes of
18519 the minor's supervision and student safety.
18520 (i) The notice shall disclose only:
18521 (A) the name of the minor;
18522 (B) the offense for which the minor was taken into custody or detention; and
18523 (C) if available, the name of the victim, if the victim:
18524 (I) resides in the same school district as the minor; or
18525 (II) attends the same school as the minor.
18526 (ii) The notice shall be classified as a protected record under Section 63-2-304.
18527 (iii) All other records disclosures are governed by Title 63, Chapter 2, Government
18528 Records Access and Management Act and the Federal Family Educational Rights and Privacy
18529 Act.
18530 (c) Employees of a governmental agency are immune from any criminal liability for
18531 providing or failing to provide the information required by this section unless the person acts or
18532 fails to act due to malice, gross negligence, or deliberate indifference to the consequences.
18533 (d) Before the minor is released, the parent or other person to whom the minor is
18534 released shall be required to sign a written promise on forms supplied by the court to bring the

18535 minor to the court at a time set or to be set by the court.
18536 (4) (a) A child may not be held in temporary custody by law enforcement any longer
18537 than is reasonably necessary to obtain the child's name, age, residence, and other necessary
18538 information and to contact the child's parents, guardian, or custodian.
18539 (b) If the minor is not released under Subsection (3), the minor shall be taken to a place
18540 of detention or shelter without unnecessary delay.
18541 (5) (a) The person who takes a minor to a detention or shelter facility shall promptly
18542 file with the detention or shelter facility a written report on a form provided by the division
18543 stating the details of the presently alleged offense, the facts which bring the minor within the
18544 jurisdiction of the juvenile court, and the reason the minor was not released by law
18545 enforcement.
18546 (b) (i) The designated youth corrections facility staff person shall immediately review
18547 the form and determine, based on the guidelines for detention admissions established by the
18548 Division of Juvenile Justice Services under Section 62A-7-202, whether to admit the minor to
18549 secure detention, admit the minor to home detention, place the minor in a placement other than
18550 detention, or return the minor home upon written promise to bring the minor to the court at a
18551 time set, or without restriction.
18552 (ii) If the designated youth corrections facility staff person determines to admit the
18553 minor to home detention, that staff person shall notify the juvenile court of that determination.
18554 The court shall order that notice be provided to the designated persons in the local law
18555 enforcement agency and the school or transferee school, if applicable, which the minor attends
18556 of the home detention. The designated persons may receive the information for purposes of the
18557 minor's supervision and student safety.
18558 (iii) Any employee of the local law enforcement agency and the school which the
18559 minor attends who discloses the notification of home detention is not:
18560 (A) civilly liable except when disclosure constitutes fraud or willful misconduct as
18561 provided in Section 63-30d-202; and
18562 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
18563 of Section 63-2-801.
18564 (c) A minor may not be admitted to detention unless the minor is detainable based on
18565 the guidelines or the minor has been brought to detention pursuant to a judicial order or

18566 division warrant pursuant to Section 62A-7-504.
18567 (d) If a minor taken to detention does not qualify for admission under the guidelines
18568 established by the division under Section 62A-7-104, detention staff shall arrange appropriate
18569 placement.
18570 (e) If a minor is taken into custody and admitted to a secure detention or shelter
18571 facility, facility staff shall:
18572 (i) immediately notify the minor's parents, guardian, or custodian; and
18573 (ii) promptly notify the court of the placement.
18574 (f) If the minor is admitted to a secure detention or shelter facility outside the county of
18575 the minor's residence and it is determined in the hearing held under Subsection [~~78-3a-114~~]
18576 78A-6-113(3) that detention shall continue, the judge or commissioner shall direct the sheriff
18577 of the county of the minor's residence to transport the minor to a detention or shelter facility as
18578 provided in this section.
18579 (6) A person may be taken into custody by a peace officer without a court order if the
18580 person is in apparent violation of a protective order or if there is reason to believe that a child is
18581 being abused by the person and any of the situations outlined in Section 77-7-2 exist.
18582 Section 379. Section **78A-6-113**, which is renumbered from Section 78-3a-114 is
18583 renumbered and amended to read:
18584 **[~~78-3a-114~~]. 78A-6-113. Placement of minor in detention or shelter**
18585 **facility -- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement**
18586 **for criminal proceedings -- Bail laws inapplicable, exception.**
18587 (1) (a) A minor may not be placed or kept in a secure detention facility pending court
18588 proceedings unless it is unsafe for the public to leave the minor with the minor's parents,
18589 guardian, or custodian and the minor is detainable based on guidelines promulgated by the
18590 Division of Juvenile Justice Services.
18591 (b) A child who must be taken from the child's home but who does not require physical
18592 restriction shall be given temporary care in a shelter facility and may not be placed in a
18593 detention facility.
18594 (c) A child may not be placed or kept in a shelter facility pending court proceedings
18595 unless it is unsafe to leave the child with the child's parents, guardian, or custodian.
18596 (2) After admission of a child to a detention facility pursuant to the guidelines

18597 established by the Division of Juvenile Justice Services and immediate investigation by an
18598 authorized officer of the court, the judge or the officer shall order the release of the child to the
18599 child's parents, guardian, or custodian if it is found the child can be safely returned to their care,
18600 either upon written promise to bring the child to the court at a time set or without restriction.
18601 (a) If a child's parent, guardian, or custodian fails to retrieve the child from a facility
18602 within 24 hours after notification of release, the parent, guardian, or custodian is responsible
18603 for the cost of care for the time the child remains in the facility.
18604 (b) The facility shall determine the cost of care.
18605 (c) Any money collected under this Subsection (2) shall be retained by the Division of
18606 Juvenile Justice Services to recover the cost of care for the time the child remains in the
18607 facility.
18608 (3) (a) When a child is detained in a detention or shelter facility, the parents or
18609 guardian shall be informed by the person in charge of the facility that they have the right to a
18610 prompt hearing in court to determine whether the child is to be further detained or released.
18611 (b) When a minor is detained in a detention facility, the minor shall be informed by the
18612 person in charge of the facility that the minor has the right to a prompt hearing in court to
18613 determine whether the minor is to be further detained or released.
18614 (c) Detention hearings shall be held by the judge or by a commissioner.
18615 (d) The court may, at any time, order the release of the minor, whether a detention
18616 hearing is held or not.
18617 (e) If a child is released, and the child remains in the facility, because the parents,
18618 guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be
18619 responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).
18620 (4) (a) A minor may not be held in a detention facility longer than 48 hours prior to a
18621 detention hearing, excluding weekends and holidays, unless the court has entered an order for
18622 continued detention.
18623 (b) A child may not be held in a shelter facility longer than 48 hours prior to a shelter
18624 hearing, excluding weekends and holidays, unless a court order for extended shelter has been
18625 entered by the court after notice to all parties described in Section [~~78-3a-306~~] 78A-6-306.
18626 (c) A hearing for detention or shelter may not be waived. Detention staff shall provide
18627 the court with all information received from the person who brought the minor to the detention

18628 facility.
18629 (d) If the court finds at a detention hearing that it is not safe to release the minor, the
18630 judge or commissioner may order the minor to be held in the facility or be placed in another
18631 appropriate facility, subject to further order of the court.
18632 (e) (i) After a detention hearing has been held, only the court may release a minor from
18633 detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to
18634 the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued
18635 detention is necessary.
18636 (ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or
18637 an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that
18638 notice of its decision, including any disposition, order, or no contact orders, be provided to
18639 designated persons in the appropriate local law enforcement agency and district superintendent
18640 or the school or transferee school, if applicable, that the minor attends. The designated persons
18641 may receive the information for purposes of the minor's supervision and student safety.
18642 (iii) Any employee of the local law enforcement agency, school district, and the school
18643 that the minor attends who discloses the court's order of probation is not:
18644 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
18645 provided in Section 63-30d-202; and
18646 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
18647 of Section 63-2-801.
18648 (5) A minor may not be held in a detention facility, following a dispositional order of
18649 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for
18650 community-based placement under Section 62A-7-101 for longer than 72 hours, excluding
18651 weekends and holidays. The period of detention may be extended by the court for one period
18652 of seven calendar days if:
18653 (a) the Division of Juvenile Justice Services or another agency responsible for
18654 placement files a written petition with the court requesting the extension and setting forth good
18655 cause; and
18656 (b) the court enters a written finding that it is in the best interests of both the minor and
18657 the community to extend the period of detention.
18658 (6) The agency requesting an extension shall promptly notify the detention facility that

18659 a written petition has been filed.
18660 (7) The court shall promptly notify the detention facility regarding its initial disposition
18661 and any ruling on a petition for an extension, whether granted or denied.
18662 (8) (a) A child under 16 years of age may not be held in a jail, lockup, or other place
18663 for adult detention except as provided by Section 62A-7-201 or unless certified as an adult
18664 pursuant to Section [~~78-3a-603~~] 78A-6-703. The provisions of Section 62A-7-201 regarding
18665 confinement facilities apply to this Subsection (8).
18666 (b) A child 16 years of age or older whose conduct or condition endangers the safety or
18667 welfare of others in the detention facility for children may, by court order that specifies the
18668 reasons, be detained in another place of confinement considered appropriate by the court,
18669 including a jail or other place of confinement for adults. However, a secure youth corrections
18670 facility is not an appropriate place of confinement for detention purposes under this section.
18671 (9) A sheriff, warden, or other official in charge of a jail or other facility for the
18672 detention of adult offenders or persons charged with crime shall immediately notify the
18673 juvenile court when a person who is or appears to be under 18 years of age is received at the
18674 facility and shall make arrangements for the transfer of the person to a detention facility, unless
18675 otherwise ordered by the juvenile court.
18676 (10) This section does not apply to a minor who is brought to the adult facility under
18677 charges pursuant to Section [~~78-3a-602~~] 78A-6-702 or by order of the juvenile court to be held
18678 for criminal proceedings in the district court under Section [~~78-3a-603~~] 78A-6-703.
18679 (11) A minor held for criminal proceedings under Section [~~78-3a-602~~] 78A-6-702 or
18680 [~~78-3a-603~~] 78A-6-703 may be detained in a jail or other place of detention used for adults
18681 charged with crime.
18682 (12) Provisions of law regarding bail are not applicable to minors detained or taken
18683 into custody under this chapter, except that bail may be allowed:
18684 (a) if a minor who need not be detained lives outside this state; or
18685 (b) when a minor who need not be detained comes within one of the classes in
18686 Subsection [~~78-3a-503~~] 78A-6-603(11).
18687 (13) Section 76-8-418 is applicable to a child who willfully and intentionally commits
18688 an act against a jail or other place of confinement, including a Division of Juvenile Justice
18689 Services detention, shelter, or secure confinement facility which would be a third degree felony

18690 if committed by an adult.
18691 Section 380. Section **78A-6-114**, which is renumbered from Section 78-3a-115 is
18692 renumbered and amended to read:
18693 **[~~78-3a-115~~]. 78A-6-114. Hearings -- Public excluded, exceptions --**
18694 **Victims admitted -- Minor's cases heard separately from adult cases -- Minor or parents**
18695 **or custodian heard separately -- Continuance of hearing -- Consolidation of proceedings**
18696 **involving more than one minor.**
18697 (1) Hearings in minor's cases shall be held before the court without a jury and may be
18698 conducted in an informal manner.
18699 [~~(a) In abuse, neglect, and dependency cases in all districts other than pilot districts~~
18700 ~~selected by the Judicial Council under Subsection 78-3-21(15)(a), the court shall exclude the~~
18701 ~~general public from hearings held prior to July 1, 2004.~~]
18702 (a) (i) In abuse, neglect, and dependency cases the court shall admit any person to a
18703 hearing, including a hearing under Section 78A-6-322, unless the court makes a finding upon
18704 the record that the person's presence at the hearing would:
18705 (A) be detrimental to the best interest of a child who is a party to the proceeding;
18706 (B) impair the fact-finding process; or
18707 (C) be otherwise contrary to the interests of justice.
18708 (ii) The court may exclude a person from a hearing under Subsection (1)(a)(i) on its
18709 own motion or by motion of a party to the proceeding.
18710 (b) In delinquency cases the court shall admit all persons who have a direct interest in
18711 the case and may admit persons requested by the parent or legal guardian to be present. The
18712 court shall exclude all other persons except as provided in Subsection (1)(c).
18713 (c) In delinquency cases in which the minor charged is 14 years of age or older, the
18714 court shall admit any person unless the hearing is closed by the court upon findings on the
18715 record for good cause if:
18716 (i) the minor has been charged with an offense which would be a felony if committed
18717 by an adult; or
18718 (ii) the minor is charged with an offense that would be a class A or B misdemeanor if
18719 committed by an adult, and the minor has been previously charged with an offense which
18720 would be a misdemeanor or felony if committed by an adult.

18721 (d) The victim of any act charged in a petition or information involving an offense
18722 committed by a minor which if committed by an adult would be a felony or a class A or class B
18723 misdemeanor shall, upon request, be afforded all rights afforded victims in Title 77, Chapter
18724 36, Cohabitant Abuse Procedures Act, Title 77, Chapter 37, Victims' Rights, and Title 77,
18725 Chapter 38, Rights of Crime Victims Act. The notice provisions in Section 77-38-3 do not
18726 apply to important juvenile justice hearings as defined in Section 77-38-2.
18727 (e) A victim, upon request to appropriate juvenile court personnel, shall have the right
18728 to inspect and duplicate juvenile court legal records that have not been expunged concerning:
18729 (i) the scheduling of any court hearings on the petition;
18730 (ii) any findings made by the court; and
18731 (iii) any sentence or decree imposed by the court.
18732 (2) Minor's cases shall be heard separately from adult cases. The minor or the parents
18733 or custodian of a minor may be heard separately when considered necessary by the court. The
18734 hearing may be continued from time to time to a date specified by court order.
18735 (3) When more than one child is involved in a home situation which may be found to
18736 constitute neglect or dependency, or when more than one minor is alleged to be involved in the
18737 same law violation, the proceedings may be consolidated, except that separate hearings may be
18738 held with respect to disposition.
18739 Section 381. Section **78A-6-115**, which is renumbered from Section 78-3a-116 is
18740 renumbered and amended to read:
18741 **[~~78-3a-116~~]. 78A-6-115. Hearings -- Record -- County attorney or district**
18742 **attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility**
18743 **of evidence.**
18744 (1) (a) A verbatim record of the proceedings shall be taken by an official court reporter
18745 or by means of a mechanical recording device in all cases that might result in deprivation of
18746 custody as defined in this chapter. In all other cases a verbatim record shall also be made
18747 unless dispensed with by the court.
18748 (b) (i) Notwithstanding any other provision, including Title 63, Chapter 2, Government
18749 Records Access and Management Act, a record of a proceeding made under Subsection (1)(a)
18750 shall be released by the court to any person upon a finding on the record for good cause.
18751 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the

18752 court shall:
18753 (A) provide notice to all subjects of the record that a request for release of the record
18754 has been made; and
18755 (B) allow sufficient time for the subjects of the record to respond before making a
18756 finding on the petition.
18757 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the
18758 court's jurisdiction over the subjects of the proceeding ended more than 12 months prior to the
18759 request.
18760 (iv) For purposes of this Subsection (1)(b):
18761 (A) "record of a proceeding" does not include documentary materials of any type
18762 submitted to the court as part of the proceeding, including items submitted under Subsection
18763 (4)(a); and
18764 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal
18765 guardian, the Division of Child and Family Services, and any other party to the proceeding.
18766 (v) This Subsection (1)(b) applies:
18767 (A) to records of proceedings made on or after November 1, 2003 in districts selected
18768 by the Judicial Council as pilot districts under Subsection [~~78-3-21~~] 78A-2-104(15)[~~(a)~~]; and
18769 (B) to records of proceedings made on or after July 1, 2004 in all other districts.
18770 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a
18771 prosecution district, the district attorney shall represent the state in any proceeding in a minor's
18772 case.
18773 (b) The attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child
18774 and Family Services, and [~~Title 78, Chapter 3a, Juvenile Court Act of 1996~~] this chapter,
18775 relating to:
18776 (i) protection or custody of an abused, neglected, or dependent child; and
18777 (ii) petitions for termination of parental rights.
18778 (c) The attorney general shall represent the Division of Child and Family Services in
18779 actions involving a minor who is not adjudicated as abused or neglected, but who is otherwise
18780 committed to the custody of that division by the juvenile court, and who is classified in the
18781 division's management information system as having been placed in custody primarily on the
18782 basis of delinquent behavior or a status offense. Nothing in this Subsection (2)(c) may be

18783 construed to affect the responsibility of the county attorney or district attorney to represent the
18784 state in those matters, in accordance with the provisions of Subsection (2)(a).
18785 (3) The board may adopt special rules of procedure to govern proceedings involving
18786 violations of traffic laws or ordinances, [~~fish and game~~] wildlife laws, and boating laws.
18787 However, proceedings involving offenses under Section [~~78-3a-506~~] 78A-6-606 are governed
18788 by that section regarding suspension of driving privileges.
18789 (4) (a) For the purposes of determining proper disposition of the minor in dispositional
18790 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and
18791 in hearings upon petitions for termination of parental rights, written reports and other material
18792 relating to the minor's mental, physical, and social history and condition may be received in
18793 evidence and may be considered by the court along with other evidence. The court may require
18794 that the person who wrote the report or prepared the material appear as a witness if the person
18795 is reasonably available.
18796 (b) For the purpose of determining proper disposition of a minor alleged to be or
18797 adjudicated as abused, neglected, or dependent, dispositional reports prepared by Foster Care
18798 Citizen Review Boards pursuant to Section [~~78-3g-103~~] 78B-8-103 may be received in
18799 evidence and may be considered by the court along with other evidence. The court may require
18800 any person who participated in preparing the dispositional report to appear as a witness, if the
18801 person is reasonably available.
18802 (5) (a) In an abuse, neglect, or dependency proceeding occurring after the
18803 commencement of a shelter hearing under Section [~~78-3a-306~~] 78A-6-306 or the filing of a
18804 petition under Section [~~78-3a-305~~] 78A-6-304, each party to the proceeding shall provide in
18805 writing to the other parties or their counsel any information which the party:
18806 (i) plans to report to the court at the proceeding; or
18807 (ii) could reasonably expect would be requested of the party by the court at the
18808 proceeding.
18809 (b) The disclosure required under Subsection (5)(a) shall be made:
18810 (i) for dispositional hearings under Sections [~~78-3a-310~~] 78A-6-311 and [~~78-3a-311~~]
18811 78A-6-312, no less than five days before the proceeding;
18812 (ii) for proceedings under Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part [~~4~~] 5, Termination of
18813 Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

18814 (iii) for all other proceedings, no less than five days before the proceeding.
18815 (c) If a party to a proceeding obtains information after the deadline in Subsection
18816 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the
18817 party certifies to the court that the information was obtained after the deadline.
18818 (d) Subsection (5)(a) does not apply to:
18819 (i) pretrial hearings; and
18820 (ii) the frequent, periodic review hearings held in a dependency drug court case to
18821 assess and promote the parent's progress in substance abuse treatment.
18822 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court
18823 may, in its discretion, consider evidence of statements made by a child under eight years of age
18824 to a person in a trust relationship.
18825 Section 382. Section **78A-6-116**, which is renumbered from Section 78-3a-117 is
18826 renumbered and amended to read:
18827 **[~~78-3a-117~~]. 78A-6-116. Minor's cases considered civil proceedings --**
18828 **Adjudication of jurisdiction by juvenile court not conviction of crime, exceptions --**
18829 **Minor not to be charged with crime, exception -- Traffic violation cases, abstracts to**
18830 **Department of Public Safety.**
18831 (1) Except as provided in Sections [~~78-3a-602~~] 78A-6-702 and [~~78-3a-603~~]
18832 78A-6-703, proceedings in a minor's case shall be regarded as a civil proceeding with the court
18833 exercising equitable powers.
18834 (2) An adjudication by a juvenile court that a minor is within its jurisdiction under
18835 Section [~~78-3a-104~~] 78A-6-103 is not considered a conviction of a crime, except in cases
18836 involving traffic violations. An adjudication may not operate to impose any civil disabilities
18837 upon the minor nor to disqualify the minor for any civil service or military service or
18838 appointment.
18839 (3) A minor may not be charged with a crime or convicted in any court except as
18840 provided in Sections [~~78-3a-602~~] 78A-6-702 and [~~78-3a-603~~] 78A-6-703, and in cases
18841 involving traffic violations. When a petition has been filed in the juvenile court, the minor may
18842 not later be subjected to criminal prosecution based on the same facts except as provided in
18843 Section [~~78-3a-602~~] 78A-6-702 or [~~78-3a-603~~] 78A-6-703.
18844 (4) An adjudication by a juvenile court that a minor is within its jurisdiction under

18845 Section [~~78-3a-104~~] 78A-6-103 is considered a conviction for the purposes of determining the
18846 level of offense for which a minor may be charged and enhancing the level of an offense in the
18847 juvenile court. A prior adjudication may be used to enhance the level or degree of an offense
18848 committed by an adult only as otherwise specifically provided.
18849 (5) Abstracts of court records for all adjudications of traffic violations shall be
18850 submitted to the Department of Public Safety as provided in Section 53-3-218.
18851 (6) Information necessary to collect unpaid fines, fees, assessments, bail, or restitution
18852 may be forwarded to employers, financial institutions, law enforcement, constables, the Office
18853 of Recovery Services, or other agencies for purposes of enforcing the order as provided in
18854 Section [~~78-3a-118~~] 78A-6-117.
18855 Section 383. Section **78A-6-117**, which is renumbered from Section 78-3a-118 is
18856 renumbered and amended to read:
18857 **[~~78-3a-118~~]. 78A-6-117. Adjudication of jurisdiction of juvenile court --**
18858 **Disposition of cases -- Enumeration of possible court orders -- Considerations of court --**
18859 **Obtaining DNA sample.**
18860 (1) (a) When a minor is found to come within the provisions of Section [~~78-3a-104~~]
18861 78A-6-103, the court shall so adjudicate. The court shall make a finding of the facts upon
18862 which it bases its jurisdiction over the minor. However, in cases within the provisions of
18863 Subsection [~~78-3a-104~~] 78A-6-103(1), findings of fact are not necessary.
18864 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
18865 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
18866 to the school superintendent of the district in which the minor resides or attends school. Notice
18867 shall be made to the district superintendent within three days of the adjudication and shall
18868 include:
18869 (i) the specific offenses for which the minor was adjudicated; and
18870 (ii) if available, if the victim:
18871 (A) resides in the same school district as the minor; or
18872 (B) attends the same school as the minor.
18873 (2) Upon adjudication the court may make the following dispositions by court order:
18874 (a) (i) The court may place the minor on probation or under protective supervision in
18875 the minor's own home and upon conditions determined by the court, including compensatory

18876 service as provided in [~~Section 78-11-20.7~~] Subsection (2)(m)(iii).
18877 (ii) The court may place the minor in state supervision with the probation department
18878 of the court, under the legal custody of:
18879 (A) the minor's parent or guardian;
18880 (B) the Division of Juvenile Justice Services; or
18881 (C) the Division of Child and Family Services.
18882 (iii) If the court orders probation or state supervision, the court shall direct that notice
18883 of its order be provided to designated persons in the local law enforcement agency and the
18884 school or transferee school, if applicable, that the minor attends. The designated persons may
18885 receive the information for purposes of the minor's supervision and student safety.
18886 (iv) Any employee of the local law enforcement agency and the school that the minor
18887 attends who discloses the court's order of probation is not:
18888 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
18889 provided in Section 63-30d-202; and
18890 (B) civilly or criminally liable except when the disclosure constitutes a knowing
18891 violation of Section 63-2-801.
18892 (b) The court may place the minor in the legal custody of a relative or other suitable
18893 person, with or without probation or protective supervision, but the juvenile court may not
18894 assume the function of developing foster home services.
18895 (c) (i) The court may:
18896 (A) vest legal custody of the minor in the Division of Child and Family Services,
18897 Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health;
18898 and
18899 (B) order the Department of Human Services to provide dispositional
18900 recommendations and services.
18901 (ii) For minors who may qualify for services from two or more divisions within the
18902 Department of Human Services, the court may vest legal custody with the department.
18903 (iii) (A) A minor who is committed to the custody of the Division of Child and Family
18904 Services on grounds other than abuse or neglect is subject to the provisions of Title [~~78~~] 78A,
18905 Chapter [~~3a~~] 6, Part [~~3A~~] 4, Minors in Custody on Grounds Other Than Abuse or Neglect, and
18906 Title 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

18907 (B) Prior to the court entering an order to place a minor in the custody of the Division
18908 of Child and Family Services on grounds other than abuse or neglect, the court shall provide
18909 the division with notice of the hearing no later than five days before the time specified for the
18910 hearing so the division may attend the hearing.
18911 (C) Prior to committing a child to the custody of the Division of Child and Family
18912 Services, the court shall make a finding as to what reasonable efforts have been attempted to
18913 prevent the child's removal from the child's home.
18914 (d) (i) The court may commit a minor to the Division of Juvenile Justice Services for
18915 secure confinement.
18916 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
18917 or dependency under Subsection [~~78-3a-104~~] 78A-6-103(1)(c) may not be committed to the
18918 Division of Juvenile Justice Services.
18919 (e) The court may commit a minor, subject to the court retaining continuing
18920 jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice
18921 Services for observation and evaluation for a period not to exceed 45 days, which period may
18922 be extended up to 15 days at the request of the director of the Division of Juvenile Justice
18923 Services.
18924 (f) (i) The court may commit a minor to a place of detention or an alternative to
18925 detention for a period not to exceed 30 days subject to the court retaining continuing
18926 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions
18927 ordered by the court.
18928 (ii) This Subsection (2)(f) applies only to a minor adjudicated for:
18929 (A) an act which if committed by an adult would be a criminal offense; or
18930 (B) contempt of court under Section [~~78-3a-901~~] 78A-6-1101.
18931 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
18932 the Division of Child and Family Services or any other appropriate person in accordance with
18933 the requirements and procedures of Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part 3, Abuse, Neglect, and
18934 Dependency Proceedings.
18935 (h) The court may place a minor on a ranch or forestry camp, or similar facility for care
18936 and also for work, if possible, if the person, agency, or association operating the facility has
18937 been approved or has otherwise complied with all applicable state and local laws. A minor

18938 placed in a forestry camp or similar facility may be required to work on fire prevention,
18939 forestation and reforestation, recreational works, forest roads, and on other works on or off the
18940 grounds of the facility and may be paid wages, subject to the approval of and under conditions
18941 set by the court.
18942 (i) (i) The court may order a minor to repair, replace, or otherwise make restitution for
18943 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in
18944 Section [~~78-3a-318~~] 78A-6-321 and impose fines in limited amounts.
18945 (ii) The court may also require a minor to reimburse an individual, entity, or
18946 governmental agency who offered and paid a reward to a person or persons for providing
18947 information resulting in a court adjudication that the minor is within the jurisdiction of the
18948 juvenile court due to the commission of a criminal offense.
18949 (iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the
18950 court may order the minor to make restitution for costs expended by any governmental entity
18951 for the return.
18952 (j) The court may issue orders necessary for the collection of restitution and fines
18953 ordered by the court, including garnishments, wage withholdings, and executions.
18954 (k) (i) The court may through its probation department encourage the development of
18955 employment or work programs to enable minors to fulfill their obligations under Subsection
18956 (2)(i) and for other purposes considered desirable by the court.
18957 (ii) Consistent with the order of the court, the probation officer may permit a minor
18958 found to be within the jurisdiction of the court to participate in a program of work restitution or
18959 compensatory service in lieu of paying part or all of the fine imposed by the court.
18960 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in
18961 addition to any other disposition authorized by this section:
18962 (A) restrain the minor from driving for periods of time the court considers necessary;
18963 and
18964 (B) take possession of the minor's driver license.
18965 (ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the
18966 suspension of driving privileges for an offense under Section [~~78-3a-506~~] 78A-6-606 are
18967 governed only by Section [~~78-3a-506~~] 78A-6-606.
18968 (m) (i) When a minor is found within the jurisdiction of the juvenile court under

18969 Section [~~78-3a-104~~] 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a,
18970 Utah Drug Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act,
18971 the court shall, in addition to any fines or fees otherwise imposed, order that the minor perform
18972 a minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
18973 completion of an approved substance abuse prevention or treatment program may be credited
18974 by the court as compensatory service hours.
18975 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
18976 [~~78-3a-104~~] 78A-6-103 because of a violation of Section 32A-12-209 or Subsection
18977 76-9-701(1), the court may, upon the first adjudication, and shall, upon a second or subsequent
18978 adjudication, order that the minor perform a minimum of 20 hours, but no more than 100 hours
18979 of compensatory service, in addition to any fines or fees otherwise imposed. Satisfactory
18980 completion of an approved substance abuse prevention or treatment program may be credited
18981 by the court as compensatory service hours.
18982 (iii) When a minor is found within the jurisdiction of the juvenile court under Section
18983 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may
18984 order the minor to clean up graffiti created by the minor or any other person at a time and place
18985 within the jurisdiction of the court. Compensatory service required under this section may be
18986 performed in the presence and under the direct supervision of the minor's parent or legal
18987 guardian. The parent or legal guardian shall report completion of the order to the court. The
18988 minor or the minor's parent or legal guardian, if applicable, shall be responsible for removal
18989 costs as determined under Section 76-6-107, unless waived by the court for good cause. The
18990 court may also require the minor to perform other alternative forms of restitution or repair to
18991 the damaged property pursuant to Subsection 77-18-1(8).
18992 (A) For a first adjudication, the court may require the minor to clean up graffiti for not
18993 less than eight hours.
18994 (B) For a second adjudication, the court may require the minor to clean up graffiti for
18995 not less than 16 hours.
18996 (C) For a third adjudication, the court may require the minor to clean up graffiti for not
18997 less than 24 hours.
18998 (n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:
18999 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

19000 (B) receive other special care.
19001 (ii) For purposes of receiving the examination, treatment, or care described in
19002 Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.
19003 (iii) In determining whether to order the examination, treatment, or care described in
19004 Subsection (2)(n)(i), the court shall consider:
19005 (A) the desires of the minor;
19006 (B) if the minor is under the age of 18, the desires of the parents or guardian of the
19007 minor; and
19008 (C) whether the potential benefits of the examination, treatment, or care outweigh the
19009 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
19010 function impairment, or emotional or physical harm resulting from the compulsory nature of
19011 the examination, treatment, or care.
19012 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the
19013 interest of the minor, and may appoint as guardian a public or private institution or agency in
19014 which legal custody of the minor is vested.
19015 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
19016 private agency or institution, the court shall give primary consideration to the welfare of the
19017 minor. When practicable, the court may take into consideration the religious preferences of the
19018 minor and of a child's parents.
19019 (p) (i) In support of a decree under Section [~~78-3a-104~~] 78A-6-103, the court may
19020 order reasonable conditions to be complied with by a minor's parents or guardian, a minor, a
19021 minor's custodian, or any other person who has been made a party to the proceedings.
19022 Conditions may include:
19023 (A) parent-time by the parents or one parent;
19024 (B) restrictions on the minor's associates;
19025 (C) restrictions on the minor's occupation and other activities; and
19026 (D) requirements to be observed by the parents or custodian.
19027 (ii) A minor whose parents or guardians successfully complete a family or other
19028 counseling program may be credited by the court for detention, confinement, or probation time.
19029 (q) The court may order the child to be committed to the physical custody of a local
19030 mental health authority, in accordance with the procedures and requirements of Title 62A,

19031 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
19032 Mental Health.
19033 (r) (i) The court may make an order committing a minor within the court's jurisdiction
19034 to the Utah State Developmental Center if the minor has mental retardation in accordance with
19035 the provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.
19036 (ii) The court shall follow the procedure applicable in the district courts with respect to
19037 judicial commitments to the Utah State Developmental Center when ordering a commitment
19038 under Subsection (2)(r)(i).
19039 (s) The court may terminate all parental rights upon a finding of compliance with the
19040 provisions of Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part [~~4~~] 5, Termination of Parental Rights Act.
19041 (t) The court may make any other reasonable orders for the best interest of the minor or
19042 as required for the protection of the public, except that a child may not be committed to jail or
19043 prison.
19044 (u) The court may combine the dispositions listed in this section if they are compatible.
19045 (v) Before depriving any parent of custody, the court shall give due consideration to the
19046 rights of parents concerning their child. The court may transfer custody of a minor to another
19047 person, agency, or institution in accordance with the requirements and procedures of Title [~~78~~]
19048 78A, Chapter [~~3a~~] 6, Part 3, Abuse, Neglect, and Dependency Proceedings.
19049 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
19050 probation or placement of a minor with an individual or an agency shall include a date certain
19051 for a review of the case by the court. A new date shall be set upon each review.
19052 (x) In reviewing foster home placements, special attention shall be given to making
19053 adoptable children available for adoption without delay.
19054 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
19055 with an individual or relative of a child where the court has previously acquired jurisdiction as
19056 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
19057 order for child support on behalf of the child against the natural or adoptive parents of the
19058 child.
19059 (ii) Orders under Subsection (2)(y)(i):
19060 (A) shall remain in effect until the child reaches majority;
19061 (B) are not subject to review under Section [~~78-3a-119~~] 78A-6-118; and

19062 (C) may be modified by petition or motion as provided in Section [~~78-3a-903~~]
19063 78A-6-1103.
19064 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
19065 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
19066 of the juvenile court.
19067 (3) In addition to the dispositions described in Subsection (2), when a minor comes
19068 within the court's jurisdiction, the minor may be given a choice by the court to serve in the
19069 National Guard in lieu of other sanctions, provided:
19070 (a) the minor meets the current entrance qualifications for service in the National
19071 Guard as determined by a recruiter, whose determination is final;
19072 (b) the minor is not under the jurisdiction of the court for any act that:
19073 (i) would be a felony if committed by an adult;
19074 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
19075 (iii) was committed with a weapon; and
19076 (c) the court retains jurisdiction over the minor under conditions set by the court and
19077 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.
19078 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
19079 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
19080 designated employees of the court or, if the minor is in the legal custody of the Division of
19081 Juvenile Justice Services, then by designated employees of the division under Subsection
19082 53-10-404(5)(b).
19083 (b) The responsible agency shall ensure that employees designated to collect the saliva
19084 DNA specimens receive appropriate training and that the specimens are obtained in accordance
19085 with accepted protocol.
19086 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
19087 Specimen Restricted Account created in Section 53-10-407.
19088 (d) Payment of the reimbursement is second in priority to payments the minor is
19089 ordered to make for restitution under this section and treatment under Section [~~78-3a-318~~]
19090 78A-6-321.
19091 Section 384. Section **78A-6-118**, which is renumbered from Section 78-3a-119 is
19092 renumbered and amended to read:

19093 **[~~78-3a-119~~]. 78A-6-118. Period of operation of judgment, decree, or order**
19094 **-- Rights and responsibilities of agency or individual granted legal custody.**
19095 (1) A judgment, order, or decree of the juvenile court does not operate after the minor
19096 becomes 21 years of age, except for:
19097 (a) orders of commitment to the Utah State Developmental Center or to the custody of
19098 the Division of Substance Abuse and Mental Health;
19099 (b) adoption orders under Subsection [~~78-3a-104~~] 78A-6-103(1);
19100 (c) orders permanently terminating the rights of a parent, guardian, or custodian, and
19101 permanent orders of custody and guardianships; and
19102 (d) unless terminated by the court, orders to pay any fine or restitution.
19103 (2) (a) Except as provided in Part 3, Abuse, Neglect, and Dependency Proceedings, an
19104 order vesting legal custody or guardianship of a minor in an individual, agency, or institution
19105 may be for an indeterminate period. A review hearing shall be held, however, upon the
19106 expiration of 12 months, and, with regard to petitions filed by the Division of Child and Family
19107 Services, no less than once every six months thereafter. The individual, agency, or institution
19108 involved shall file the petition for that review hearing. The court may terminate the order, or
19109 after notice and hearing, continue the order if it finds continuation of the order necessary to
19110 safeguard the welfare of the minor or the public interest. The findings of the court and its
19111 reasons shall be entered with the continuation order or with the order denying continuation.
19112 (b) Subsection (2)(a) does not apply to minors who are in the custody of the Division
19113 of Child and Family Services, and who are placed in foster care, a secure youth corrections
19114 facility, the Division of Substance Abuse and Mental Health, the Utah State Developmental
19115 Center, or any agency licensed for child placements and adoptions, in cases where all parental
19116 rights of the natural parents have been terminated by the court under Part [~~4~~] 5, Termination of
19117 Parental Rights Act, and custody of the minor has been granted to the agency for adoption or
19118 other permanent placement.
19119 (3) (a) An agency granted legal custody may determine where and with whom the
19120 minor will live, provided that placement of the minor does not remove him from the state
19121 without court approval.
19122 (b) An individual granted legal custody shall personally exercise the rights and
19123 responsibilities involved in legal custody, unless otherwise authorized by the court.

19124 Section 385. Section **78A-6-119**, which is renumbered from Section 78-3a-120 is
19125 renumbered and amended to read:
19126 **[~~78-3a-120~~]. 78A-6-119. Modification of order or decree -- Requirements**
19127 **for changing or terminating custody, probation, or protective supervision.**
19128 (1) The court may modify or set aside any order or decree made by it, however a
19129 modification of an order placing a minor on probation may not be made upon an alleged
19130 violation of the terms of probation unless there has been a hearing in accordance with the
19131 procedures in Section [~~78-3a-903~~] 78A-6-1103.
19132 (2) Notice of the hearing shall be required in any case in which the effect of modifying
19133 or setting aside an order or decree may be to make any change in the minor's legal custody.
19134 (3) (a) Notice of an order terminating probation or protective supervision of a child
19135 shall be given to the child's:
19136 (i) parents;
19137 (ii) guardian;
19138 (iii) custodian; and
19139 (iv) where appropriate, to the child.
19140 (b) Notice of an order terminating probation or protective supervision of a minor who
19141 is at least 18 years of age shall be given to the minor.
19142 Section 386. Section **78A-6-120**, which is renumbered from Section 78-3a-121 is
19143 renumbered and amended to read:
19144 **[~~78-3a-121~~]. 78A-6-120. Continuing jurisdiction of juvenile court --**
19145 **Period of and termination of jurisdiction -- Notice of discharge from custody of local**
19146 **mental health authority or Utah State Developmental Center -- Transfer of continuing**
19147 **jurisdiction to other district.**
19148 (1) Jurisdiction of a minor obtained by the court through adjudication under Section
19149 [~~78-3a-118~~] 78A-6-117 continues for purposes of this chapter until he becomes 21 years of age,
19150 unless terminated earlier. However, the court, subject to Section [~~78-3a-122~~] 78A-6-121,
19151 retains jurisdiction beyond the age of 21 of a person who has refused or failed to pay any fine
19152 or victim restitution ordered by the court, but only for the purpose of causing compliance with
19153 existing orders.
19154 (2) (a) The continuing jurisdiction of the court terminates:

19155 (i) upon order of the court;
19156 (ii) upon commitment to a secure youth corrections facility; or
19157 (iii) upon commencement of proceedings in adult cases under Section [~~78-3a-801~~]
19158 78A-6-1001.
19159 (b) The continuing jurisdiction of the court is not terminated by marriage.
19160 (3) When a minor has been committed by the court to the physical custody of a local
19161 mental health authority or its designee or to the Utah State Developmental Center, the local
19162 mental health authority or its designee or the superintendent of the Utah State Developmental
19163 Center shall give the court written notice of its intention to discharge, release, or parole the
19164 minor not fewer than five days prior to the discharge, release, or parole.
19165 (4) Jurisdiction over a minor on probation or under protective supervision, or of a
19166 minor who is otherwise under the continuing jurisdiction of the court, may be transferred by the
19167 court to the court of another district, if the receiving court consents, or upon direction of the
19168 chair of the Board of Juvenile Court Judges. The receiving court has the same powers with
19169 respect to the minor that it would have if the proceedings originated in that court.
19170 Section 387. Section **78A-6-121**, which is renumbered from Section 78-3a-122 is
19171 renumbered and amended to read:
19172 **[~~78-3a-122~~]. 78A-6-121. Entry of judgement for fine or restitution --**
19173 **Transfer for collection.**
19174 (1) If, prior to the entry of any order terminating jurisdiction of a juvenile, there
19175 remains any unpaid balance for any fine or restitution ordered by the court, the court shall
19176 record all pertinent information in the juvenile's file and transfer responsibility to collect all
19177 unpaid fines and restitution to the Office of State Debt Collection.
19178 (2) Before transferring the responsibility to collect any past due fines, the court shall
19179 reduce the order to a judgment listing the Office of State Debt Collection as the judgment
19180 creditor.
19181 (3) Before transferring the responsibility to collect any past due accounts receivable for
19182 restitution to a victim, the court shall reduce the restitution order to a judgment listing the
19183 victim, or the estate of the victim, as the judgment creditor.
19184 Section 388. Section **78A-6-201**, which is renumbered from Section 78-3a-107 is
19185 renumbered and amended to read:

19186 **Part 2. Administration**

19187 **[~~78-3a-107~~]. 78A-6-201. Judges of juvenile court -- Appointments --**
19188 **Terms.**

19189 (1) Judges of the juvenile court shall be appointed initially to serve until the first
19190 general election held more than three years after the effective date of the appointment.
19191 Thereafter, the term of office of a judge of a juvenile court is six years and commences on the
19192 first Monday in January next following the date of election.

19193 (2) A judge whose term expires may serve, upon request of the Judicial Council, until a
19194 successor is appointed and qualified.

19195 Section 389. Section **78A-6-202**, which is renumbered from Section 78-3a-108 is
19196 renumbered and amended to read:

19197 **[~~78-3a-108~~]. 78A-6-202. Sessions of juvenile court.**

19198 (1) In each county, regular juvenile court sessions shall be held at a place designated by
19199 the judge or judges of the juvenile court district, with the approval of the board.

19200 (2) Court sessions shall be held in each county when the presiding judge of the juvenile
19201 court directs, except that a judge of the district may hold court in any county within the district
19202 at any time, if required by the urgency of the case.

19203 Section 390. Section **78A-6-203**, which is renumbered from Section 78-3a-201 is
19204 renumbered and amended to read:

19205 **[~~78-3a-201~~]. 78A-6-203. Board of Juvenile Court Judges -- Composition --**
19206 **Purpose.**

19207 (1) (a) The Judicial Council shall by rule establish a Board of Juvenile Court Judges.

19208 (b) The board shall establish general policies for the operation of the juvenile courts
19209 and uniform rules and forms governing practice, consistent with the provisions of this chapter,
19210 the rules of the Judicial Council, and rules of the Supreme Court.

19211 (c) The board may receive and expend any funds that may become available from the
19212 federal government or private sources to carry out any of the purposes of this chapter.

19213 (i) The board may meet any federal requirements that are conditions precedent to
19214 receiving the funds.

19215 (ii) The board may cooperate with the federal government in a program for training
19216 personnel employed or preparing for employment by the juvenile court and may receive and

19217 expend funds from federal or state sources or from private donations for these purposes.
19218 (iii) Funds donated or paid to the juvenile court by private sources for the purpose of
19219 community service programs shall be nonlapsing.
19220 (iv) The board may:
19221 (A) contract with public or nonprofit institutions of higher learning for the training of
19222 personnel;
19223 (B) conduct short-term training courses of its own and hire experts on a temporary
19224 basis for this purpose; and
19225 (C) cooperate with the Division of Child and Family Services and other state
19226 departments or agencies in personnel training programs.
19227 (d) The board may contract, on behalf of the juvenile court, with the United States
19228 Forest Service or other agencies or departments of the federal government or with agencies or
19229 departments of other states for the care and placement of minors adjudicated under this chapter.
19230 (e) The powers to contract and expend funds are subject to budgetary control and
19231 procedures as provided by law.
19232 (2) Under the direction of the presiding officer of the council, the chair shall supervise
19233 the juvenile courts to ensure uniform adherence to law and to the rules and forms adopted by
19234 the Supreme Court and Judicial Council, and to promote the proper and efficient functioning of
19235 the juvenile courts.
19236 (3) The judges of districts having more than one judge shall elect a presiding judge. In
19237 districts comprised of five or more judges and court commissioners, the presiding judge shall
19238 receive an additional $1,000 per annum as compensation.
19239 (4) Consistent with policies of the Judicial Council, the presiding judge shall:
19240 (a) implement policies of the Judicial Council;
19241 (b) exercise powers and perform administrative duties as authorized by the Judicial
19242 Council;
19243 (c) manage the judicial business of the district; and
19244 (d) call and preside over meetings of judges of the district.
19245 Section 391. Section **78A-6-204**, which is renumbered from Section 78-3a-202 is
19246 renumbered and amended to read:
19247 **[~~78-3a-202~~]. 78A-6-204. Administrator of the juvenile court --**

19248 **Appointment -- Qualifications -- Powers and duties.**
19249 (1) With the approval of the board, the state court administrator shall appoint a chief
19250 administrative officer of the juvenile court.
19251 (2) The chief administrative officer shall be selected on the basis of professional ability
19252 and experience in the field of public administration and shall possess an understanding of court
19253 procedures, as well as the nature and significance of probation services and other court
19254 services.
19255 Section 392. Section **78A-6-205**, which is renumbered from Section 78-3a-203 is
19256 renumbered and amended to read:
19257 **[~~78-3a-203~~]. 78A-6-205. District court executives -- Selection -- Duties.**
19258 (1) The chief administrative officer of the juvenile court, with the approval of the judge
19259 of each district or the presiding judge of multiple judge districts, shall appoint a court executive
19260 for each district. The court executive serves at the pleasure of the chief administrative officer.
19261 (2) The court executive shall:
19262 (a) appoint a clerk of the court, deputy court clerks, probation officers, and other
19263 persons as required to carry out the work of the court;
19264 (b) supervise the work of all nonjudicial court staff of the district; and
19265 (c) serve as administrative officer of the district.
19266 (3) The clerk shall keep a record of court proceedings and may issue all process and
19267 notice required.
19268 Section 393. Section **78A-6-206**, which is renumbered from Section 78-3a-204 is
19269 renumbered and amended to read:
19270 **[~~78-3a-204~~]. 78A-6-206. Juvenile court employees -- Salaries -- State**
19271 **courts personnel system -- Exemptions and discharge.**
19272 (1) All employees except judges and commissioners shall be selected, promoted, and
19273 discharged through the state courts personnel system for the juvenile court, under the direction
19274 and rules of the Board of Juvenile Court Judges and the Judicial Council.
19275 (2) An employee under the state courts personnel system may not be discharged except
19276 for cause and after a hearing before the appointing authority, with appeal as provided by the
19277 state courts personnel system. An employee may be suspended pending the hearing and appeal.
19278 Section 394. Section **78A-6-207**, which is renumbered from Section 78-3a-205 is

19279 renumbered and amended to read:
19280 **[~~78-3a-205~~]. 78A-6-207. Volunteers.**
19281 The names of volunteers serving under Section [~~78-3a-912~~] 78A-6-902 shall be stated
19282 in the court records of the cases they work with. Volunteers of record with the court are
19283 considered to be volunteers to the juvenile court and are volunteers under Title 67, Chapter 20,
19284 Volunteer Government Workers Act.
19285 Section 395. Section **78A-6-208**, which is renumbered from Section 78-3a-209 is
19286 renumbered and amended to read:
19287 **[~~78-3a-209~~]. 78A-6-208. Mental health evaluations -- Duty of**
19288 **administrator.**
19289 (1) The administrator of the juvenile court, with the approval of the board, and the
19290 executive director of the Department of Health, and director of the Division of Substance
19291 Abuse and Mental Health shall from time to time agree upon an appropriate plan:
19292 (a) for obtaining mental health services and health services for the juvenile court from
19293 the state and local health departments and programs of mental health; and
19294 (b) for assistance by the Department of Health and the Division of Substance Abuse
19295 and Mental Health in securing for the juvenile court special health, mental health, and related
19296 services including community mental health services not already available from the
19297 Department of Health and the Division of Substance Abuse and Mental Health.
19298 (2) The Legislature may provide an appropriation to the Department of Health and the
19299 Division of Substance Abuse and Mental Health for this purpose.
19300 Section 396. Section **78A-6-209**, which is renumbered from Section 78-3a-206 is
19301 renumbered and amended to read:
19302 **[~~78-3a-206~~]. 78A-6-209. Court records -- Inspection.**
19303 (1) The court and the probation department shall keep records as required by the board
19304 and the presiding judge.
19305 (2) Court records shall be open to inspection by:
19306 (a) the parents or guardian of a child, a minor who is at least 18 years of age, other
19307 parties in the case, the attorneys, and agencies to which custody of a minor has been
19308 transferred;
19309 (b) for information relating to adult offenders alleged to have committed a sexual

19310 offense, a felony or class A misdemeanor drug offense, or an offense against the person under
19311 Title 76, Chapter 5, Offenses Against the Person, the State Office of Education for the purpose
19312 of evaluating whether an individual should be permitted to obtain or retain a license as an
19313 educator or serve as an employee or volunteer in a school, with the understanding that the
19314 office must provide the individual with an opportunity to respond to any information gathered
19315 from its inspection of the records before it makes a decision concerning licensure or
19316 employment;
19317 (c) the Criminal Investigations and Technical Services Division, established in Section
19318 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm
19319 and establishing good character for issuance of a concealed firearm permit as provided in
19320 Section 53-5-704;
19321 (d) the Division of Child and Family Services for the purpose of Child Protective
19322 Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and
19323 administrative hearings in accordance with Section 62A-4a-1009; and
19324 (e) for information related to a juvenile offender who has committed a sexual offense, a
19325 felony, or an offense which if committed by an adult would be a misdemeanor, the Department
19326 of Health, for the purpose of evaluating under the provisions of Subsection 26-39-107(3)
19327 whether a licensee should be permitted to obtain or retain a license to provide child care, with
19328 the understanding that the department must provide the individual who committed the offense
19329 with an opportunity to respond to any information gathered from its inspection of records
19330 before it makes a decision concerning licensure.
19331 (3) With the consent of the judge, court records may be inspected by the child, by
19332 persons having a legitimate interest in the proceedings, and by persons conducting pertinent
19333 research studies.
19334 (4) If a petition is filed charging a minor 14 years of age or older with an offense that
19335 would be a felony if committed by an adult, the court shall make available to any person upon
19336 request the petition, any adjudication or disposition orders, and the delinquency history
19337 summary of the minor charged unless the records are closed by the court upon findings on the
19338 record for good cause.
19339 (5) Probation officers' records and reports of social and clinical studies are not open to
19340 inspection, except by consent of the court, given under rules adopted by the board.

19341 (6) (a) Any juvenile delinquency adjudication or disposition orders and the delinquency
19342 history summary of any person charged as an adult with a felony offense shall be made
19343 available to any person upon request.
19344 (b) This provision does not apply to records that have been destroyed or expunged in
19345 accordance with court rules.
19346 (c) The court may charge a reasonable fee to cover the costs associated with retrieving
19347 a requested record that has been archived.
19348 Section 397. Section **78A-6-210**, which is renumbered from Section 78-3a-207 is
19349 renumbered and amended to read:
19350 **[~~78-3a-207~~]. 78A-6-210. Fines -- Fees -- Deposit with state treasurer --**
19351 **Restricted account.**
19352 (1) There is created within the General Fund a restricted account known as the
19353 "Nonjudicial Adjustment Account."
19354 (2) (a) The account shall be funded from the financial penalty established under
19355 Subsection [~~78-3a-502~~] 78A-6-602(2)(d)(i).
19356 (b) The court shall deposit all monies collected as a result of penalties assessed as part
19357 of the nonjudicial adjustment of a case in the account.
19358 (c) The account shall be used to pay the expenses of juvenile compensatory service,
19359 victim restitution, and diversion programs.
19360 (3) (a) Except under Subsection (3)(b) and as otherwise provided by law, all fines, fees,
19361 penalties, and forfeitures imposed and collected by the juvenile court shall be paid to the state
19362 treasurer for deposit in the General Fund.
19363 (b) Not more than 50% of any fine or forfeiture collected may be paid to a state
19364 rehabilitative employment program for delinquent minors that provides for employment of the
19365 minor in the county of the minor's residence if:
19366 (i) reimbursement for the minor's labor is paid to the victim of the minor's delinquent
19367 behavior;
19368 (ii) the amount earned and paid is set by court order;
19369 (iii) the minor is not paid more than the hourly minimum wage; and
19370 (iv) no payments to victims are made without the minor's involvement in a
19371 rehabilitative work program.

19372 (c) Fines withheld under Subsection (3)(b) and any private contributions to the
19373 rehabilitative employment program are accounted for separately and are subject to audit at any
19374 time by the state auditor.
19375 (d) Funds withheld under Subsection (3)(b) and private contributions are nonlapsing.
19376 The Board of Juvenile Court Judges shall establish policies for the use of the funds described
19377 in this subsection.
19378 (4) No fee may be charged by any state or local public officer for the service of process
19379 in any proceedings initiated by a public agency.
19380 Section 398. Section **78A-6-211**, which is renumbered from Section 78-3a-208 is
19381 renumbered and amended to read:
19382 **[~~78-3a-208~~]. 78A-6-211. Courtrooms -- Physical facilities.**
19383 (1) Suitable courtrooms and office space in each county shall be provided or made
19384 available to the court by the county for the hearing of cases except in counties where the state
19385 has provided courtrooms and offices as needed.
19386 (2) Equipment and supplies for the use of the judges, officers, and employees of the
19387 court and the cost of maintaining the juvenile courts shall be paid from the General Fund or
19388 other funds for those purposes.
19389 Section 399. Section **78A-6-301** is enacted to read:
19390 **78A-6-301. Definitions.**
19391 As used in this part:
19392 (1) "Custody" means the custody of a minor in the Division of Child and Family
19393 Services as of the date of disposition.
19394 (2) "Protective custody" means the shelter of a child by the Division of Child and
19395 Family Services from the time the child is removed from home until the earlier of:
19396 (a) the shelter hearing; or
19397 (b) the child's return home.
19398 (3) "Temporary custody" means the custody of a child in the Division of Child and
19399 Family Services from the date of the shelter hearing until disposition.
19400 Section 400. Section **78A-6-302**, which is renumbered from Section 78-3a-301 is
19401 renumbered and amended to read:
19402 **[~~78-3a-301~~]. 78A-6-302. Court-ordered protective custody of a child**

19403 **following petition filing -- Grounds.**
19404 (1) After a petition has been filed under Section [~~78-3a-305~~] 78A-6-304, if the child
19405 who is the subject of the petition is not in the protective custody of the division, a court may
19406 order that the child be removed from the child's home or otherwise taken into protective
19407 custody if the court finds, by a preponderance of the evidence, that any one or more of the
19408 following circumstances exist:
19409 (a) (i) there is an imminent danger to the physical health or safety of the child; and
19410 (ii) the child's physical health or safety may not be protected without removing the
19411 child from the custody of the child's parent or guardian;
19412 (b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct
19413 that causes the child to suffer emotional damage; and
19414 (ii) there are no reasonable means available by which the child's emotional health may
19415 be protected without removing the child from the custody of the child's parent or guardian;
19416 (c) the child or another child residing in the same household has been physically or
19417 sexually abused, or is considered to be at substantial risk of being physically or sexually
19418 abused, by a parent or guardian, a member of the parent's or guardian's household, or other
19419 person known to the parent or guardian;
19420 (d) the parent or guardian is unwilling to have physical custody of the child;
19421 (e) the child is abandoned or left without any provision for the child's support;
19422 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged
19423 or cannot arrange for safe and appropriate care for the child;
19424 (g) (i) a relative or other adult custodian with whom the child is left by the parent or
19425 guardian is unwilling or unable to provide care or support for the child;
19426 (ii) the whereabouts of the parent or guardian are unknown; and
19427 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
19428 (h) the child is in immediate need of medical care;
19429 (i) (i) a parent's or guardian's actions, omissions, or habitual action create an
19430 environment that poses a threat to the child's health or safety; or
19431 (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose
19432 a threat to the child's health or safety;
19433 (j) the child or another child residing in the same household has been neglected;

19434 (k) an infant has been abandoned, as defined in Section [~~78-3a-313.5~~] 78A-6-316;
19435 (l) (i) the parent or guardian, or an adult residing in the same household as the parent or
19436 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act;
19437 and
19438 (ii) any clandestine laboratory operation was located in the residence or on the property
19439 where the child resided; or
19440 (m) the child's welfare is otherwise endangered.
19441 (2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as
19442 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency
19443 occurs involving the same substantiated abuser or under similar circumstance as the previous
19444 abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the
19445 custody of the child's parent.
19446 (b) For purposes of Subsection (1)(c):
19447 (i) another child residing in the same household may not be removed from the home
19448 unless that child is considered to be at substantial risk of being physically or sexually abused as
19449 described in Subsection (1)(c) or Subsection (2)(b)(ii); and
19450 (ii) if a parent or guardian has received actual notice that physical or sexual abuse by a
19451 person known to the parent has occurred, and there is evidence that the parent or guardian
19452 failed to protect the child, after having received the notice, by allowing the child to be in the
19453 physical presence of the alleged abuser, that fact constitutes prima facie evidence that the child
19454 is at substantial risk of being physically or sexually abused.
19455 (3) In the absence of one of the factors described in Subsection (1), a court may not
19456 remove a child from the parent's or guardian's custody on the basis of:
19457 (a) educational neglect;
19458 (b) mental illness or poverty of the parent or guardian; or
19459 (c) disability of the parent or guardian, as defined in Section 57-21-2.
19460 (4) A child removed from the custody of the child's parent or guardian under this
19461 section may not be placed or kept in a secure detention facility pending further court
19462 proceedings unless the child is detainable based on guidelines promulgated by the Division of
19463 Juvenile Justice Services.
19464 (5) This section does not preclude removal of a child from the child's home without a

19465 warrant or court order under Section 62A-4a-202.1.
19466 (6) (a) Except as provided in Subsection (6)(b), a court or the Division of Child and
19467 Family Services may not remove a child from the custody of the child's parent or guardian on
19468 the sole or primary basis that the parent or guardian refuses to consent to:
19469 (i) the administration of a psychotropic medication to a child;
19470 (ii) a psychiatric, psychological, or behavioral treatment for a child; or
19471 (iii) a psychiatric or behavioral health evaluation of a child.
19472 (b) Notwithstanding Subsection (6)(a), a court or the Division of Child and Family
19473 Services may remove a child under conditions that would otherwise be prohibited under
19474 Subsection (6)(a) if failure to take an action described under Subsection (6)(a) would present a
19475 serious, imminent risk to the child's physical safety or the physical safety of others.
19476 Section 401. Section **78A-6-303**, which is renumbered from Section 78-3a-304.5 is
19477 renumbered and amended to read:
19478 **[~~78-3a-304.5~~]. 78A-6-303. Rules of procedure -- Ex parte communications.**
19479 (1) The Utah Rules of Civil Procedure and the Utah Rules of Juvenile Procedure apply
19480 to abuse, neglect, and dependency proceedings unless the provisions of this part specify
19481 otherwise.
19482 (2) Any unauthorized ex parte communication concerning a pending case between a
19483 judge and a party to an abuse, neglect, or dependency proceeding shall be recorded for
19484 subsequent review, if necessary, by the Judicial Conduct Commission.
19485 Section 402. Section **78A-6-304**, which is renumbered from Section 78-3a-305 is
19486 renumbered and amended to read:
19487 **[~~78-3a-305~~]. 78A-6-304. Petition filed.**
19488 (1) For purposes of this section, "petition" means a petition to commence proceedings
19489 in a juvenile court alleging that a child is:
19490 (a) abused;
19491 (b) neglected; or
19492 (c) dependent.
19493 (2) (a) Subject to Subsection (2)(b), any interested person may file a petition.
19494 (b) A person described in Subsection (2)(a) shall make a referral with the division
19495 before the person files a petition.

19496 (3) If the child who is the subject of a petition is removed from the child's home by the
19497 division, the petition shall be filed on or before the date of the initial shelter hearing described
19498 in Section [~~78-3a-306~~] 78A-6-306.
19499 (4) The petition shall be verified, and contain all of the following:
19500 (a) the name, age, and address, if any, of the child upon whose behalf the petition is
19501 brought;
19502 (b) the names and addresses, if known to the petitioner, of both parents and any
19503 guardian of the child;
19504 (c) a concise statement of facts, separately stated, to support the conclusion that the
19505 child upon whose behalf the petition is being brought is abused, neglected, or dependent; and
19506 (d) a statement regarding whether the child is in protective custody, and if so, the date
19507 and precise time the child was taken into protective custody.
19508 Section 403. Section **78A-6-305**, which is renumbered from Section 78-3a-305.5 is
19509 renumbered and amended to read:
19510 **[~~78-3a-305.5~~]. 78A-6-305. Opportunity for a child to testify or address the**
19511 **court.**
19512 (1) For purposes of this section, "postadjudication hearing" means:
19513 (a) a disposition hearing;
19514 (b) a permanency hearing; or
19515 (c) a review hearing, except a drug court review hearing.
19516 (2) A child shall be present at any postadjudication hearing in a case relating to the
19517 abuse, neglect, or dependency of the child, unless the court determines that:
19518 (a) requiring the child to be present at the postadjudication hearing would be
19519 detrimental to the child, or impractical; or
19520 (b) the child is not sufficiently mature to articulate the child's wishes in relation to the
19521 hearing.
19522 (3) A court may, in the court's discretion, order that a child described in Subsection (2)
19523 be present at a hearing that is not a postadjudication hearing.
19524 (4) (a) Except as provided in Subsection (4)(b), at any hearing in a case relating to the
19525 abuse, neglect, or dependency of a child, when the child is present at the hearing, the court
19526 shall:

19527 (i) ask the child whether the child desires the opportunity to address the court or testify;
19528 and
19529 (ii) if the child desires an opportunity to address the court or testify, allow the child to
19530 address the court or testify.
19531 (b) Subsection (4)(a) does not apply if the court determines that:
19532 (i) it would be detrimental to the child to comply with Subsection (4)(a); or
19533 (ii) the child is not sufficiently mature to articulate the child's wishes in relation to the
19534 hearing.
19535 (c) Subject to applicable court rules, the court may allow the child to address the court
19536 in camera.
19537 (5) Nothing in this section prohibits a child from being present at a hearing that the
19538 child is not required to be at by this section or by court order, unless the court orders otherwise.
19539 Section 404. Section **78A-6-306**, which is renumbered from Section 78-3a-306 is
19540 renumbered and amended to read:
19541 **[~~78-3a-306~~]. 78A-6-306. Shelter hearing.**
19542 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays
19543 after any one or all of the following occur:
19544 (a) removal of the child from the child's home by the division;
19545 (b) placement of the child in the protective custody of the division;
19546 (c) emergency placement under Subsection 62A-4a-202.1(4);
19547 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
19548 at the request of the division; or
19549 (e) a "Motion for Expedited Placement in Temporary Custody" is filed under
19550 Subsection [~~78-3a-106~~] 78A-6-106(4).
19551 (2) Upon the occurrence of any of the circumstances described in Subsections (1)(a)
19552 through (e), the division shall issue a notice that contains all of the following:
19553 (a) the name and address of the person to whom the notice is directed;
19554 (b) the date, time, and place of the shelter hearing;
19555 (c) the name of the child on whose behalf a petition is being brought;
19556 (d) a concise statement regarding:
19557 (i) the reasons for removal or other action of the division under Subsection (1); and

19558 (ii) the allegations and code sections under which the proceeding has been instituted;
19559 (e) a statement that the parent or guardian to whom notice is given, and the child, are
19560 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is
19561 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be
19562 provided; and
19563 (f) a statement that the parent or guardian is liable for the cost of support of the child in
19564 the protective custody, temporary custody, and custody of the division, and the cost for legal
19565 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial
19566 ability of the parent or guardian.
19567 (3) The notice described in Subsection (2) shall be personally served as soon as
19568 possible, but no later than one business day after removal of the child from the child's home, or
19569 the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection
19570 [~~78-3a-106~~] 78A-6-106(4), on:
19571 (a) the appropriate guardian ad litem; and
19572 (b) both parents and any guardian of the child, unless the parents or guardians cannot
19573 be located.
19574 (4) The following persons shall be present at the shelter hearing:
19575 (a) the child, unless it would be detrimental for the child;
19576 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
19577 fail to appear in response to the notice;
19578 (c) counsel for the parents, if one is requested;
19579 (d) the child's guardian ad litem;
19580 (e) the caseworker from the division who is assigned to the case; and
19581 (f) the attorney from the attorney general's office who is representing the division.
19582 (5) (a) At the shelter hearing, the court shall:
19583 (i) provide an opportunity to provide relevant testimony to:
19584 (A) the child's parent or guardian, if present; and
19585 (B) any other person having relevant knowledge; and
19586 (ii) subject to Section [~~78-3a-305.5~~] 78A-6-305, provide an opportunity for the child to
19587 testify.
19588 (b) The court:

19589 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
19590 Procedure;
19591 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
19592 the requesting party, or their counsel; and
19593 (iii) may in its discretion limit testimony and evidence to only that which goes to the
19594 issues of removal and the child's need for continued protection.
19595 (6) If the child is in the protective custody of the division, the division shall report to
19596 the court:
19597 (a) the reason why the child was removed from the parent's or guardian's custody;
19598 (b) any services provided to the child and the child's family in an effort to prevent
19599 removal;
19600 (c) the need, if any, for continued shelter;
19601 (d) the available services that could facilitate the return of the child to the custody of
19602 the child's parent or guardian; and
19603 (e) subject to Subsection [~~78-3a-307~~] 78A-6-307(8)(c), whether any relatives of the
19604 child or friends of the child's parents may be able and willing to take temporary custody.
19605 (7) The court shall consider all relevant evidence provided by persons or entities
19606 authorized to present relevant evidence pursuant to this section.
19607 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good
19608 cause shown, the court may grant no more than one continuance, not to exceed five judicial
19609 days.
19610 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for
19611 a continuance under Subsection (8)(a).
19612 (9) (a) If the child is in the protective custody of the division, the court shall order that
19613 the child be released from the protective custody of the division unless it finds, by a
19614 preponderance of the evidence, that any one of the following exist:
19615 (i) subject to Subsection (9)(b)(i), there is a substantial danger to the physical health or
19616 safety of the child and the child's physical health or safety may not be protected without
19617 removing the child from the custody of the child's parent;
19618 (ii) (A) the child is suffering emotional damage; and
19619 (B) there are no reasonable means available by which the child's emotional health may

19620 be protected without removing the child from the custody of the child's parent;
19621 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
19622 not removed from the custody of the child's parents;
19623 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
19624 household has been physically or sexually abused, or is considered to be at substantial risk of
19625 being physically or sexually abused, by a:
19626 (A) parent;
19627 (B) member of the parent's household; or
19628 (C) person known to the parent;
19629 (v) the parent is unwilling to have physical custody of the child;
19630 (vi) the child is without any provision for the child's support;
19631 (vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe
19632 and appropriate care for the child;
19633 (viii) (A) a relative or other adult custodian with whom the child is left by the parent is
19634 unwilling or unable to provide care or support for the child;
19635 (B) the whereabouts of the parent are unknown; and
19636 (C) reasonable efforts to locate the parent are unsuccessful;
19637 (ix) the child is in urgent need of medical care;
19638 (x) the physical environment or the fact that the child is left unattended beyond a
19639 reasonable period of time poses a threat to the child's health or safety;
19640 (xi) the child or a minor residing in the same household has been neglected;
19641 (xii) the parent, or an adult residing in the same household as the parent, is charged or
19642 arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine
19643 laboratory operation was located in the residence or on the property where the child resided; or
19644 (xiii) the child's welfare is substantially endangered.
19645 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
19646 established if:
19647 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
19648 involving the parent; and
19649 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.
19650 (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly

19651 allowed the child to be in the physical care of a person after the parent received actual notice
19652 that the person physically or sexually abused the child, that fact constitutes prima facie
19653 evidence that there is a substantial risk that the child will be physically or sexually abused.
19654 (10) (a) (i) The court shall also make a determination on the record as to whether
19655 reasonable efforts were made to prevent or eliminate the need for removal of the child from the
19656 child's home and whether there are available services that would prevent the need for continued
19657 removal.
19658 (ii) If the court finds that the child can be safely returned to the custody of the child's
19659 parent or guardian through the provision of those services, the court shall place the child with
19660 the child's parent or guardian and order that those services be provided by the division.
19661 (b) In making the determination described in Subsection (10)(a), and in ordering and
19662 providing services, the child's health, safety, and welfare shall be the paramount concern, in
19663 accordance with federal law.
19664 (11) Where the division's first contact with the family occurred during an emergency
19665 situation in which the child could not safely remain at home, the court shall make a finding that
19666 any lack of preplacement preventive efforts was appropriate.
19667 (12) In cases where actual sexual abuse or abandonment, or serious physical abuse or
19668 neglect are involved, neither the division nor the court has any duty to make "reasonable
19669 efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to
19670 the child's home, provide reunification services, or attempt to rehabilitate the offending parent
19671 or parents.
19672 (13) The court may not order continued removal of a child solely on the basis of
19673 educational neglect as described in Subsection [~~78-3a-103(1)(u)(ii)~~] 78A-6-105(21)(b).
19674 (14) (a) Whenever a court orders continued removal of a child under this section, the
19675 court shall state the facts on which that decision is based.
19676 (b) If no continued removal is ordered and the child is returned home, the court shall
19677 state the facts on which that decision is based.
19678 (15) If the court finds that continued removal and temporary custody are necessary for
19679 the protection of a child because harm may result to the child if the child were returned home,
19680 the court shall order continued removal regardless of:
19681 (a) any error in the initial removal of the child;

19682 (b) the failure of a party to comply with notice provisions; or
19683 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
19684 and Family Services.
19685 Section 405. Section **78A-6-307**, which is renumbered from Section 78-3a-307 is
19686 renumbered and amended to read:
19687 **[~~78-3a-307~~]. 78A-6-307. Shelter hearing -- Placement -- DCFS custody.**
19688 (1) (a) At the shelter hearing, when the court orders that a child be removed from the
19689 custody of the child's parent in accordance with the requirements of Section [~~78-3a-306~~]
19690 78A-6-306, the court shall first determine whether there is another natural parent as defined in
19691 Subsection (1)(b), with whom the child was not residing at the time the events or conditions
19692 that brought the child within the court's jurisdiction occurred, who desires to assume custody of
19693 the child. If that parent requests custody, the court shall place the child with that parent unless
19694 it finds that the placement would be unsafe or otherwise detrimental to the child. The
19695 provisions of this Subsection (1) are limited by the provisions of Subsection (8)(b).
19696 (b) Notwithstanding the provisions of Section [~~78-3a-103~~] 78A-6-105, for purposes of
19697 this section "natural parent" includes only a biological or adoptive mother, an adoptive father,
19698 or a biological father who was married to the child's biological mother at the time the child was
19699 conceived or born, or who has strictly complied with the provisions of [~~Section 78-30-4.14~~]
19700 Sections 78B-6-120 through 78B-6-122 prior to removal of the child or voluntary surrender of
19701 the child by the custodial parent. This definition applies regardless of whether the child has
19702 been or will be placed with adoptive parents or whether adoption has been or will be
19703 considered as a long term goal for the child.
19704 (c) (i) The court shall make a specific finding regarding the fitness of that parent to
19705 assume custody, and the safety and appropriateness of the placement.
19706 (ii) The court shall, at a minimum, order the division to visit the parent's home,
19707 perform criminal background checks described in Sections [~~78-3a-307.1~~] 78A-6-308 and
19708 62A-4a-202.4, and check the division's management information system for any previous
19709 reports of abuse or neglect received by the division regarding the parent at issue.
19710 (iii) The court may order the Division of Child and Family Services to conduct any
19711 further investigation regarding the safety and appropriateness of the placement.
19712 (iv) The division shall report its findings in writing to the court.

19713 (v) The court may place the child in the temporary custody of the division, pending its
19714 determination regarding that placement.
19715 (2) If the court orders placement with a parent under Subsection (1), the child and the
19716 parent are under the continuing jurisdiction of the court. The court may order that the parent
19717 assume custody subject to the supervision of the court, and order that services be provided to
19718 the parent from whose custody the child was removed, the parent who has assumed custody, or
19719 both. The court shall also provide for reasonable parent-time with the parent from whose
19720 custody the child was removed, unless parent-time is not in the best interest of the child. The
19721 court's order shall be periodically reviewed to determine whether:
19722 (a) placement with the parent continues to be in the child's best interest;
19723 (b) the child should be returned to the original custodial parent;
19724 (c) the child should be placed with a relative, pursuant to Subsection (5); or
19725 (d) the child should be placed in the custody of the division.
19726 (3) The time limitations described in Section [~~78-3a-311~~] 78A-6-312 with regard to
19727 reunification efforts, apply to children placed with a previously noncustodial parent in
19728 accordance with Subsection (1).
19729 (4) Legal custody of the child is not affected by an order entered under Subsection (1)
19730 or (2). In order to affect a previous court order regarding legal custody, the party must petition
19731 that court for modification of the order.
19732 (5) (a) (i) If, at the time of the shelter hearing, a child is removed from the custody of
19733 the child's parent and is not placed in the custody of his other parent, the court shall, at that
19734 time, determine whether, subject to Subsection (8)(c), there is a relative of the child or a friend
19735 of a parent of the child who is able and willing to care for the child.
19736 (ii) The court may order the Division of Child and Family Services to conduct a
19737 reasonable search to determine whether, subject to Subsection (8)(c), there are relatives of the
19738 child or friends of a parent of the child who are willing and appropriate, in accordance with the
19739 requirements of this part and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for
19740 placement of the child. The court shall order the parents to cooperate with the division, within
19741 five working days, to, subject to Subsection (8)(c), provide information regarding relatives of
19742 the child or friends who may be able and willing to care for the child.
19743 (iii) The child may be placed in the temporary custody of the division pending the

19744 determination under Subsection (5)(a)(ii).
19745 (iv) This section may not be construed as a guarantee that an identified relative or
19746 friend will receive custody of the child. However, subject to Subsection (8)(c), preferential
19747 consideration shall be given to a relative's or a friend's request for placement of the child, if it is
19748 in the best interest of the child, and the provisions of this section are satisfied.
19749 (b) (i) If a willing relative or friend is identified pursuant to Subsection (5)(a), the court
19750 shall make a specific finding regarding the fitness of that relative or friend to assume custody,
19751 and the safety and appropriateness of placement with that relative or friend. In order to be
19752 considered a "willing relative or friend" under this section, the relative or friend shall be willing
19753 to cooperate if the child's permanency goal is reunification with his parent or parents, and be
19754 willing to adopt or take permanent custody of the child if that is determined to be in the best
19755 interest of the child.
19756 (ii) The court shall, at a minimum, order the division to conduct criminal background
19757 checks described in Sections [~~78-3a-307.1~~] 78A-6-308 and 62A-4a-202.4, visit the relative's or
19758 friend's home, check the division's management information system for any previous reports of
19759 abuse or neglect regarding the relative or friend at issue, report its findings in writing to the
19760 court, and provide sufficient information so that the court may determine whether:
19761 (A) the relative or friend has any history of abusive or neglectful behavior toward other
19762 children that may indicate or present a danger to this child;
19763 (B) the child is comfortable with the relative or friend;
19764 (C) the relative or friend recognizes the parent's history of abuse and is determined to
19765 protect the child;
19766 (D) the relative or friend is strong enough to resist inappropriate requests by the parent
19767 for access to the child, in accordance with court orders;
19768 (E) the relative or friend is committed to caring for the child as long as necessary; and
19769 (F) the relative or friend can provide a secure and stable environment for the child.
19770 (iii) The court may order the Division of Child and Family Services to conduct any
19771 further investigation regarding the safety and appropriateness of the placement.
19772 (iv) The division shall complete and file its assessment regarding placement with a
19773 relative or friend as soon as practicable, in an effort to facilitate placement of the child with a
19774 relative or friend.

19775 (c) The court may place the child in the temporary custody of the division, pending the
19776 division's investigation pursuant to Subsection (5)(b), and the court's determination regarding
19777 that placement. The court shall ultimately base its determination regarding placement with a
19778 relative or friend on the best interest of the child.
19779 (d) For purposes of this section, "relative" means an adult who is a grandparent, great
19780 grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first
19781 cousin, stepsibling, or sibling of the child. In the case of a child defined as an "Indian" under
19782 the Indian Child Welfare Act, 25 U.S.C. Section 1903, "relative" also means an "extended
19783 family member" as defined by that statute.
19784 (6) (a) When the court vests physical custody of a child with a relative or friend
19785 pursuant to Subsection (5), it shall order that the relative or friend assume custody subject to
19786 the continuing supervision of the court, and shall order that any necessary services be provided
19787 to the child and the relative or friend. That child is not within the temporary custody or
19788 custody of the Division of Child and Family Services. The child and any relative or friend with
19789 whom the child is placed are under the continuing jurisdiction of the court. The court may
19790 enter any order that it considers necessary for the protection and best interest of the child. The
19791 court shall provide for reasonable parent-time with the parent or parents from whose custody
19792 the child was removed unless parent-time is not in the best interest of the child.
19793 (b) (i) Placement with a relative or friend pursuant to Subsection (5) shall be
19794 periodically reviewed by the court, no less often than every six months, to determine whether:
19795 (A) placement with the relative or friend continues to be in the child's best interest;
19796 (B) the child should be returned home; or
19797 (C) the child should be placed in the custody of the division.
19798 (ii) No later than 12 months after placement with a relative or friend, the court shall
19799 schedule a hearing for the purpose of entering a permanent order in accordance with the best
19800 interest of the child.
19801 (iii) The time limitations described in Section [~~78-3a-311~~] 78A-6-312, with regard to
19802 reunification efforts, apply to children placed with a relative or friend pursuant to Subsection
19803 (5).
19804 (7) When the court orders that a child be removed from the custody of the child's
19805 parent and does not vest custody in another parent, relative, or friend under this section, the

19806 court shall order that the child be placed in the temporary custody of the Division of Child and
19807 Family Services, to proceed to adjudication and disposition and to be provided with care and
19808 services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.
19809 (8) (a) Any preferential consideration that a relative or friend is initially granted
19810 pursuant to Subsection (5) expires 120 days from the date of the shelter hearing. After that
19811 time period has expired, a relative or friend who has not obtained custody or asserted an
19812 interest in a child, may not be granted preferential consideration by the division or the court.
19813 (b) When the time period described in Subsection (8)(a) has expired, the preferential
19814 consideration which is initially granted to a natural parent in accordance with Subsection (1), is
19815 limited. After that time the court shall base its custody decision on the best interest of the
19816 child.
19817 (c) (i) Prior to the expiration of the 120-day period described in Subsection (8)(a), the
19818 following order of preference shall be applied when determining the person with whom a child
19819 will be placed, provided that the person is willing, and has the ability, to care for the child:
19820 (A) a noncustodial parent of the child;
19821 (B) a relative of the child;
19822 (C) subject to Subsection (8)(c)(ii), a friend of a parent of the child, if the friend is a
19823 licensed foster parent; and
19824 (D) other placements that are consistent with the requirements of law.
19825 (ii) In determining whether a friend is a willing and appropriate placement for a child,
19826 neither the court, nor the division, is required to consider more than one friend designated by
19827 each parent of the child.
19828 (iii) If a parent of the child is not able to designate a friend who is a licensed foster
19829 parent for placement of the child, but is able to identify a friend who is willing to become
19830 licensed as a foster parent:
19831 (A) the department shall fully cooperate to expedite the licensing process for the
19832 friend; and
19833 (B) if the friend becomes licensed as a foster parent within the time frame described in
19834 Subsection (8)(a), the court shall determine whether it is in the best interests of the child to
19835 place the child in the physical custody of the friend.
19836 (9) If, following the shelter hearing, the child is placed with a person who is not a

19837 parent of the child, a relative of the child, a friend of a parent of the child, or a former foster
19838 parent of the child, priority shall be given to a foster placement with a man and a woman who
19839 are married to each other, unless it is in the best interests of the child to place the child with a
19840 single foster parent.
19841 (10) In determining the placement of a child, neither the court, nor the Division of
19842 Child and Family Services, may take into account, or discriminate against, the religion of a
19843 person with whom the child may be placed, unless the purpose of taking religion into account
19844 is to place the child with a person or family of the same religion as the child.
19845 Section 406. Section **78A-6-308**, which is renumbered from Section 78-3a-307.1 is
19846 renumbered and amended to read:
19847 **[~~78-3a-307.1~~]. 78A-6-308. Criminal background checks necessary prior to**
19848 **out-of-home placement.**
19849 (1) Upon ordering removal of a child from the custody of the child's parent and placing
19850 that child in the custody of the Division of Child and Family Services, prior to the division's
19851 placement of that child in out-of-home care, the court shall require the completion of a
19852 background check by the Utah Bureau of Criminal Identification regarding the proposed
19853 placement.
19854 (2) (a) The Division of Child and Family Services and the Office of the Guardian ad
19855 Litem Director may request, or the court upon its own motion may order, the Department of
19856 Public Safety to conduct a complete Federal Bureau of Investigation criminal background
19857 check through the national criminal history system (NCIC).
19858 (b) Upon request by the Division of Child and Family Services or the Office of the
19859 Guardian ad Litem Director, or upon the court's order, persons subject to the requirements of
19860 Subsection (1) shall submit fingerprints and shall be subject to an FBI fingerprint background
19861 check. The child may be temporarily placed, pending the outcome of that background check.
19862 (c) The cost of those investigations shall be borne by whoever is to receive placement
19863 of the child, except that the Division of Child and Family Services may pay all or part of the
19864 cost of those investigations if the person with whom the child is to be placed is unable to pay.
19865 (3) Notwithstanding any other provision of this section, except as otherwise permitted
19866 by federal law or rule, a child who is in the legal custody of the state may not be placed with a
19867 prospective foster parent or a prospective adoptive parent, unless, before the child is placed

19868 with the prospective foster parent or the prospective adoptive parent:
19869 (a) a fingerprint based FBI national criminal history records check is conducted on the
19870 prospective foster parent or prospective adoptive parent and each adult living in the home of
19871 the prospective foster parent or prospective adoptive parent;
19872 (b) the Department of Human Services conducts a check of the child abuse and neglect
19873 registry in each state where the prospective foster parent or prospective adoptive parent resided
19874 in the five years immediately preceding the day on which the prospective foster parent or
19875 prospective adoptive parent applied to be a foster parent or adoptive parent, to determine
19876 whether the prospective foster parent or prospective adoptive parent is listed in the registry as
19877 having a substantiated or supported finding of child abuse or neglect;
19878 (c) the Department of Human Services conducts a check of the child abuse and neglect
19879 registry of each state where each adult living in the home of the prospective foster parent or
19880 prospective adoptive parent described in Subsection (3)(b) resided in the five years
19881 immediately preceding the day on which the prospective foster parent or prospective adoptive
19882 parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed
19883 in the registry as having a substantiated or supported finding of child abuse or neglect; and
19884 (d) each person required to undergo a background check described in this Subsection
19885 (3) passes the background check, pursuant to the provisions of Section 62A-2-120.
19886 Section 407. Section **78A-6-309**, which is renumbered from Section 78-3a-308 is
19887 renumbered and amended to read:
19888 **[~~78-3a-308~~]. 78A-6-309. Pretrial and adjudication hearing -- Time**
19889 **deadlines.**
19890 (1) Upon the filing of a petition, the clerk of the court shall set the pretrial hearing on
19891 the petition within 15 calendar days from the later of:
19892 (a) the date of the shelter hearing; or
19893 (b) the filing of the petition.
19894 (2) The pretrial may be continued upon motion of any party, for good cause shown, but
19895 the final adjudication hearing shall be held no later than 60 calendar days from the later of:
19896 (a) the date of the shelter hearing; or
19897 (b) the filing of the petition.
19898 Section 408. Section **78A-6-310**, which is renumbered from Section 78-3a-309 is

19899 renumbered and amended to read:
19900 **[~~78-3a-309~~]. 78A-6-310. Notice of adjudication hearing.**
19901 (1) Upon the filing of a petition pursuant to Section [~~78-3a-305~~] 78A-6-304, the
19902 petitioner shall cause the petition and notice to be served on:
19903 (a) the guardian ad litem;
19904 (b) both parents and any guardian of the child; and
19905 (c) the child's foster parents.
19906 (2) The notice shall contain all of the following:
19907 (a) the name and address of the person to whom the notice is directed;
19908 (b) the date, time, and place of the hearing on the petition;
19909 (c) the name of the child on whose behalf the petition has been brought;
19910 (d) a statement that the parent or guardian to whom notice is given, and the child, are
19911 entitled to have an attorney present at the hearing on the petition, and that if the parent or
19912 guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney,
19913 one will be provided; and
19914 (e) a statement that the parent or legal guardian is liable for the cost of support of the
19915 child in the protective custody, temporary custody, and custody of the division, and for legal
19916 counsel appointed for the parent or guardian under Subsection (2)(d), according to the parent's
19917 or guardian's financial ability.
19918 (3) Notice and a copy of the petition shall be served on all persons required to receive
19919 notice under Subsection (1) as soon as possible after the petition is filed and at least five days
19920 prior to the time set for the hearing.
19921 Section 409. Section **78A-6-311**, which is renumbered from Section 78-3a-310 is
19922 renumbered and amended to read:
19923 **[~~78-3a-310~~]. 78A-6-311. Adjudication -- Dispositional hearing -- Time**
19924 **deadlines.**
19925 (1) If, at the adjudication hearing, the court finds, by clear and convincing evidence,
19926 that the allegations contained in the petition are true, it shall conduct a dispositional hearing.
19927 (2) The dispositional hearing may be held on the same date as the adjudication hearing,
19928 but shall be held no later than 30 calendar days after the date of the adjudication hearing.
19929 (3) At the adjudication hearing or the dispositional hearing the court shall schedule

19930 dates and times for:
19931 (a) the six-month periodic review; and
19932 (b) the permanency hearing.
19933 Section 410. Section **78A-6-312**, which is renumbered from Section 78-3a-311 is
19934 renumbered and amended to read:
19935 **[~~78-3a-311~~]. 78A-6-312. Dispositional hearing -- Reunification services --**
19936 **Exceptions.**
19937 (1) The court may:
19938 (a) make any of the dispositions described in Section [~~78-3a-118~~] 78A-6-117;
19939 (b) place the minor in the custody or guardianship of any:
19940 (i) individual; or
19941 (ii) public or private entity or agency; or
19942 (c) order:
19943 (i) protective supervision;
19944 (ii) family preservation;
19945 (iii) subject to Subsection [~~78-3a-118~~] 78A-6-117(2)(n)(iii), medical or mental health
19946 treatment; or
19947 (iv) other services.
19948 (2) (a) (i) Whenever the court orders continued removal at the dispositional hearing,
19949 and that the minor remain in the custody of the division, the court shall first:
19950 (A) establish a primary permanency goal for the minor; and
19951 (B) determine whether, in view of the primary permanency goal, reunification services
19952 are appropriate for the minor and the minor's family, pursuant to Subsection (3).
19953 (ii) Subject to Subsection (2)(b), if the court determines that reunification services are
19954 appropriate for the minor and the minor's family, the court shall provide for reasonable
19955 parent-time with the parent or parents from whose custody the minor was removed, unless
19956 parent-time is not in the best interest of the minor.
19957 (iii) (A) In cases where obvious sexual abuse, abandonment, or serious physical abuse
19958 or neglect are involved, neither the division nor the court has any duty to make "reasonable
19959 efforts" or to, in any other way, attempt to provide reunification services, or to attempt to
19960 rehabilitate the offending parent or parents.

19961 (B) In all cases, the minor's health, safety, and welfare shall be the court's paramount
19962 concern in determining whether reasonable efforts to reunify should be made.
19963 (b) (i) For purposes of Subsection (2)(a)(ii), parent-time is in the best interests of a
19964 minor unless the court makes a finding that it is necessary to deny parent-time in order to:
19965 (A) protect the physical safety of the minor;
19966 (B) protect the life of the minor; or
19967 (C) prevent the minor from being traumatized by contact with the parent due to the
19968 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
19969 (ii) Notwithstanding Subsection (2)(a)(ii), a court may not deny parent-time based
19970 solely on a parent's failure to:
19971 (A) prove that the parent has not used legal or illegal substances; or
19972 (B) comply with an aspect of the child and family plan that is ordered by the court.
19973 (c) (i) In addition to the primary permanency goal, the court shall establish a concurrent
19974 permanency goal that shall include:
19975 (A) a representative list of the conditions under which the primary permanency goal
19976 will be abandoned in favor of the concurrent permanency goal; and
19977 (B) an explanation of the effect of abandoning or modifying the primary permanency
19978 goal.
19979 (ii) A permanency hearing shall be conducted in accordance with Subsection
19980 [~~78-3a-312~~] 78A-6-314(1)(b) within 30 days if something other than reunification is initially
19981 established as a minor's primary permanency goal.
19982 (iii) (A) The court may amend a minor's primary permanency goal before the
19983 establishment of a final permanency plan under Section [~~78-3a-312~~] 78A-6-314.
19984 (B) The court is not limited to the terms of the concurrent permanency goal in the event
19985 that the primary permanency goal is abandoned.
19986 (C) If, at any time, the court determines that reunification is no longer a minor's
19987 primary permanency goal, the court shall conduct a permanency hearing in accordance with
19988 Section [~~78-3a-312~~] 78A-6-314 on or before the earlier of:
19989 (I) 30 days from the day on which the court makes the determination described in this
19990 Subsection (2)(c)(iii)(C); or
19991 (II) 12 months from the day on which the minor was first removed from the minor's

19992 home.
19993 (d) (i) (A) If the court determines that reunification services are appropriate, it shall
19994 order that the division make reasonable efforts to provide services to the minor and the minor's
19995 parent for the purpose of facilitating reunification of the family, for a specified period of time.
19996 (B) In providing the services described in Subsection (2)(d)(i)(A), the minor's health,
19997 safety, and welfare shall be the division's paramount concern, and the court shall so order.
19998 (ii) The court shall:
19999 (A) determine whether the services offered or provided by the division under the child
20000 and family plan constitute "reasonable efforts" on the part of the division;
20001 (B) determine and define the responsibilities of the parent under the child and family
20002 plan in accordance with Subsection 62A-4a-205(6)(e); and
20003 (C) identify on the record the responsibilities described in Subsection (2)(d)(ii)(B), for
20004 the purpose of assisting in any future determination regarding the provision of reasonable
20005 efforts, in accordance with state and federal law.
20006 (iii) (A) The time period for reunification services may not exceed 12 months from the
20007 date that the minor was initially removed from the minor's home.
20008 (B) Nothing in this section may be construed to entitle any parent to an entire 12
20009 months of reunification services.
20010 (iv) If reunification services are ordered, the court may terminate those services at any
20011 time.
20012 (v) If, at any time, continuation of reasonable efforts to reunify a minor is determined
20013 to be inconsistent with the final permanency plan for the minor established pursuant to Section
20014 [~~78-3a-312~~] 78A-6-314, then measures shall be taken, in a timely manner, to:
20015 (A) place the minor in accordance with the permanency plan; and
20016 (B) complete whatever steps are necessary to finalize the permanent placement of the
20017 minor.
20018 (e) Any physical custody of the minor by the parent or a relative during the period
20019 described in Subsection (2)(d) does not interrupt the running of the period.
20020 (f) (i) If reunification services are ordered, a permanency hearing shall be conducted by
20021 the court in accordance with Section [~~78-3a-312~~] 78A-6-314 at the expiration of the time
20022 period for reunification services.

20023 (ii) The permanency hearing shall be held no later than 12 months after the original
20024 removal of the minor.
20025 (iii) If reunification services are not ordered, a permanency hearing shall be conducted
20026 within 30 days, in accordance with Section [~~78-3a-312~~] 78A-6-314.
20027 (g) With regard to a minor who is 36 months of age or younger at the time the minor is
20028 initially removed from the home, the court shall:
20029 (i) hold a permanency hearing eight months after the date of the initial removal,
20030 pursuant to Section [~~78-3a-312~~] 78A-6-314; and
20031 (ii) order the discontinuance of those services after eight months from the initial
20032 removal of the minor from the home if the parent or parents have not made substantial efforts
20033 to comply with the child and family plan.
20034 (h) With regard to a minor in the custody of the division whose parent or parents are
20035 ordered to receive reunification services but who have abandoned that minor for a period of six
20036 months from the date that reunification services were ordered:
20037 (i) the court shall terminate reunification services; and
20038 (ii) the division shall petition the court for termination of parental rights.
20039 (3) (a) Because of the state's interest in and responsibility to protect and provide
20040 permanency for minors who are abused, neglected, or dependent, the Legislature finds that a
20041 parent's interest in receiving reunification services is limited.
20042 (b) The court may determine that:
20043 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate,
20044 based on the individual circumstances; and
20045 (ii) reunification services should not be provided.
20046 (c) In determining "reasonable efforts" to be made with respect to a minor, and in
20047 making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount
20048 concern.
20049 (d) (i) There is a presumption that reunification services should not be provided to a
20050 parent if the court finds, by clear and convincing evidence, that any of the following
20051 circumstances exist:
20052 (A) the whereabouts of the parents are unknown, based upon a verified affidavit
20053 indicating that a reasonably diligent search has failed to locate the parent;

20054 (B) subject to Subsection (3)(d)(ii), the parent is suffering from a mental illness of such
20055 magnitude that it renders the parent incapable of utilizing reunification services;
20056 (C) the minor was previously adjudicated as an abused child due to physical or sexual
20057 abuse, and following the adjudication the minor:
20058 (I) was removed from the custody of the minor's parent;
20059 (II) was subsequently returned to the custody of the parent; and
20060 (III) is being removed due to additional physical or sexual abuse;
20061 (D) the parent:
20062 (I) caused the death of another minor through abuse or neglect; or
20063 (II) committed, aided, abetted, attempted, conspired, or solicited to commit:
20064 (Aa) murder or manslaughter of a child; or
20065 (Bb) child abuse homicide;
20066 (E) the minor suffered severe abuse by the parent or by any person known by the
20067 parent, if the parent knew or reasonably should have known that the person was abusing the
20068 minor;
20069 (F) the minor is adjudicated an abused child as a result of severe abuse by the parent,
20070 and the court finds that it would not benefit the minor to pursue reunification services with the
20071 offending parent;
20072 (G) the parent's rights are terminated with regard to any other minor;
20073 (H) the minor is removed from the minor's home on at least two previous occasions
20074 and reunification services were offered or provided to the family at those times;
20075 (I) the parent has abandoned the minor for a period of six months or longer;
20076 (J) the parent permitted the child to reside, on a permanent or temporary basis, at a
20077 location where the parent knew or should have known that a clandestine laboratory operation
20078 was located; or
20079 (K) any other circumstance that the court determines should preclude reunification
20080 efforts or services.
20081 (ii) The finding under Subsection (3)(d)(i)(B) shall be based on competent evidence
20082 from at least two medical or mental health professionals, who are not associates, establishing
20083 that, even with the provision of services, the parent is not likely to be capable of adequately
20084 caring for the minor within 12 months from the day on which the court finding is made.

20085 (4) In determining whether reunification services are appropriate, the court shall take
20086 into consideration:
20087 (a) failure of the parent to respond to previous services or comply with a previous child
20088 and family plan;
20089 (b) the fact that the minor was abused while the parent was under the influence of
20090 drugs or alcohol;
20091 (c) any history of violent behavior directed at the child or an immediate family
20092 member;
20093 (d) whether a parent continues to live with an individual who abused the minor;
20094 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;
20095 (f) testimony by a competent professional that the parent's behavior is unlikely to be
20096 successful; and
20097 (g) whether the parent has expressed an interest in reunification with the minor.
20098 (5) (a) If reunification services are not ordered pursuant to Subsection (3)(a), and the
20099 whereabouts of a parent become known within six months of the out-of-home placement of the
20100 minor, the court may order the division to provide reunification services.
20101 (b) The time limits described in Subsection (2) are not tolled by the parent's absence.
20102 (6) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable
20103 services unless it determines that those services would be detrimental to the minor.
20104 (b) In making the determination described in Subsection (6)(a), the court shall
20105 consider:
20106 (i) the age of the minor;
20107 (ii) the degree of parent-child bonding;
20108 (iii) the length of the sentence;
20109 (iv) the nature of the treatment;
20110 (v) the nature of the crime or illness;
20111 (vi) the degree of detriment to the minor if services are not offered;
20112 (vii) for a minor ten years of age or older, the minor's attitude toward the
20113 implementation of family reunification services; and
20114 (viii) any other appropriate factors.
20115 (c) Reunification services for an incarcerated parent are subject to the 12-month

20116 limitation imposed in Subsection (2).
20117 (d) Reunification services for an institutionalized parent are subject to the 12-month
20118 limitation imposed in Subsection (2), unless the court determines that continued reunification
20119 services would be in the minor's best interest.
20120 (7) If, pursuant to Subsections (3)(d)(i)(B) through (K), the court does not order
20121 reunification services, a permanency hearing shall be conducted within 30 days, in accordance
20122 with Section [~~78-3a-312~~] 78A-6-314.
20123 Section 411. Section **78A-6-313**, which is renumbered from Section 78-3a-311.5 is
20124 renumbered and amended to read:
20125 **[~~78-3a-311.5~~]. 78A-6-313. Six-month review hearing -- Court determination**
20126 **regarding reasonable efforts by the Division of Child and Family Services and parental**
20127 **compliance with child and family plan requirements.**
20128 If reunification efforts have been ordered by the court, a hearing shall be held no more
20129 than six months after initial removal of a minor from the minor's home, in order for the court to
20130 determine whether:
20131 (1) the division has provided and is providing "reasonable efforts" to reunify a family,
20132 in accordance with the child and family plan established under Section 62A-4a-205; and
20133 (2) the parent has fulfilled or is fulfilling identified duties and responsibilities in order
20134 to comply with the requirements of the child and family plan.
20135 Section 412. Section **78A-6-314**, which is renumbered from Section 78-3a-312 is
20136 renumbered and amended to read:
20137 **[~~78-3a-312~~]. 78A-6-314. Permanency hearing -- Final plan -- Petition for**
20138 **termination of parental rights filed -- Hearing on termination of parental rights.**
20139 (1) (a) When reunification services have been ordered in accordance with Section
20140 [~~78-3a-311~~] 78A-6-312, with regard to a minor who is in the custody of the Division of Child
20141 and Family Services, a permanency hearing shall be held by the court no later than 12 months
20142 after the original removal of the minor.
20143 (b) If reunification services were not ordered at the dispositional hearing, a permanency
20144 hearing shall be held within 30 days from the date of the dispositional hearing.
20145 (2) (a) If reunification services were ordered by the court in accordance with Section
20146 [~~78-3a-311~~] 78A-6-312, the court shall, at the permanency hearing, determine, consistent with

20147 Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.
20148 (b) If the court finds, by a preponderance of the evidence, that return of the minor
20149 would create a substantial risk of detriment to the minor's physical or emotional well-being, the
20150 minor may not be returned to the custody of the minor's parent.
20151 (c) Prima facie evidence that return of the minor to a parent or guardian would create a
20152 substantial risk of detriment to the minor is established if the parent or guardian fails to:
20153 (i) participate in a court approved child and family plan;
20154 (ii) comply with a court approved child and family plan in whole or in part; or
20155 (iii) meet the goals of a court approved child and family plan.
20156 (3) In making a determination under Subsection (2)(a), the court shall review and
20157 consider:
20158 (a) the report prepared by the Division of Child and Family Services;
20159 (b) any admissible evidence offered by the minor's guardian ad litem;
20160 (c) any report prepared by a foster care citizen review board pursuant to Section
20161 [~~78-3g-103~~] 78B-8-103;
20162 (d) any evidence regarding the efforts or progress demonstrated by the parent; and
20163 (e) the extent to which the parent cooperated and availed himself of the services
20164 provided.
20165 (4) (a) With regard to a case where reunification services were ordered by the court, if
20166 a minor is not returned to the minor's parent or guardian at the permanency hearing, the court
20167 shall:
20168 (i) order termination of reunification services to the parent;
20169 (ii) make a final determination regarding whether termination of parental rights,
20170 adoption, or permanent custody and guardianship is the most appropriate final plan for the
20171 minor, taking into account the minor's primary permanency goal established by the court
20172 pursuant to Section [~~78-3a-311~~] 78A-6-312; and
20173 (iii) establish a concurrent plan that identifies the second most appropriate final plan
20174 for the minor.
20175 (b) If the Division of Child and Family Services documents to the court that there is a
20176 compelling reason that adoption, reunification, guardianship, and a placement described in
20177 Subsection [~~78-3a-306~~] 78A-6-306(6)(e) are not in the minor's best interest, the court may

20178 order another planned permanent living arrangement, in accordance with federal law.
20179 (c) If the minor clearly desires contact with the parent, the court shall take the minor's
20180 desire into consideration in determining the final plan.
20181 (d) Consistent with Subsection (4)(e), the court may not extend reunification services
20182 beyond 12 months from the date the minor was initially removed from the minor's home, in
20183 accordance with the provisions of Section [~~78-3a-311~~] 78A-6-312, except that the court may
20184 extend reunification services for no more than 90 days if the court finds that:
20185 (i) there has been substantial compliance with the child and family plan;
20186 (ii) reunification is probable within that 90-day period; and
20187 (iii) the extension is in the best interest of the minor.
20188 (e) (i) In no event may any reunification services extend beyond 15 months from the
20189 date the minor was initially removed from the minor's home.
20190 (ii) Delay or failure of a parent to establish paternity or seek custody does not provide a
20191 basis for the court to extend services for that parent beyond that 12-month period.
20192 (f) The court may, in its discretion:
20193 (i) enter any additional order that it determines to be in the best interest of the minor,
20194 so long as that order does not conflict with the requirements and provisions of Subsections
20195 (4)(a) through (e); or
20196 (ii) order the division to provide protective supervision or other services to a minor and
20197 the minor's family after the division's custody of a minor has been terminated.
20198 (5) If the final plan for the minor is to proceed toward termination of parental rights,
20199 the petition for termination of parental rights shall be filed, and a pretrial held, within 45
20200 calendar days after the permanency hearing.
20201 (6) (a) Any party to an action may, at any time, petition the court for an expedited
20202 permanency hearing on the basis that continuation of reunification efforts are inconsistent with
20203 the permanency needs of the minor.
20204 (b) If the court so determines, it shall order, in accordance with federal law, that:
20205 (i) the minor be placed in accordance with the permanency plan; and
20206 (ii) whatever steps are necessary to finalize the permanent placement of the minor be
20207 completed as quickly as possible.
20208 (7) Nothing in this section may be construed to:

20209 (a) entitle any parent to reunification services for any specified period of time;
20210 (b) limit a court's ability to terminate reunification services at any time prior to a
20211 permanency hearing; or
20212 (c) limit or prohibit the filing of a petition for termination of parental rights by any
20213 party, or a hearing on termination of parental rights, at any time prior to a permanency hearing.
20214 (8) (a) Subject to Subsection (8)(b), if a petition for termination of parental rights is
20215 filed prior to the date scheduled for a permanency hearing, the court may consolidate the
20216 hearing on termination of parental rights with the permanency hearing.
20217 (b) For purposes of Subsection (8)(a), if the court consolidates the hearing on
20218 termination of parental rights with the permanency hearing:
20219 (i) the court shall first make a finding regarding whether reasonable efforts have been
20220 made by the Division of Child and Family Services to finalize the permanency goal for the
20221 minor; and
20222 (ii) any reunification services shall be terminated in accordance with the time lines
20223 described in Section [~~78-3a-311~~] 78A-6-312.
20224 (c) A decision on a petition for termination of parental rights shall be made within 18
20225 months from the day on which the minor is removed from the minor's home.
20226 (9) If a court determines that a child will not be returned to a parent of the child, the
20227 court shall consider appropriate placement options inside and outside of the state.
20228 Section 413. Section **78A-6-315**, which is renumbered from Section 78-3a-313 is
20229 renumbered and amended to read:
20230 **[~~78-3a-313~~]. 78A-6-315. Periodic review hearings -- Foster care citizen**
20231 **review boards.**
20232 (1) Pursuant to federal law, periodic review hearings shall be held no less frequently
20233 than once every six months, either by the court or by a foster care citizen review board, in
20234 accordance with the provisions of [~~Chapter 3g~~] Title 78B, Chapter 8, Part 1, Foster Care
20235 Citizen Review Board. In districts or areas where foster care citizen review boards have not
20236 been established, either the court or the Division of Child and Family Services shall conduct
20237 the review. In districts where they are established, foster care citizen review boards shall be
20238 considered to be the panels described in 42 U.S.C. Sections 675(5) and (6), which are required
20239 to conduct periodic reviews unless court reviews are conducted.

20240 (2) (a) Within 30 days after completion of a review, a foster care citizen review board
20241 shall submit a copy of its dispositional report to the court to be made a part of the court's legal
20242 file, and provide copies to all parties to an action. In districts or areas where the Division of
20243 Child and Family Services conducts a review, it shall provide copies of its report to the court
20244 and to all parties within 30 days after completion of its review.
20245 (b) In accordance with Section [~~78-3g-103~~] 78B-8-103, dispositional reports of foster
20246 care citizen review boards shall be received and reviewed by the court in the same manner as
20247 the court receives and reviews the reports described in Section [~~78-3a-505~~] 78A-6-605. The
20248 report by a board, if determined to be an ex parte communication with a judge, shall be
20249 considered a communication authorized by law. Foster care citizen review board dispositional
20250 reports may be received as evidence, and may be considered by the court along with other
20251 evidence. The court may require any person who participated in the dispositional report to
20252 appear as a witness if the person is reasonably available.
20253 Section 414. Section **78A-6-316**, which is renumbered from Section 78-3a-313.5 is
20254 renumbered and amended to read:
20255 **[~~78-3a-313.5~~]. 78A-6-316. Mandatory petition for termination of parental**
20256 **rights.**
20257 (1) For purposes of this section, "abandoned infant" means a child who is 12 months of
20258 age or younger whose parent or parents:
20259 (a) although having legal custody of the child, fail to maintain physical custody of the
20260 child without making arrangements for the care of the child;
20261 (b) have failed to:
20262 (i) maintain physical custody; and
20263 (ii) exhibit the normal interest of a natural parent without just cause; or
20264 (c) are unwilling to have physical custody of the child.
20265 (2) Except as provided in Subsection (3), notwithstanding any other provision of this
20266 chapter or of Title 62A, Chapter 4a, Child and Family Services, the division shall file a petition
20267 for termination of parental rights with regard to:
20268 (a) an abandoned infant; or
20269 (b) the child of a parent, whenever a court has determined that the parent has:
20270 (i) committed murder or child abuse homicide of another child of that parent;

20271 (ii) committed manslaughter of another child of that parent;
20272 (iii) aided, abetted, attempted, conspired, or solicited to commit murder, child abuse
20273 homicide, or manslaughter against another child of that parent; or
20274 (iv) committed a felony assault or abuse that results in serious physical injury to:
20275 (A) another child of that parent; or
20276 (B) the other parent of the child.
20277 (3) The division is not required to file a petition for termination of parental rights under
20278 Subsection (2) if:
20279 (a) the child is being cared for by a relative;
20280 (b) the division has:
20281 (i) documented in the child's child and family plan a compelling reason for determining
20282 that filing a petition for termination of parental rights is not in the child's best interest; and
20283 (ii) made that child and family plan available to the court for its review; or
20284 (c) (i) the court has previously determined, in accordance with the provisions and
20285 limitations of Sections 62A-4a-201, 62A-4a-203, [~~78-3a-306~~] 78A-6-306, and [~~78-3a-311~~]
20286 78A-6-312, that reasonable efforts to reunify the child with the child's parent or parents were
20287 required; and
20288 (ii) the division has not provided, within the time period specified in the child and
20289 family plan, services that had been determined to be necessary for the safe return of the child.
20290 Section 415. Section **78A-6-317**, which is renumbered from Section 78-3a-314 is
20291 renumbered and amended to read:
20292 **[~~78-3a-314~~]. 78A-6-317. All proceedings -- Persons entitled to be present.**
20293 (1) A child who is the subject of a juvenile court hearing, any person entitled to notice
20294 pursuant to Section [~~78-3a-306 or 78-3a-309~~] 78A-6-306 or 78A-6-310, preadoptive parents,
20295 foster parents, and any relative providing care for the child, are:
20296 (a) entitled to notice of, and to be present at, each hearing and proceeding held under
20297 this part, including administrative and citizen reviews; and
20298 (b) have a right to be heard at each hearing and proceeding described in Subsection
20299 (1)(a).
20300 (2) A child shall be represented at each hearing by the guardian ad litem appointed to
20301 the child's case by the court. The child has a right to be present at each hearing, subject to the

20302 discretion of the guardian ad litem or the court regarding any possible detriment to the child.
20303 (3) (a) The parent or guardian of a child who is the subject of a petition under this part
20304 has the right to be represented by counsel, and to present evidence, at each hearing.
20305 (b) When it appears to the court that a parent or guardian of the child desires counsel
20306 but is financially unable to afford and cannot for that reason employ counsel, and the child has
20307 been placed in out-of-home care, or the petitioner is recommending that the child be placed in
20308 out-of-home care, the court shall appoint counsel.
20309 (4) In every abuse, neglect, or dependency proceeding under this chapter, the court
20310 shall order that the child be represented by a guardian ad litem, in accordance with Section
20311 [~~78-3a-912~~] 78A-6-902. The guardian ad litem shall represent the best interest of the child, in
20312 accordance with the requirements of that section, at the shelter hearing and at all subsequent
20313 court and administrative proceedings, including any proceeding for termination of parental
20314 rights in accordance with Part [~~4~~] 5, Termination of Parental Rights Act.
20315 (5) Notwithstanding any other provision of law, counsel for all parties to the action
20316 shall be given access to all records, maintained by the division or any other state or local public
20317 agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter. If
20318 the natural parent of a child is representing himself, the natural parent shall have access to
20319 those records. The above disclosures are not required in the following circumstances:
20320 (a) The division or other state or local public agency did not originally create the record
20321 being requested. In those circumstances, the person making the request under this section shall
20322 be informed of the following:
20323 (i) the existence of all records in the possession of the division or any other state or
20324 local public agency;
20325 (ii) the name and address of the person or agency that originally created the record; and
20326 (iii) that the person must seek access to the record from the person or agency that
20327 originally created the record.
20328 (b) Disclosure of the record would jeopardize the life or physical safety of a child who
20329 has been a victim of child abuse or neglect, or any person who provided substitute care for the
20330 child.
20331 (c) Disclosure of the record would jeopardize the anonymity of the person or persons
20332 making the initial report of abuse or neglect or any others involved in the subsequent

20333 investigation.
20334 (d) Disclosure of the record would jeopardize the life or physical safety of a person
20335 who has been a victim of domestic violence.
20336 (6) (a) The appropriate foster care citizen review board shall be given access to all
20337 records, maintained by the division or any other state or local public agency, that are relevant to
20338 an abuse, neglect, or dependency proceeding under this chapter.
20339 (b) Representatives of the appropriate foster care citizen review board are entitled to be
20340 present at each hearing held under this part, but notice is not required to be provided.
20341 Section 416. Section **78A-6-318**, which is renumbered from Section 78-3a-315 is
20342 renumbered and amended to read:
20343 **[~~78-3a-315~~]. 78A-6-318. Review of foster care removal -- Foster parent's**
20344 **standing.**
20345 (1) With regard to a child in the custody of the Division of Child and Family Services
20346 who is the subject of a petition alleging abuse, neglect, or dependency, and who has been
20347 placed in foster care with a foster family, the Legislature finds that:
20348 (a) except with regard to the child's natural parents, a foster family has a very limited
20349 but recognized interest in its familial relationship with the child; and
20350 (b) children in the custody of the division are experiencing multiple changes in foster
20351 care placements with little or no documentation, and that numerous studies of child growth and
20352 development emphasize the importance of stability in foster care living arrangements.
20353 (2) For the reasons described in Subsection (1), the Legislature finds that, except with
20354 regard to the child's natural parents, procedural due process protections must be provided to a
20355 foster family prior to removal of a foster child from their home.
20356 (3) (a) A foster parent who has had a foster child in his custody for 12 months or longer
20357 may petition the juvenile court for a review and determination of the appropriateness of a
20358 decision by the Division of Child and Family Services to remove the child from the child's
20359 home, unless the removal was for the purpose of:
20360 (i) returning the child to the child's natural parent or legal guardian;
20361 (ii) immediately placing the child in an approved adoptive home;
20362 (iii) placing the child with a relative, as defined in Subsection [~~78-3a-307~~]
20363 78A-6-307(5)(d), who obtained custody or asserted an interest in the child within the

20364 preference period described in Subsection [~~78-3a-307~~] 78A-6-307(8); or
20365 (iv) placing an Indian child in accordance with preplacement preferences and other
20366 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.
20367 (b) The foster parent may petition the court under this section without exhausting
20368 administrative remedies within the division.
20369 (c) The court may order the division to place the child in a specified home, and shall
20370 base its determination on the best interest of the child.
20371 (4) The requirements of this section do not apply to the removal of a child based on a
20372 foster parent's request for that removal.
20373 Section 417. Section **78A-6-319**, which is renumbered from Section 78-3a-316 is
20374 renumbered and amended to read:
20375 **[~~78-3a-316~~]. 78A-6-319. Educational neglect of a child -- Procedures --**
20376 **Defenses.**
20377 (1) With regard to a child who is the subject of a petition under this chapter based on
20378 educational neglect:
20379 (a) if allegations include failure of a child to make adequate educational progress, the
20380 court shall permit demonstration of the child's educational skills and abilities based upon any of
20381 the criteria used in granting school credit, in accordance with Section 53A-11-102.5;
20382 (b) parental refusal to comply with actions taken by school authorities in violation of
20383 Sections 53A-13-101.1, 53A-13-101.2, or 53A-13-101.3, does not constitute educational
20384 neglect;
20385 (c) parental refusal to support efforts by a school to encourage a child to act in
20386 accordance with any educational objective that focuses on the adoption or expression of a
20387 personal philosophy, attitude, or belief that is not reasonably necessary to maintain order and
20388 discipline in the school, prevent unreasonable endangerment of persons or property, or to
20389 maintain concepts of civility and propriety appropriate to a school setting, does not constitute
20390 educational neglect; and
20391 (d) an allegation of educational neglect may not be sustained, based solely on a child's
20392 absence from school, unless the child has been absent from school or from any given class,
20393 without good cause, for more than ten consecutive school days or more than 1/16 of the
20394 applicable school term.

20395 (2) A child may not be considered to be educationally neglected, for purposes of this
20396 chapter:
20397 (a) unless there is clear and convincing evidence that:
20398 (i) the child has failed to make adequate educational progress, and school officials have
20399 complied with the requirements of Section 53A-11-103; and
20400 (ii) the child is two or more years behind the local public school's age group
20401 expectations in one or more basic skills, and is not receiving special educational services or
20402 systematic remediation efforts designed to correct the problem;
20403 (b) if the child's parent or guardian establishes by a preponderance of the evidence that:
20404 (i) school authorities have failed to comply with the requirements of Title 53A,
20405 Chapter 11 or 13;
20406 (ii) the child is being instructed at home in compliance with Section 53A-11-102;
20407 (iii) there is documentation that the child has demonstrated educational progress at a
20408 level commensurate with the child's ability;
20409 (iv) the parent, guardian, or other person in control of the child has made a good faith
20410 effort to secure the child's regular attendance in school;
20411 (v) good cause or a valid excuse exists for the child's absence from school;
20412 (vi) the child is not required to attend school pursuant to court order or is exempt under
20413 other applicable state or federal law;
20414 (vii) the student has performed above the twenty-fifth percentile of the local public
20415 school's age group expectations in all basic skills, as measured by a standardized academic
20416 achievement test administered by the school district where the student resides; or
20417 (viii) the parent or guardian has proffered a reasonable alternative to required school
20418 curriculum, in accordance with Section 53A-13-101.2, that alternative was rejected by the
20419 school district, but the parents have implemented the alternative curriculum; or
20420 (c) if the child is attending school on a regular basis.
20421 Section 418. Section **78A-6-320**, which is renumbered from Section 78-3a-316.1 is
20422 renumbered and amended to read:
20423 **[~~78-3a-316.1~~]. 78A-6-320. Proceedings arising from failure to attend public**
20424 **school.**
20425 (1) When a proceeding arises from a child's failure to attend public school based upon

20426 the assertion of a constitutional or statutory right or duty, raised either by the child or by the
20427 child's custodial parent, guardian, or custodian, the court shall hear the petition and resolve the
20428 issues associated with the asserted constitutional or statutory claims within 15 days after the
20429 petition is filed. The parties may waive the time limitation described in this subsection.
20430 (2) Absent an emergency situation or other exigent circumstances, the court may not
20431 enter any order changing the educational status of the child that existed at the time the petition
20432 was filed, until the hearing described in Subsection (1) is concluded.
20433 (3) Parties proceeding under this section shall, insofar as it is possible, provide the
20434 court with factual stipulations and make all other efforts that are reasonably available to
20435 minimize the time required to hear the claims described in Subsection (1).
20436 Section 419. Section **78A-6-321**, which is renumbered from Section 78-3a-318 is
20437 renumbered and amended to read:
20438 **[~~78-3a-318~~]. 78A-6-321. Treatment for offender and victim -- Costs.**
20439 (1) Upon adjudication in the juvenile court of a person or persons charged with child
20440 abuse or child sexual abuse, the court may order treatment for the adjudicated offender and the
20441 victim or the child victim.
20442 (2) The adjudicated offender shall be required by the court to pay, to the extent that he
20443 is able, the costs of that treatment together with the administrative costs incurred by the
20444 division in monitoring completion of the ordered therapy or treatment.
20445 (3) If the adjudicated offender is unable to pay the full cost of treatment, the court may
20446 order the Division of Child and Family Services to pay those costs, to the extent that funding is
20447 provided by the Legislature for that purpose, and the offender shall be required by the court to
20448 perform public service work as compensation for the cost of treatment.
20449 Section 420. Section **78A-6-322**, which is renumbered from Section 78-3a-319 is
20450 renumbered and amended to read:
20451 **[~~78-3a-319~~]. 78A-6-322. Abuse, neglect, or dependency of child --**
20452 **Coordination of proceedings.**
20453 (1) In each case where an information or indictment has been filed against a defendant
20454 concerning abuse, neglect, or dependency of a child, and a petition has been filed in juvenile
20455 court concerning the victim, the appropriate county attorney's or district attorney's office shall
20456 coordinate with the attorney general's office.

20457 (2) Law enforcement personnel, Division of Child and Family Services personnel, the
20458 appointed guardian ad litem, pretrial services personnel, and corrections personnel shall make
20459 reasonable efforts to facilitate the coordination required by this section.
20460 (3) Members of interdisciplinary child protection teams, established under Section
20461 62A-4a-409, may participate in the coordination required by this section.
20462 Section 421. Section **78A-6-323**, which is renumbered from Section 78-3a-320 is
20463 renumbered and amended to read:
20464 **[~~78-3a-320~~]. 78A-6-323. Additional finding at adjudication hearing --**
20465 **Petition -- Court records.**
20466 (1) Upon the filing with the court of a petition under Section [~~78-3a-305~~] 78A-6-304
20467 by the Division of Child and Family Services or any interested person informing the court,
20468 among other things, that the division has made a supported finding that a person committed a
20469 severe type of child abuse or neglect as defined in Section 62A-4a-1002, the court shall:
20470 (a) make a finding of substantiated, unsubstantiated, or without merit;
20471 (b) include the finding described in Subsection (1)(a) in a written order; and
20472 (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.
20473 (2) The judicial finding under Subsection (1) shall be made:
20474 (a) as part of the adjudication hearing;
20475 (b) at the conclusion of the adjudication hearing; or
20476 (c) as part of a court order entered pursuant to a written stipulation of the parties.
20477 (3) (a) Any person described in Subsection 62A-4a-1010(1) may at any time file with
20478 the court a petition for removal of the person's name from the Licensing Information System.
20479 (b) At the conclusion of the hearing on the petition, the court shall:
20480 (i) make a finding of substantiated, unsubstantiated, or without merit;
20481 (ii) include the finding described in Subsection (1)(a) in a written order; and
20482 (iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.
20483 (4) A proceeding for adjudication of a supported finding under this section of a type of
20484 abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined
20485 in the juvenile court with an adjudication of a severe type of child abuse or neglect.
20486 (5) If a person whose name appears on the Licensing Information system prior to May
20487 6, 2002 files a petition during the time that an alleged perpetrator's application for clearance to

20488 work with children or vulnerable adults is pending, the court shall hear the matter and enter a
20489 final decision no later than 60 days after the filing of the petition.
20490 (6) For the purposes of licensing under Sections 26-21-9.5, 26-39-105.5, 62A-1-118,
20491 and for the purposes described in Section 62A-2-121:
20492 (a) the court shall make available records of its findings under Subsections (1) and (2)
20493 for licensing purposes, only to those with statutory authority to access also the Licensing
20494 Information System created under Section 62A-4a-1006; and
20495 (b) any appellate court shall make available court records of appeals from juvenile
20496 court decisions under Subsections (1), (2), (3), and (4) for licensing purposes, only to those
20497 with statutory authority to access also the Licensing Information System.
20498 Section 422. Section **78A-6-324**, which is renumbered from Section 78-3a-321 is
20499 renumbered and amended to read:
20500 **[~~78-3a-321~~]. 78A-6-324. Mental health therapists.**
20501 (1) When a mental health practitioner is appointed in any juvenile court proceeding to
20502 evaluate the mental health of a parent or a minor, or to provide mental health services to a
20503 parent or minor, the court:
20504 (a) may appoint any mental health therapist, as defined in Section 58-60-102, which the
20505 court finds to be qualified; and
20506 (b) may not refuse to appoint a mental health therapist for the reason that the therapist's
20507 recommendations in another case have not followed the recommendations of the Division of
20508 Child and Family Services.
20509 (2) This section applies to all juvenile court proceedings involving:
20510 (a) parents and minors; or
20511 (b) the Division of Child and Family Services.
20512 Section 423. Section **78A-6-401**, which is renumbered from Section 78-3a-350 is
20513 renumbered and amended to read:
20514 **Part 4. Minors in Custody on Grounds Other than Abuse or Neglect**
20515 **[~~78-3a-350~~]. 78A-6-401. Separate procedures for minors committed to the**
20516 **Division of Child and Family Services on grounds other than abuse or neglect -- Attorney**
20517 **general responsibility.**
20518 (1) The processes and procedures described in Part 3, Abuse, Neglect, and Dependency

20519 Proceedings, designed to meet the needs of minors who are abused or neglected, are not
20520 applicable to a minor who is committed to the custody of the Division of Child and Family
20521 Services on a basis other than abuse or neglect and who are classified in the division's
20522 management information system as having been placed in custody primarily on the basis of
20523 delinquent behavior or a status offense.
20524 (2) The procedures described in Subsection [~~78-3a-119~~] 78A-6-118(2)(a) are
20525 applicable to a minor described in Subsection (1).
20526 (3) The court may appoint a guardian ad litem to represent the interests of a minor
20527 described in Subsection (1), upon request of the minor or the minor's parent or guardian.
20528 (4) As of July 1, 1998, the attorney general's office shall represent the Division of
20529 Child and Family Services with regard to actions involving a minor who has not been
20530 adjudicated as abused or neglected, but who is otherwise committed to the custody of the
20531 division by the juvenile court, and who is classified in the division's management information
20532 system as having been placed in custody primarily on the basis of delinquent behavior or a
20533 status offense. Nothing in Subsection (3) may be construed to affect the responsibility of the
20534 county attorney or district attorney to represent the state in those matters, in accordance with
20535 the provisions of Section [~~78-3a-116~~] 78A-6-115.
20536 Section 424. Section **78A-6-501**, which is renumbered from Section 78-3a-401 is
20537 renumbered and amended to read:
20538 **Part 5. Termination of Parental Rights Act**
20539 **[~~78-3a-401~~]. 78A-6-501. Title.**
20540 This part [~~shall be~~] is known as the "Termination of Parental Rights Act."
20541 Section 425. Section **78A-6-502**, which is renumbered from Section 78-3a-403 is
20542 renumbered and amended to read:
20543 **[~~78-3a-403~~]. 78A-6-502. Definitions.**
20544 As used in this chapter:
20545 (1) "Division" means the Division of Child and Family Services within the Department
20546 of Human Services.
20547 (2) "Failure of parental adjustment" means that a parent or parents are unable or
20548 unwilling within a reasonable time to substantially correct the circumstances, conduct, or
20549 conditions that led to placement of their child outside of their home, notwithstanding

20550 reasonable and appropriate efforts made by the Division of Child and Family Services to return
20551 the child to that home.
20552 (3) "Plan" means a written agreement between the parents of a child, who has been
20553 removed from his home by the juvenile court, and the Division of Child and Family Services or
20554 written conditions and obligations imposed upon the parents directly by the juvenile court, that
20555 have a primary objective of reuniting the family or, if the parents neglect or refuse to comply
20556 with the terms and conditions of the case plan, freeing the child for adoption.
20557 Section 426. Section **78A-6-503**, which is renumbered from Section 78-3a-402 is
20558 renumbered and amended to read:
20559 **[~~78-3a-402~~]. 78A-6-503. Judicial process for termination -- Parent unfit**
20560 **or incompetent -- Best interest of child.**
20561 (1) This part provides a judicial process for voluntary and involuntary severance of the
20562 parent-child relationship, designed to safeguard the rights and interests of all parties concerned
20563 and promote their welfare and that of the state.
20564 (2) Wherever possible family life should be strengthened and preserved, but if a parent
20565 is found, by reason of his conduct or condition, to be unfit or incompetent based upon any of
20566 the grounds for termination described in this part, the court shall then consider the welfare and
20567 best interest of the child of paramount importance in determining whether termination of
20568 parental rights shall be ordered.
20569 Section 427. Section **78A-6-504**, which is renumbered from Section 78-3a-404 is
20570 renumbered and amended to read:
20571 **[~~78-3a-404~~]. 78A-6-504. Petition -- Who may file.**
20572 (1) Any interested party, including a foster parent, may file a petition for termination of
20573 the parent-child relationship with regard to a child.
20574 (2) The attorney general shall file a petition for termination of parental rights under this
20575 part on behalf of the division.
20576 Section 428. Section **78A-6-505**, which is renumbered from Section 78-3a-405 is
20577 renumbered and amended to read:
20578 **[~~78-3a-405~~]. 78A-6-505. Contents of petition.**
20579 (1) The petition for termination of parental rights shall include, to the best information
20580 or belief of the petitioner:

20581 (a) the name and place of residence of the petitioner;
20582 (b) the name, sex, date and place of birth, and residence of the child;
20583 (c) the relationship of the petitioner to the child;
20584 (d) the names, addresses, and dates of birth of the parents, if known;
20585 (e) the name and address of the person having legal custody or guardianship, or acting
20586 in loco parentis to the child, or the organization or agency having legal custody or providing
20587 care for the child;
20588 (f) the grounds on which termination of parental rights is sought, in accordance with
20589 Section [~~78-3a-407~~] 78A-6-507; and
20590 (g) the names and addresses of the persons or the authorized agency to whom legal
20591 custody or guardianship of the child might be transferred.
20592 (2) A copy of any relinquishment or consent, if any, previously executed by the parent
20593 or parents shall be attached to the petition.
20594 Section 429. Section **78A-6-506**, which is renumbered from Section 78-3a-406 is
20595 renumbered and amended to read:
20596 **[~~78-3a-406~~]. 78A-6-506. Notice -- Nature of proceedings.**
20597 (1) After a petition for termination of parental rights has been filed, notice of that fact
20598 and of the time and place of the hearing shall be provided, in accordance with the Utah Rules
20599 of Civil Procedure, to the parents, the guardian, the person or agency having legal custody of
20600 the child, and to any person acting in loco parentis to the child.
20601 (2) A hearing shall be held specifically on the question of termination of parental rights
20602 no sooner than ten days after service of summons is complete. A verbatim record of the
20603 proceedings shall be taken and the parties shall be advised of their right to counsel. The
20604 summons shall contain a statement to the effect that the rights of the parent or parents are
20605 proposed to be permanently terminated in the proceedings. That statement may be contained in
20606 the summons originally issued in the proceeding or in a separate summons subsequently issued.
20607 (3) The proceedings are civil in nature and are governed by the Utah Rules of Civil
20608 Procedure. The court shall in all cases require the petitioner to establish the facts by clear and
20609 convincing evidence, and shall give full and careful consideration to all of the evidence
20610 presented with regard to the constitutional rights and claims of the parent and, if a parent is
20611 found, by reason of his conduct or condition, to be unfit or incompetent based upon any of the

20612 grounds for termination described in this part, the court shall then consider the welfare and best
20613 interest of the child of paramount importance in determining whether termination of parental
20614 rights shall be ordered.
20615 Section 430. Section **78A-6-507**, which is renumbered from Section 78-3a-407 is
20616 renumbered and amended to read:
20617 **[~~78-3a-407~~]. 78A-6-507. Grounds for termination of parental rights --**
20618 **Findings regarding reasonable efforts.**
20619 (1) The court may terminate all parental rights with respect to a parent if the court finds
20620 any one of the following:
20621 (a) that the parent has abandoned the child;
20622 (b) that the parent has neglected or abused the child;
20623 (c) that the parent is unfit or incompetent;
20624 (d) (i) that the child is being cared for in an out-of-home placement under the
20625 supervision of the court or the division;
20626 (ii) that the parent has substantially neglected, wilfully refused, or has been unable or
20627 unwilling to remedy the circumstances that cause the child to be in an out-of-home placement;
20628 and
20629 (iii) that there is a substantial likelihood that the parent will not be capable of
20630 exercising proper and effective parental care in the near future;
20631 (e) failure of parental adjustment, as defined in this chapter;
20632 (f) that only token efforts have been made by the parent:
20633 (i) to support or communicate with the child;
20634 (ii) to prevent neglect of the child;
20635 (iii) to eliminate the risk of serious physical, mental, or emotional abuse of the child; or
20636 (iv) to avoid being an unfit parent;
20637 (g) (i) that the parent has voluntarily relinquished the parent's parental rights to the
20638 child; and
20639 (ii) that termination is in the child's best interest;
20640 (h) that, after a period of trial during which the child was returned to live in the child's
20641 own home, the parent substantially and continuously or repeatedly refused or failed to give the
20642 child proper parental care and protection; or

20643 (i) the terms and conditions of safe relinquishment of a newborn child have been
20644 complied with, pursuant to Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn
20645 Child.
20646 (2) The court may not terminate the parental rights of a parent because the parent has
20647 failed to complete the requirements of a child and family plan.
20648 (3) (a) Except as provided in Subsection (3)(b), in any case in which the court has
20649 directed the division to provide reunification services to a parent, the court must find that the
20650 division made reasonable efforts to provide those services before the court may terminate the
20651 parent's rights under Subsection (1)(b), (c), (d), (e), (f), or (h).
20652 (b) Notwithstanding Subsection (3)(a), the court is not required to make the finding
20653 under Subsection (3)(a) before terminating a parent's rights:
20654 (i) under Subsection (1)(b), if the court finds that the abuse or neglect occurred
20655 subsequent to adjudication; or
20656 (ii) if reasonable efforts to provide the services described in Subsection (3)(a) are not
20657 required under federal law.
20658 Section 431. Section **78A-6-508**, which is renumbered from Section 78-3a-408 is
20659 renumbered and amended to read:
20660 **[~~78-3a-408~~]. 78A-6-508. Evidence of grounds for termination.**
20661 (1) In determining whether a parent or parents have abandoned a child, it is prima facie
20662 evidence of abandonment that the parent or parents:
20663 (a) although having legal custody of the child, have surrendered physical custody of the
20664 child, and for a period of six months following the surrender have not manifested to the child
20665 or to the person having the physical custody of the child a firm intention to resume physical
20666 custody or to make arrangements for the care of the child;
20667 (b) have failed to communicate with the child by mail, telephone, or otherwise for six
20668 months;
20669 (c) failed to have shown the normal interest of a natural parent, without just cause; or
20670 (d) have abandoned an infant, as described in Subsection [~~78-3a-313.5~~] 78A-6-316(1).
20671 (2) In determining whether a parent or parents are unfit or have neglected a child the
20672 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:
20673 (a) emotional illness, mental illness, or mental deficiency of the parent that renders the

20674 parent unable to care for the immediate and continuing physical or emotional needs of the child
20675 for extended periods of time;
20676 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive
20677 nature;
20678 (c) habitual or excessive use of intoxicating liquors, controlled substances, or
20679 dangerous drugs that render the parent unable to care for the child;
20680 (d) repeated or continuous failure to provide the child with adequate food, clothing,
20681 shelter, education, or other care necessary for the child's physical, mental, and emotional health
20682 and development by a parent or parents who are capable of providing that care;
20683 (e) with regard to a child who is in the custody of the division, if the parent is
20684 incarcerated as a result of conviction of a felony, and the sentence is of such length that the
20685 child will be deprived of a normal home for more than one year; or
20686 (f) a history of violent behavior.
20687 (3) A parent who, legitimately practicing the parent's religious beliefs, does not provide
20688 specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.
20689 (4) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or
20690 unfit because of a health care decision made for a child by the child's parent unless the state or
20691 other party to the proceeding shows, by clear and convincing evidence, that the health care
20692 decision is not reasonable and informed.
20693 (b) Nothing in Subsection (4)(a) may prohibit a parent from exercising the right to
20694 obtain a second health care opinion.
20695 (5) If a child has been placed in the custody of the division and the parent or parents
20696 fail to comply substantially with the terms and conditions of a plan within six months after the
20697 date on which the child was placed or the plan was commenced, whichever occurs later, that
20698 failure to comply is evidence of failure of parental adjustment.
20699 (6) The following circumstances constitute prima facie evidence of unfitness:
20700 (a) sexual abuse, injury, or death of a sibling of the child, or of any child, due to known
20701 or substantiated abuse or neglect by the parent or parents;
20702 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
20703 indicate the unfitness of the parent to provide adequate care to the extent necessary for the
20704 child's physical, mental, or emotional health and development;

20705 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement
20706 of the child; or
20707 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
20708 commit murder or manslaughter of a child or child abuse homicide.
20709 Section 432. Section **78A-6-509**, which is renumbered from Section 78-3a-409 is
20710 renumbered and amended to read:
20711 **[~~78-3a-409~~]. 78A-6-509. Specific considerations where child is not in**
20712 **physical custody of parent.**
20713 (1) If a child is not in the physical custody of the parent or parents, the court, in
20714 determining whether parental rights should be terminated shall consider, but is not limited to,
20715 the following:
20716 (a) the physical, mental, or emotional condition and needs of the child and his desires
20717 regarding the termination, if the court determines he is of sufficient capacity to express his
20718 desires; and
20719 (b) the effort the parent or parents have made to adjust their circumstances, conduct, or
20720 conditions to make it in the child's best interest to return him to his home after a reasonable
20721 length of time, including but not limited to:
20722 (i) payment of a reasonable portion of substitute physical care and maintenance, if
20723 financially able;
20724 (ii) maintenance of regular parent-time or other contact with the child that was
20725 designed and carried out in a plan to reunite the child with the parent or parents; and
20726 (iii) maintenance of regular contact and communication with the custodian of the child.
20727 (2) For purposes of this section, the court shall disregard incidental conduct,
20728 contributions, contacts, and communications.
20729 Section 433. Section **78A-6-510**, which is renumbered from Section 78-3a-410 is
20730 renumbered and amended to read:
20731 **[~~78-3a-410~~]. 78A-6-510. Specific considerations where a child has been**
20732 **placed in foster home.**
20733 If a child is in the custody of the division and has been placed and resides in a foster
20734 home and the division institutes proceedings under this part regarding the child, with an
20735 ultimate goal of having the child's foster parent or parents adopt him, the court shall consider

20736 whether the child has become integrated into the foster family to the extent that his familial
20737 identity is with that family, and whether the foster family is able and willing permanently to
20738 treat the child as a member of the family. The court shall also consider, but is not limited to, the
20739 following:
20740 (1) the love, affection, and other emotional ties existing between the child and the
20741 parents, and the child's ties with the foster family;
20742 (2) the capacity and disposition of the child's parents from whom the child was
20743 removed as compared with that of the foster family to give the child love, affection, and
20744 guidance and to continue the education of the child;
20745 (3) the length of time the child has lived in a stable, satisfactory foster home and the
20746 desirability of his continuing to live in that environment;
20747 (4) the permanence as a family unit of the foster family; and
20748 (5) any other factor considered by the court to be relevant to a particular placement of a
20749 child.
20750 Section 434. Section **78A-6-511**, which is renumbered from Section 78-3a-411 is
20751 renumbered and amended to read:
20752 **[~~78-3a-411~~]. 78A-6-511. Court disposition of child upon termination.**
20753 (1) Upon entry of an order under this part the court may:
20754 (a) place the child in the legal custody and guardianship of a licensed child placement
20755 agency or the division for adoption; or
20756 (b) make any other disposition of the child authorized under Section [~~78-3a-118~~]
20757 78A-6-117.
20758 (2) All adoptable children shall be placed for adoption.
20759 Section 435. Section **78A-6-512**, which is renumbered from Section 78-3a-412 is
20760 renumbered and amended to read:
20761 **[~~78-3a-412~~]. 78A-6-512. Review following termination.**
20762 (1) At the conclusion of the hearing in which the court orders termination of the
20763 parent-child relationship, the court shall order that a review hearing be held within 90 days
20764 following the date of termination if the child has not been permanently placed.
20765 (2) At that review hearing, the agency or individual vested with custody of the child
20766 shall report to the court regarding the plan for permanent placement of the child. The guardian

20767 ad litem shall submit to the court a written report with recommendations, based on an
20768 independent investigation, for disposition meeting the best interests of the child.
20769 (3) The court may order the agency or individual vested with custody of the child to
20770 report, at appropriate intervals, on the status of the child until the plan for permanent placement
20771 of the child has been accomplished.
20772 Section 436. Section **78A-6-513**, which is renumbered from Section 78-3a-413 is
20773 renumbered and amended to read:
20774 **[~~78-3a-413~~]. 78A-6-513. Effect of decree.**
20775 (1) An order for the termination of the parent-child legal relationship divests the child
20776 and the parents of all legal rights, powers, immunities, duties, and obligations with respect to
20777 each other, except the right of the child to inherit from the parent.
20778 (2) An order or decree entered pursuant to this part may not disentitle a child to any
20779 benefit due him from any third person, including, but not limited to, any Indian tribe, agency,
20780 state, or the United States.
20781 (3) After the termination of a parent-child legal relationship, the former parent is
20782 neither entitled to any notice of proceedings for the adoption of the child nor has any right to
20783 object to the adoption or to participate in any other placement proceedings.
20784 Section 437. Section **78A-6-514**, which is renumbered from Section 78-3a-414 is
20785 renumbered and amended to read:
20786 **[~~78-3a-414~~]. 78A-6-514. Voluntary relinquishment -- Irrevocable.**
20787 (1) Voluntary relinquishment or consent for termination of parental rights shall be
20788 signed or confirmed under oath either:
20789 (a) before a judge of any court that has jurisdiction over proceedings for termination of
20790 parental rights in this state or any other state, or a public officer appointed by that court for the
20791 purpose of taking consents or relinquishments; or
20792 (b) except as provided in Subsection (2), any person authorized to take consents or
20793 relinquishments under Subsections [~~78-30-4.18~~] 78B-6-124(1) and (2).
20794 (2) Only the juvenile court is authorized to take consents or relinquishments from a
20795 parent who has any child who is in the custody of a state agency or who has a child who is
20796 otherwise under the jurisdiction of the juvenile court.
20797 (3) The court, appointed officer, or other authorized person shall certify to the best of

20798 that person's information and belief that the person executing the consent or relinquishment has
20799 read and understands the consent or relinquishment and has signed it freely and voluntarily.
20800 (4) A voluntary relinquishment or consent for termination of parental rights is effective
20801 when it is signed and may not be revoked.
20802 (5) The requirements and processes described in Sections [~~78-3a-402~~] 78A-6-503
20803 through [~~78-3a-410~~] 78A-6-510 do not apply to a voluntary relinquishment or consent for
20804 termination of parental rights. The court need only find that the relinquishment or termination
20805 is in the child's best interest.
20806 (6) There is a presumption that voluntary relinquishment or consent for termination of
20807 parental rights is not in the child's best interest where it appears to the court that the primary
20808 purpose is to avoid a financial support obligation. The presumption may be rebutted, however,
20809 if the court finds the relinquishment or consent to termination of parental rights will facilitate
20810 the establishment of stability and permanency for the child.
20811 (7) Upon granting a voluntary relinquishment the court may make orders relating to the
20812 child's care and welfare that the court considers to be in the child's best interest.
20813 Section 438. Section **78A-6-515**, which is renumbered from Section 78-3a-415 is
20814 renumbered and amended to read:
20815 **[~~78-3a-415~~]. 78A-6-515. Mental health therapist.**
20816 (1) When a mental health practitioner is to be appointed in a parental rights action to
20817 evaluate the mental health of a parent or a child, or to provide mental health services to a parent
20818 or a child, the court:
20819 (a) may appoint any mental health therapist, as defined in Section 58-60-102, which the
20820 court finds to be qualified;
20821 (b) may not refuse to appoint a mental health therapist for the reason that the therapist's
20822 recommendations in another case have not followed the recommendations of the Division of
20823 Child and Family Services or the Office of the Guardian Ad Litem; and
20824 (c) shall give strong consideration to the parent's or guardian's wishes regarding the
20825 selection of a mental health therapist.
20826 (2) This section applies to all juvenile court proceedings involving:
20827 (a) parents and children; or
20828 (b) the Division of Child and Family Services.

20829 Section 439. Section **78A-6-601**, which is renumbered from Section 78-3a-501 is
20830 renumbered and amended to read:
20831 **Part 6. Delinquency and Criminal Actions**
20832 **[~~78-3a-501~~]. 78A-6-601. Criminal proceedings involving minors --**
20833 **Transfer to juvenile court -- Exception.**
20834 (1) If, during the pendency of a criminal or quasi-criminal proceeding in another court,
20835 including a preliminary hearing, it is determined that the person charged is under 21 years of
20836 age and was less than 18 years of age at the time of committing the alleged offense, that court
20837 shall transfer the case to the juvenile court, together with all the papers, documents, and
20838 transcripts of any testimony except as provided in Sections [~~78-3a-602~~] 78A-6-702 and
20839 [~~78-3a-603~~] 78A-6-703.
20840 (2) The court making the transfer shall order the person to be taken immediately to the
20841 juvenile court or to a place of detention designated by the juvenile court, or shall release him to
20842 the custody of his parent or guardian or other person legally responsible for him, to be brought
20843 before the juvenile court at a time designated by it. The juvenile court shall then proceed as
20844 provided in this chapter.
20845 Section 440. Section **78A-6-602**, which is renumbered from Section 78-3a-502 is
20846 renumbered and amended to read:
20847 **[~~78-3a-502~~]. 78A-6-602. Petition -- Preliminary inquiry -- Nonjudicial**
20848 **adjustments -- Formal referral -- Citation -- Failure to appear.**
20849 (1) A proceeding in a minor's case is commenced by petition.
20850 (2) (a) A peace officer or any public official of the state, any county, city, or town
20851 charged with the enforcement of the laws of the state or local jurisdiction shall file a formal
20852 referral with the juvenile court within ten days of a minor's arrest. If the arrested minor is taken
20853 to a detention facility, the formal referral shall be filed with the juvenile court within 72 hours,
20854 excluding weekends and holidays. There shall be no requirement to file a formal referral with
20855 the juvenile court on an offense that would be a class B misdemeanor or less if committed by
20856 an adult.
20857 (b) When the court is informed by a peace officer or other person that a minor is or
20858 appears to be within the court's jurisdiction, the probation department shall make a preliminary
20859 inquiry to determine whether the interests of the public or of the minor require that further

20860 action be taken.
20861 (c) Based on the preliminary inquiry, the court may authorize the filing of or request
20862 that the county attorney or district attorney as provided under Sections 17-18-1 and 17-18-1.7
20863 file a petition. In its discretion, the court may, through its probation department, enter into a
20864 written consent agreement with the minor and, if the minor is a child, the minor's parent,
20865 guardian, or custodian for the nonjudicial adjustment of the case if the facts are admitted and
20866 establish prima facie jurisdiction. Efforts to effect a nonjudicial adjustment may not extend for
20867 a period of more than 90 days without leave of a judge of the court, who may extend the period
20868 for an additional 90 days.
20869 (d) The nonjudicial adjustment of a case may include conditions agreed upon as part of
20870 the nonjudicial closure:
20871 (i) payment of a financial penalty of not more than $250 to the Juvenile Court;
20872 (ii) payment of victim restitution;
20873 (iii) satisfactory completion of compensatory service;
20874 (iv) referral to an appropriate provider for counseling or treatment;
20875 (v) attendance at substance abuse programs or counseling programs;
20876 (vi) compliance with specified restrictions on activities and associations; and
20877 (vii) other reasonable actions that are in the interest of the child or minor and the
20878 community.
20879 (e) Proceedings involving offenses under Section [~~78-3a-506~~] 78A-6-606 are governed
20880 by that section regarding suspension of driving privileges.
20881 (f) A violation of Section 76-10-105 that is subject to the jurisdiction of the Juvenile
20882 Court shall include a minimum fine or penalty of $60 and participation in a court-approved
20883 tobacco education program, which may include a participation fee.
20884 (3) Except as provided in Section [~~78-3a-602~~] 78A-6-702, in the case of a minor 14
20885 years of age or older, the county attorney, district attorney, or attorney general may commence
20886 an action by filing a criminal information and a motion requesting the juvenile court to waive
20887 its jurisdiction and certify the minor to the district court.
20888 (4) (a) In cases of violations of [~~fish and game~~] wildlife laws, boating laws, class B and
20889 class C misdemeanors, other infractions or misdemeanors as designated by general order of the
20890 Board of Juvenile Court Judges, and violations of Section 76-10-105 subject to the jurisdiction

20891 of the Juvenile Court, a petition is not required and the issuance of a citation as provided in
20892 Section [~~78-3a-503~~] 78A-6-603 is sufficient to invoke the jurisdiction of the court. A
20893 preliminary inquiry is not required unless requested by the court.
20894 (b) Any failure to comply with the time deadline on a formal referral may not be the
20895 basis of dismissing the formal referral.
20896 Section 441. Section **78A-6-603**, which is renumbered from Section 78-3a-503 is
20897 renumbered and amended to read:
20898 **[~~78-3a-503~~]. 78A-6-603. Citation procedure -- Citation -- Offenses -- Time**
20899 **limits -- Failure to appear.**
20900 (1) As used in this section, "citation" means an abbreviated referral and is sufficient to
20901 invoke the jurisdiction of the court in lieu of a petition.
20902 (2) A citation shall be submitted to the court within five days of its issuance.
20903 (3) Each copy of the citation shall contain:
20904 (a) the name and address of the juvenile court before which the minor is to appear;
20905 (b) the name of the minor cited;
20906 (c) the statute or local ordinance that is alleged to have been violated;
20907 (d) a brief description of the offense charged;
20908 (e) the date, time, and location at which the offense is alleged to have occurred;
20909 (f) the date the citation was issued;
20910 (g) the name and badge or identification number of the peace officer or public official
20911 who issued the citation;
20912 (h) the name of the arresting person if an arrest was made by a private party and the
20913 citation was issued in lieu of taking the arrested minor into custody as provided in Section
20914 [~~78-3a-113~~] 78A-6-112;
20915 (i) the date and time when the minor is to appear, or a statement that the minor and
20916 parent or legal guardian are to appear when notified by the juvenile court; and
20917 (j) the signature of the minor and the parent or legal guardian, if present, agreeing to
20918 appear at the juvenile court as designated on the citation.
20919 (4) Each copy of the citation shall contain space for the following information to be
20920 entered if known:
20921 (a) the minor's address;

20922 (b) the minor's date of birth;
20923 (c) the name and address of the child's custodial parent or legal guardian, if different
20924 from the child; and
20925 (d) if there is a victim, the victim's name, address, and an estimate of loss, except that
20926 this information shall be removed from the documents the minor receives.
20927 (5) A citation received by the court beyond the time designated in Subsection (2) shall
20928 include a written explanation for the delay.
20929 (6) The following offenses may be sent to the juvenile court as a citation:
20930 (a) violations of [~~fish and game~~] wildlife laws;
20931 (b) violations of boating laws;
20932 (c) violations of curfew laws;
20933 (d) any class B misdemeanor or less traffic violations where the person is under the age
20934 of 16;
20935 (e) any class B or class C misdemeanor or infraction;
20936 (f) any other infraction or misdemeanor as designated by general order of the Board of
20937 Juvenile Court Judges; and
20938 (g) violations of Section 76-10-105 subject to the jurisdiction of the Juvenile Court.
20939 (7) A preliminary inquiry is not required unless requested by the court.
20940 (8) The provisions of Subsection (5) may not apply to a runaway, ungovernable, or
20941 habitually truant child.
20942 (9) In the case of Section 76-10-105 violations committed on school property when a
20943 citation is issued under this section, the peace officer, public official, or compliance officer
20944 shall issue one copy to the minor cited, provide the parent or legal guardian with a copy, and
20945 file a duplicate with the juvenile court specified in the citation within five days.
20946 (10) (a) A minor receiving a citation described in this section shall appear at the
20947 juvenile court designated in the citation on the time and date specified in the citation or when
20948 notified by the juvenile court.
20949 (b) A citation may not require a minor to appear sooner than five days following its
20950 issuance.
20951 (11) A minor who receives a citation and willfully fails to appear before the juvenile
20952 court pursuant to a citation is subject to arrest and may be found in contempt of court. The

20953 court may proceed against the minor as provided in Section [~~78-3a-901~~] 78A-6-1101 regardless
20954 of the disposition of the offense upon which the minor was originally cited.
20955 (12) When a citation is issued under this section, bail may be posted and forfeited
20956 under Subsection [~~78-3a-114~~] 78A-6-113(12) with the consent of:
20957 (a) the court; and
20958 (b) if the minor is a child, the parent or legal guardian of the child cited.
20959 Section 442. Section **78A-6-604**, which is renumbered from Section 78-3a-504 is
20960 renumbered and amended to read:
20961 **[~~78-3a-504~~]. 78A-6-604. Minor held in detention -- Credit for good**
20962 **behavior.**
20963 (1) The judge may order whether a minor held in detention under Subsection
20964 [~~78-3a-118~~] 78A-6-117(2)(f) or [~~78-3a-901~~] 78A-6-1101(3) is eligible to receive credit for
20965 good behavior against the period of detention. The rate of credit is one day for every three days
20966 served. The Division of Juvenile Justice Services shall, in accordance with Title 63, Chapter
20967 46a, Utah Administrative Rulemaking Act, establish rules describing good behavior for which
20968 credit may be earned.
20969 (2) Any disposition including detention under Subsection [~~78-3a-118~~] 78A-6-117(2)(f)
20970 or [~~78-3a-901~~] 78A-6-1101(3) shall be concurrent with any other order of detention.
20971 Section 443. Section **78A-6-605**, which is renumbered from Section 78-3a-505 is
20972 renumbered and amended to read:
20973 **[~~78-3a-505~~]. 78A-6-605. Dispositional report required in minor's cases --**
20974 **Exceptions.**
20975 (1) The probation department or other agency designated by the court shall make a
20976 dispositional report in writing in all minor's cases in which a petition has been filed, except that
20977 the court may dispense with the study and report in cases involving violations of traffic laws or
20978 ordinances, violations of [~~fish and game~~] wildlife laws, boating laws, and other minor cases.
20979 (2) When preparing a dispositional report and recommendation in a delinquency action,
20980 the probation department or other agency designated by the court shall consider the juvenile
20981 sentencing guidelines developed in accordance with Section 63-25a-304 and any aggravating or
20982 mitigating circumstances.
20983 (3) Where the allegations of a petition filed under Subsection [~~78-3a-104~~]

20984 78A-6-103(1) are denied, the investigation may not be made until the court has made an
20985 adjudication.
20986 Section 444. Section **78A-6-606**, which is renumbered from Section 78-3a-506 is
20987 renumbered and amended to read:
20988 **[~~78-3a-506~~]. 78A-6-606. Suspension of license for certain offenses.**
20989 (1) This section applies to minors who are at least 13 years of age when found by the
20990 court to be within its jurisdiction by the commission of any offense under:
20991 (a) Section 58-37-8;
20992 (b) Section 32A-12-209;
20993 (c) Section 32A-12-209.5;
20994 (d) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
20995 (e) Title 58, Chapter 37b, Imitation Controlled Substances; or
20996 (f) Subsection 76-9-701(1).
20997 (2) If the court hearing the case determines that the minor committed an offense under
20998 Section 58-37-8 or Title 58, Chapter 37a or 37b, the court shall prepare and send to the Driver
20999 License Division of the Department of Public Safety an order to suspend that minor's driving
21000 privileges.
21001 (3) If the court hearing the case determines that the minor violated Section
21002 32A-12-209, Section 32A-12-209.5, or Subsection 76-9-701(1), and the violation is the
21003 minor's:
21004 (a) first violation, the court may suspend the minor's driving privileges; or
21005 (b) second or subsequent violation, the court shall suspend the minor's driving
21006 privileges.
21007 (4) A minor's license shall be suspended under Section 53-3-219 when a court issues
21008 an order suspending the minor's driving privileges for a violation of:
21009 (a) Section 32A-12-209;
21010 (b) Section 32A-12-209.5;
21011 (c) Section 58-37-8;
21012 (d) Title 58, Chapter 37a or 37b; or
21013 (e) Subsection 76-9-701(1).
21014 (5) When the Department of Public Safety receives the arrest or conviction record of a

21015 person for a driving offense committed while his license is suspended under this section, the
21016 department shall extend the suspension for a like period of time.
21017 Section 445. Section **78A-6-701**, which is renumbered from Section 78-3a-601 is
21018 renumbered and amended to read:
21019 **Part 7. Transfer of Jurisdiction**
21020 **[~~78-3a-601~~]. 78A-6-701. Jurisdiction of district court.**
21021 (1) The district court shall have exclusive original jurisdiction over all persons 16 years
21022 of age or older charged by information or indictment with:
21023 (a) an offense which would be murder or aggravated murder if committed by an adult;
21024 or
21025 (b) an offense which would be a felony if committed by an adult if the minor has been
21026 previously committed to a secure facility as defined in Section 62A-7-101. This Subsection
21027 (1)(b) shall not apply if the offense is committed in a secure facility.
21028 (2) When the district court has exclusive original jurisdiction over a minor under this
21029 section, it also has exclusive original jurisdiction over the minor regarding all offenses joined
21030 with the qualifying offense, and any other offenses, including misdemeanors, arising from the
21031 same criminal episode. The district court is not divested of jurisdiction by virtue of the fact
21032 that the minor is allowed to enter a plea to, or is found guilty of, a lesser or joined offense.
21033 (3) (a) Any felony, misdemeanor, or infraction committed after the offense over which
21034 the district court takes jurisdiction under Subsection (1) or (2) shall be tried against the
21035 defendant as an adult in the district court or justice court having jurisdiction.
21036 (b) If the qualifying charge under Subsection (1) results in an acquittal, a finding of not
21037 guilty, or a dismissal of the charge in the district court, the juvenile court under Section
21038 [~~78-3a-104~~] 78A-6-103 and the Division of Juvenile Justice Services regain jurisdiction and
21039 any authority previously exercised over the minor.
21040 Section 446. Section **78A-6-702**, which is renumbered from Section 78-3a-602 is
21041 renumbered and amended to read:
21042 **[~~78-3a-602~~]. 78A-6-702. Serious youth offender -- Procedure.**
21043 (1) Any action filed by a county attorney, district attorney, or attorney general charging
21044 a minor 16 years of age or older with a felony shall be by criminal information and filed in the
21045 juvenile court if the information charges any of the following offenses:

21046 (a) any felony violation of:
21047 (i) Section 76-6-103, aggravated arson;
21048 (ii) Subsection 76-5-103(1)(a), aggravated assault, involving intentionally causing
21049 serious bodily injury to another;
21050 (iii) Section 76-5-302, aggravated kidnaping;
21051 (iv) Section 76-6-203, aggravated burglary;
21052 (v) Section 76-6-302, aggravated robbery;
21053 (vi) Section 76-5-405, aggravated sexual assault;
21054 (vii) Section 76-10-508, discharge of a firearm from a vehicle;
21055 (viii) Section 76-5-202, attempted aggravated murder; or
21056 (ix) Section 76-5-203, attempted murder; or
21057 (b) an offense other than those listed in Subsection (1)(a) involving the use of a
21058 dangerous weapon which would be a felony if committed by an adult, and the minor has been
21059 previously adjudicated or convicted of an offense involving the use of a dangerous weapon
21060 which also would have been a felony if committed by an adult.
21061 (2) All proceedings before the juvenile court related to charges filed under Subsection
21062 (1) shall be conducted in conformity with the rules established by the Utah Supreme Court.
21063 (3) (a) If the information alleges the violation of a felony listed in Subsection (1), the
21064 state shall have the burden of going forward with its case and the burden of proof to establish
21065 probable cause to believe that one of the crimes listed in Subsection (1) has been committed
21066 and that the defendant committed it. If proceeding under Subsection (1)(b), the state shall have
21067 the additional burden of proving by a preponderance of the evidence that the defendant has
21068 previously been adjudicated or convicted of an offense involving the use of a dangerous
21069 weapon.
21070 (b) If the juvenile court judge finds the state has met its burden under this Subsection
21071 (3), the court shall order that the defendant be bound over and held to answer in the district
21072 court in the same manner as an adult unless the juvenile court judge finds that all of the
21073 following conditions exist:
21074 (i) the minor has not been previously adjudicated delinquent for an offense involving
21075 the use of a dangerous weapon which would be a felony if committed by an adult;
21076 (ii) that if the offense was committed with one or more other persons, the minor

21077 appears to have a lesser degree of culpability than the codefendants; and
21078 (iii) that the minor's role in the offense was not committed in a violent, aggressive, or
21079 premeditated manner.
21080 (c) Once the state has met its burden under this Subsection (3) as to a showing of
21081 probable cause, the defendant shall have the burden of going forward and presenting evidence
21082 as to the existence of the above conditions.
21083 (d) If the juvenile court judge finds by clear and convincing evidence that all the above
21084 conditions are satisfied, the court shall so state in its findings and order the minor held for trial
21085 as a minor and shall proceed upon the information as though it were a juvenile petition.
21086 (4) If the juvenile court judge finds that an offense has been committed, but that the
21087 state has not met its burden of proving the other criteria needed to bind the defendant over
21088 under Subsection (1), the juvenile court judge shall order the defendant held for trial as a minor
21089 and shall proceed upon the information as though it were a juvenile petition.
21090 (5) At the time of a bind over to district court a criminal warrant of arrest shall issue.
21091 The defendant shall have the same right to bail as any other criminal defendant and shall be
21092 advised of that right by the juvenile court judge. The juvenile court shall set initial bail in
21093 accordance with Title 77, Chapter 20, Bail.
21094 (6) If an indictment is returned by a grand jury charging a violation under this section,
21095 the preliminary examination held by the juvenile court judge need not include a finding of
21096 probable cause that the crime alleged in the indictment was committed and that the defendant
21097 committed it, but the juvenile court shall proceed in accordance with this section regarding the
21098 additional considerations listed in Subsection (3)(b).
21099 (7) When a defendant is charged with multiple criminal offenses in the same
21100 information or indictment and is bound over to answer in the district court for one or more
21101 charges under this section, other offenses arising from the same criminal episode and any
21102 subsequent misdemeanors or felonies charged against him shall be considered together with
21103 those charges, and where the court finds probable cause to believe that those crimes have been
21104 committed and that the defendant committed them, the defendant shall also be bound over to
21105 the district court to answer for those charges.
21106 (8) A minor who is bound over to answer as an adult in the district court under this
21107 section or on whom an indictment has been returned by a grand jury is not entitled to a

21108 preliminary examination in the district court.
21109 (9) Allegations contained in the indictment or information that the defendant has
21110 previously been adjudicated or convicted of an offense involving the use of a dangerous
21111 weapon, or is 16 years of age or older, are not elements of the criminal offense and do not need
21112 to be proven at trial in the district court.
21113 (10) If a minor enters a plea to, or is found guilty of, any of the charges filed or any
21114 other offense arising from the same criminal episode, the district court retains jurisdiction over
21115 the minor for all purposes, including sentencing.
21116 (11) The juvenile court under Section [~~78-3a-104~~] 78A-6-103 and the Division of
21117 Juvenile Justice Services regain jurisdiction and any authority previously exercised over the
21118 minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the
21119 district court.
21120 Section 447. Section **78A-6-703**, which is renumbered from Section 78-3a-603 is
21121 renumbered and amended to read:
21122 **[~~78-3a-603~~]. 78A-6-703. Certification hearings -- Juvenile court to hold**
21123 **preliminary hearing -- Factors considered by juvenile court for waiver of jurisdiction to**
21124 **district court.**
21125 (1) If a criminal information filed in accordance with Subsection [~~78-3a-502~~]
21126 78A-6-602(3) alleges the commission of an act which would constitute a felony if committed
21127 by an adult, the juvenile court shall conduct a preliminary hearing.
21128 (2) At the preliminary hearing the state shall have the burden of going forward with its
21129 case and the burden of establishing:
21130 (a) probable cause to believe that a crime was committed and that the defendant
21131 committed it; and
21132 (b) by a preponderance of the evidence, that it would be contrary to the best interests of
21133 the minor or of the public for the juvenile court to retain jurisdiction.
21134 (3) In considering whether or not it would be contrary to the best interests of the minor
21135 or of the public for the juvenile court to retain jurisdiction, the juvenile court shall consider,
21136 and may base its decision on, the finding of one or more of the following factors:
21137 (a) the seriousness of the offense and whether the protection of the community requires
21138 isolation of the minor beyond that afforded by juvenile facilities;

21139 (b) whether the alleged offense was committed by the minor in concert with two or
21140 more persons under circumstances which would subject the minor to enhanced penalties under
21141 Section 76-3-203.1 were he an adult;
21142 (c) whether the alleged offense was committed in an aggressive, violent, premeditated,
21143 or willful manner;
21144 (d) whether the alleged offense was against persons or property, greater weight being
21145 given to offenses against persons, except as provided in Section 76-8-418;
21146 (e) the maturity of the minor as determined by considerations of his home,
21147 environment, emotional attitude, and pattern of living;
21148 (f) the record and previous history of the minor;
21149 (g) the likelihood of rehabilitation of the minor by use of facilities available to the
21150 juvenile court;
21151 (h) the desirability of trial and disposition of the entire offense in one court when the
21152 minor's associates in the alleged offense are adults who will be charged with a crime in the
21153 district court;
21154 (i) whether the minor used a firearm in the commission of an offense; and
21155 (j) whether the minor possessed a dangerous weapon on or about school premises as
21156 provided in Section 76-10-505.5.
21157 (4) The amount of weight to be given to each of the factors listed in Subsection (3) is
21158 discretionary with the court.
21159 (5) (a) Written reports and other materials relating to the minor's mental, physical,
21160 educational, and social history may be considered by the court.
21161 (b) If requested by the minor, the minor's parent, guardian, or other interested party, the
21162 court shall require the person or agency preparing the report and other material to appear and
21163 be subject to both direct and cross-examination.
21164 (6) At the conclusion of the state's case, the minor may testify under oath, call
21165 witnesses, cross-examine adverse witnesses, and present evidence on the factors required by
21166 Subsection (3).
21167 (7) If the court finds the state has met its burden under Subsection (2), the court may
21168 enter an order:
21169 (a) certifying that finding; and

21170 (b) directing that the minor be held for criminal proceedings in the district court.
21171 (8) If an indictment is returned by a grand jury, the preliminary examination held by the
21172 juvenile court need not include a finding of probable cause, but the juvenile court shall proceed
21173 in accordance with this section regarding the additional consideration referred to in Subsection
21174 (2)(b).
21175 (9) The provisions of Section [~~78-3a-116~~] 78A-6-115, Section [~~78-3a-913~~]
21176 78A-6-1111, and other provisions relating to proceedings in juvenile cases are applicable to the
21177 hearing held under this section to the extent they are pertinent.
21178 (10) A minor who has been directed to be held for criminal proceedings in the district
21179 court is not entitled to a preliminary examination in the district court.
21180 (11) A minor who has been certified for trial in the district court shall have the same
21181 right to bail as any other criminal defendant and shall be advised of that right by the juvenile
21182 court judge. The juvenile court shall set initial bail in accordance with Title 77, Chapter 20,
21183 Bail.
21184 (12) When a minor has been certified to the district court under this section or when a
21185 criminal information or indictment is filed in a court of competent jurisdiction before a
21186 committing magistrate charging the minor with an offense described in Section [~~78-3a-602~~]
21187 78A-6-702, the jurisdiction of the Division of Juvenile Justice Services and the jurisdiction of
21188 the juvenile court over the minor is terminated regarding that offense, any other offenses
21189 arising from the same criminal episode, and any subsequent misdemeanors or felonies charged
21190 against him, except as provided in Subsection (14).
21191 (13) If a minor enters a plea to, or is found guilty of any of the charges filed or on any
21192 other offense arising out of the same criminal episode, the district court retains jurisdiction
21193 over the minor for all purposes, including sentencing.
21194 (14) The juvenile court under Section [~~78-3a-104~~] 78A-6-103 and the Division of
21195 Juvenile Justice Services regain jurisdiction and any authority previously exercised over the
21196 minor when there is an acquittal, a finding of not guilty, or dismissal of all charges in the
21197 district court.
21198 Section 448. Section **78A-6-704**, which is renumbered from Section 78-3a-604 is
21199 renumbered and amended to read:
21200 **[~~78-3a-604~~]. 78A-6-704. Appeals from serious youth offender and**

21201 **certification proceedings.**
21202 (1) A minor may, as a matter of right, appeal from:
21203 (a) an order of the juvenile court binding the minor over to the district court as a
21204 serious youth offender pursuant to Section [~~78-3a-602~~] 78A-6-702; or
21205 (b) an order of the juvenile court, after certification proceedings pursuant to Section
21206 [~~78-3a-603~~] 78A-6-703, directing that the minor be held for criminal proceedings in the district
21207 court.
21208 (2) The prosecution may, as a matter of right, appeal from:
21209 (a) an order of the juvenile court that a minor charged as a serious youth offender
21210 pursuant to Section [~~78-3a-602~~] 78A-6-702 be held for trial in the juvenile court; or
21211 (b) a refusal by the juvenile court, after certification proceedings pursuant to Section
21212 [~~78-3a-603~~] 78A-6-703, to order that a minor be held for criminal proceedings in the district
21213 court.
21214 Section 449. Section **78A-6-801**, which is renumbered from Section 78-3a-1001 is
21215 renumbered and amended to read:
21216 **Part 8. Emancipation**
21217 **[~~78-3a-1001~~]. 78A-6-801. Purpose.**
21218 (1) The purpose of this part is to provide a means by which a minor who has
21219 demonstrated the ability and capacity to manage his or her own affairs and to live independent
21220 of his or her parents or guardian, may obtain the legal status of an emancipated person with the
21221 power to enter into valid legal contracts.
21222 (2) This part is not intended to interfere with the integrity of the family or to minimize
21223 the rights of parents or children. As provided in Section 62A-4a-201, a parent possesses a
21224 fundamental liberty interest in the care, custody, and management of their children.
21225 Section 450. Section **78A-6-802**, which is renumbered from Section 78-3a-1002 is
21226 renumbered and amended to read:
21227 **[~~78-3a-1002~~]. 78A-6-802. Definitions.**
21228 As used in this part:
21229 (1) "Guardian" has the same meaning as in Section 75-1-201.
21230 (2) "Minor" means a person 16 years of age or older.
21231 (3) "Parent" means a natural parent as defined in Section [~~78-3a-103~~] 78A-6-105.

21232 Section 451. Section **78A-6-803**, which is renumbered from Section 78-3a-1003 is
21233 renumbered and amended to read:
21234 **[~~78-3a-1003~~]. 78A-6-803. Petition for emancipation.**
21235 (1) A minor may petition the juvenile court on his or her own behalf in the district in
21236 which he or she resides for a declaration of emancipation. The petition shall be on a form
21237 provided by the clerk of the court, and state that the minor is:
21238 (a) 16 years of age or older;
21239 (b) capable of living independently of his or her parents or guardian; and
21240 (c) capable of managing his or her own financial affairs.
21241 (2) Notice of the petition shall be served on the minor's parents, guardian, any other
21242 person or agency with custody of the minor, and the Child and Family Support Division of the
21243 Office of the Attorney General, unless the court determines that service is impractical.
21244 Section 452. Section **78A-6-804**, which is renumbered from Section 78-3a-1004 is
21245 renumbered and amended to read:
21246 **[~~78-3a-1004~~]. 78A-6-804. Court procedure.**
21247 (1) Upon the filing of a petition in accordance with Section [~~78-3a-1003~~] 78A-6-803,
21248 the court shall schedule a pretrial hearing on the matter within 30 days.
21249 (2) The court shall appoint a guardian ad litem in accordance with Section [~~78-3a-912~~]
21250 78A-6-902 to represent the minor.
21251 (3) At the hearing, the court shall consider the best interests of the minor according to
21252 the following:
21253 (a) whether the minor is capable of assuming adult responsibilities;
21254 (b) whether the minor is capable of living independently of his or her parents, guardian,
21255 or custodian;
21256 (c) opinions and recommendations from the guardian ad litem, parents, guardian, or
21257 custodian, and any other evidence; and
21258 (d) whether emancipation will create a risk of harm to the minor.
21259 (4) If the court determines by clear and convincing evidence that emancipation is in the
21260 best interests of the minor, it shall issue a declaration of emancipation.
21261 Section 453. Section **78A-6-805**, which is renumbered from Section 78-3a-1005 is
21262 renumbered and amended to read:

21263 **[~~78-3a-1005~~]. 78A-6-805. Emancipation.**
21264 (1) An emancipated minor may:
21265 (a) enter into contracts;
21266 (b) buy and sell property;
21267 (c) sue or be sued;
21268 (d) retain his or her own earnings;
21269 (e) borrow money for any purpose, including for education; and
21270 (f) obtain healthcare without parental consent.
21271 (2) An emancipated minor may not be considered an adult:
21272 (a) under the criminal laws of the state unless the requirements of Part [~~6~~] 7, Transfer
21273 of Jurisdiction, have been met;
21274 (b) under the criminal laws of the state when he or she is a victim and the age of the
21275 victim is an element of the offense; and
21276 (c) for specific constitutional and statutory age requirements regarding voting, use of
21277 alcoholic beverages, possession of tobacco or firearms, and other health and safety regulations
21278 relevant to the minor because of the minor's age.
21279 (3) An order of emancipation prospectively terminates parental responsibilities that
21280 accrue based on the minor's status as a minor under the custody and control of a parent,
21281 guardian, or custodian, including parental tort liability for the acts of the minor.
21282 Section 454. Section **78A-6-901**, which is renumbered from Section 78-3a-911 is
21283 renumbered and amended to read:
21284 **Part 9. Guardian Ad Litem**
21285 **[~~78-3a-911~~]. 78A-6-901. Office of Guardian Ad Litem Director --**
21286 **Appointment of director -- Duties of director -- Contracts in second, third, and fourth**
21287 **districts.**
21288 (1) There is hereby created the Office of Guardian Ad Litem Director under the direct
21289 supervision of the Judicial Council in accordance with Subsection [~~78-3-21(13)~~]
21290 78A-2-104(14).
21291 (2) (a) The Judicial Council shall appoint one person to serve full time as the guardian
21292 ad litem director for the state. The guardian ad litem director shall serve at the pleasure of the
21293 Judicial Council.

21294 (b) The director shall be an attorney licensed to practice law in this state and selected
21295 on the basis of:
21296 (i) professional ability;
21297 (ii) experience in abuse, neglect, and dependency proceedings;
21298 (iii) familiarity with the role, purpose, and function of guardians ad litem in both
21299 juvenile and district courts; and
21300 (iv) ability to develop training curricula and reliable methods for data collection and
21301 evaluation.
21302 (c) The director shall be trained in the United States Department of Justice National
21303 Court Appointed Special Advocate program prior to or immediately after the director's
21304 appointment.
21305 (3) The guardian ad litem director shall:
21306 (a) establish policy and procedure for the management of a statewide guardian ad litem
21307 program;
21308 (b) manage the guardian ad litem program to assure that minors receive qualified
21309 guardian ad litem services in abuse, neglect, and dependency proceedings in accordance with
21310 state and federal law and policy;
21311 (c) develop standards for contracts of employment and contracts with independent
21312 contractors, and employ or contract with attorneys licensed to practice law in this state, to act
21313 as attorney guardians ad litem in accordance with Section [~~78-3a-912~~] 78A-6-902;
21314 (d) develop and provide training programs for attorney guardians ad litem and
21315 volunteers in accordance with the United States Department of Justice National Court
21316 Appointed Special Advocates Association standards;
21317 (e) update and develop the guardian ad litem manual, combining elements of the
21318 National Court Appointed Special Advocates Association manual with specific information
21319 about the law and policy of this state;
21320 (f) develop and provide a library of materials for the continuing education of attorney
21321 guardians ad litem and volunteers;
21322 (g) educate court personnel regarding the role and function of guardians ad litem;
21323 (h) develop needs assessment strategies, perform needs assessment surveys, and ensure
21324 that guardian ad litem training programs correspond with actual and perceived needs for

21325 training;
21326 (i) design and implement evaluation tools based on specific objectives targeted in the
21327 needs assessments described in Subsection (3)(h);
21328 (j) prepare and submit an annual report to the Judicial Council and the Child Welfare
21329 Legislative Oversight Panel regarding the development, policy, and management of the
21330 statewide guardian ad litem program, and the training and evaluation of attorney guardians ad
21331 litem and volunteers;
21332 (k) hire, train, and supervise investigators; and
21333 (l) administer the program of private guardians ad litem established by Section
21334 [~~78-7-45~~] 78A-2-228.
21335 (4) A contract of employment or independent contract described under Subsection
21336 (3)(c) shall provide that attorney guardians ad litem in the second, third, and fourth judicial
21337 districts devote their full time and attention to the role of attorney guardian ad litem, having no
21338 clients other than the minors whose interest they represent within the guardian ad litem
21339 program.
21340 Section 455. Section **78A-6-902**, which is renumbered from Section 78-3a-912 is
21341 renumbered and amended to read:
21342 **[~~78-3a-912~~]. 78A-6-902. Appointment of attorney guardian ad litem --**
21343 **Right of refusal -- Duties and responsibilities -- Training -- Trained staff and**
21344 **court-appointed special advocate volunteers -- Costs -- Immunity -- Annual report.**
21345 (1) (a) The court:
21346 (i) may appoint an attorney guardian ad litem to represent the best interest of a minor
21347 involved in any case before the court; and
21348 (ii) shall consider the best interest of a minor, consistent with the provisions of Section
21349 62A-4a-201, in determining whether to appoint a guardian ad litem.
21350 (b) In all cases where an attorney guardian ad litem is appointed, the court shall make a
21351 finding that establishes the necessity of the appointment.
21352 (2) An attorney guardian ad litem shall represent the best interest of each child who
21353 may become the subject of a petition alleging abuse, neglect, or dependency, from the earlier of
21354 the day that:
21355 (a) the child is removed from the child's home by the division; or

21356 (b) the petition is filed.
21357 (3) The Office of the Guardian Ad Litem Director, through an attorney guardian ad
21358 litem, shall:
21359 (a) represent the best interest of the minor in all proceedings;
21360 (b) prior to representing any minor before the court, be trained in:
21361 (i) applicable statutory, regulatory, and case law; and
21362 (ii) accordance with the United States Department of Justice National Court Appointed
21363 Special Advocate Association guidelines;
21364 (c) conduct or supervise an independent investigation in order to obtain first-hand, a
21365 clear understanding of the situation and needs of the minor;
21366 (d) (i) personally meet with the minor;
21367 (ii) personally interview the minor if the minor is old enough to communicate;
21368 (iii) determine the minor's goals and concerns regarding placement; and
21369 (iv) personally assess or supervise an assessment of the appropriateness and safety of
21370 the minor's environment in each placement;
21371 (e) file written motions, responses, or objections at all stages of a proceeding when
21372 necessary to protect the best interest of a minor;
21373 (f) personally or through a trained volunteer, paralegal, or other trained staff, attend all
21374 administrative and foster care citizen review board hearings pertaining to the minor's case;
21375 (g) participate in all appeals unless excused by order of the court;
21376 (h) be familiar with local experts who can provide consultation and testimony
21377 regarding the reasonableness and appropriateness of efforts made by the Division of Child and
21378 Family Services to:
21379 (i) maintain a minor in the minor's home; or
21380 (ii) reunify a child with the child's parent;
21381 (i) to the extent possible, and unless it would be detrimental to the minor, personally or
21382 through a trained volunteer, paralegal, or other trained staff, keep the minor advised of:
21383 (i) the status of the minor's case;
21384 (ii) all court and administrative proceedings;
21385 (iii) discussions with, and proposals made by, other parties;
21386 (iv) court action; and

21387 (v) the psychiatric, medical, or other treatment or diagnostic services that are to be
21388 provided to the minor;
21389 (j) review proposed orders for, and as requested by the court;
21390 (k) prepare proposed orders with clear and specific directions regarding services,
21391 treatment, evaluation, assessment, and protection of the minor and the minor's family; and
21392 (l) personally or through a trained volunteer, paralegal, or other trained staff, monitor
21393 implementation of a minor's child and family plan and any dispositional orders to:
21394 (i) determine whether services ordered by the court:
21395 (A) are actually provided; and
21396 (B) are provided in a timely manner; and
21397 (ii) attempt to assess whether services ordered by the court are accomplishing the
21398 intended goal of the services.
21399 (4) (a) Consistent with this Subsection (4), an attorney guardian ad litem may use
21400 trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers
21401 Act, trained paralegals, and other trained staff to assist in investigation and preparation of
21402 information regarding the cases of individual minors before the court.
21403 (b) The attorney guardian ad litem described in Subsection (4)(a) may not delegate the
21404 attorney's responsibilities described in Subsection (3).
21405 (c) All volunteers, paralegals, and staff utilized pursuant to this section shall be trained
21406 in and follow, at a minimum, the guidelines established by the United States Department of
21407 Justice Court Appointed Special Advocate Association.
21408 (d) The court may use volunteers trained in accordance with the requirements of
21409 Subsection (4)(c) to assist in investigation and preparation of information regarding the cases
21410 of individual minors within the jurisdiction.
21411 (e) When possible and appropriate, the court may use a volunteer who is a peer of the
21412 minor appearing before the court, in order to provide assistance to that minor, under the
21413 supervision of an attorney guardian ad litem or the attorney's trained volunteer, paralegal, or
21414 other trained staff.
21415 (5) The attorney guardian ad litem shall continue to represent the best interest of the
21416 minor until released from that duty by the court.
21417 (6) (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:

21418 (i) all costs resulting from the appointment of an attorney guardian ad litem; and
21419 (ii) the costs of volunteer, paralegal, and other staff appointment and training.
21420 (b) The court shall use funds appropriated by the Legislature for the guardian ad litem
21421 program to cover the costs described in Subsection (6)(a).
21422 (c) (i) When the court appoints an attorney guardian ad litem under this section, the
21423 court may assess all or part of the [~~attorney's~~] attorney fees, court costs, and paralegal, staff,
21424 and volunteer expenses against the child's parents, parent, or legal guardian in a proportion that
21425 the court determines to be just and appropriate.
21426 (ii) The court may not assess those fees or costs against:
21427 (A) a legal guardian, when that guardian is the state; or
21428 (B) consistent with Subsection (6)(d), a parent who is found to be impecunious.
21429 (d) For purposes of Subsection (6)(c)(ii)(B), if a person claims to be impecunious, the
21430 court shall:
21431 (i) require that person to submit an affidavit of impecuniosity as provided in Section
21432 [~~78-7-36~~] 78A-2-302; and
21433 (ii) follow the procedures and make the determinations as provided in Section
21434 [~~78-7-37~~] 78A-2-304.
21435 (7) An attorney guardian ad litem appointed under this section, when serving in the
21436 scope of the attorney guardian ad litem's duties as guardian ad litem is considered an employee
21437 of the state for purposes of indemnification under Title 63, Chapter 30d, Governmental
21438 Immunity Act of Utah.
21439 (8) (a) An attorney guardian ad litem shall represent the best interest of a minor.
21440 (b) If the minor's wishes differ from the attorney's determination of the minor's best
21441 interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in
21442 addition to presenting the attorney's determination of the minor's best interest.
21443 (c) A difference between the minor's wishes and the attorney's determination of best
21444 interest may not be considered a conflict of interest for the attorney.
21445 (d) The court may appoint one attorney guardian ad litem to represent the best interests
21446 of more than one child of a marriage.
21447 (9) An attorney guardian ad litem shall be provided access to all Division of Child and
21448 Family Services records regarding the minor at issue and the minor's family.

21449 (10) An attorney guardian ad litem shall maintain current and accurate records
21450 regarding:
21451 (a) the number of times the attorney has had contact with each minor; and
21452 (b) the actions the attorney has taken in representation of the minor's best interest.
21453 (11) (a) Except as provided in Subsection (11)(b), all records of an attorney guardian
21454 ad litem are confidential and may not be released or made public upon subpoena, search
21455 warrant, discovery proceedings, or otherwise. This subsection supersedes Title 63, Chapter 2,
21456 Government Records Access and Management Act.
21457 (b) Consistent with Subsection (11)(d), all records of an attorney guardian ad litem:
21458 (i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative
21459 Subpoena Powers; and
21460 (ii) shall be released to the Legislature.
21461 (c) (i) Except as provided in Subsection (11)(c)(ii), records released in accordance with
21462 Subsection (11)(b) shall be maintained as confidential by the Legislature.
21463 (ii) Notwithstanding Subsection (11)(c)(i), the Office of the Legislative Auditor
21464 General may include summary data and nonidentifying information in its audits and reports to
21465 the Legislature.
21466 (d) (i) Subsection (11)(b) constitutes an exception to Rules of Professional Conduct,
21467 Rule 1.6, as provided by Rule 1.6(b)(4), because of:
21468 (A) the unique role of an attorney guardian ad litem described in Subsection (8); and
21469 (B) the state's role and responsibility:
21470 (I) to provide a guardian ad litem program; and
21471 (II) as parens patriae, to protect minors.
21472 (ii) A claim of attorney-client privilege does not bar access to the records of an attorney
21473 guardian ad litem by the Legislature, through legislative subpoena.
21474 (e) The Office of the Guardian Ad Litem shall present an annual report to the Child
21475 Welfare Legislative Oversight Panel detailing:
21476 (i) the development, policy, and management of the statewide guardian ad litem
21477 program;
21478 (ii) the training and evaluation of attorney guardians ad litem and volunteers; and
21479 (iii) the number of minors served by the Office of the Guardian Ad Litem.

21480 Section 456. Section **78A-6-1001**, which is renumbered from Section 78-3a-801 is
21481 renumbered and amended to read:
21482 **[~~78-3a-801~~]. 78A-6-1001. Jurisdiction over adults for offenses against**
21483 **minors -- Proof of delinquency not required for conviction.**
21484 (1) The court shall have jurisdiction, concurrent with the district court or justice court
21485 otherwise having subject matter jurisdiction, to try adults for the following offenses committed
21486 against minors:
21487 (a) unlawful sale or supply of alcohol beverage or product to minors in violation of
21488 Section 32A-12-203;
21489 (b) failure to report child abuse or neglect, as required by Title 62A, Chapter 4a, Part 4,
21490 Child Abuse or Neglect Reporting Requirements;
21491 (c) harboring a minor in violation of Section 62A-4a-501;
21492 (d) misdemeanor custodial interference in violation of Section 76-5-303;
21493 (e) contributing to the delinquency of a minor in violation of Section 76-10-2301; and
21494 (f) failure to comply with compulsory education requirements in violation of Section
21495 53A-11-101.5.
21496 (2) It is not necessary for the minor to be found to be delinquent or to have committed
21497 a delinquent act for the court to exercise jurisdiction under Subsection (1).
21498 Section 457. Section **78A-6-1002**, which is renumbered from Section 78-3a-802 is
21499 renumbered and amended to read:
21500 **[~~78-3a-802~~]. 78A-6-1002. Practice and procedure -- Jury trial.**
21501 (1) The county attorney or district attorney, as provided under Sections 17-18-1 and
21502 17-18-1.7, shall prosecute any case brought under this part.
21503 (2) Proceedings under this part shall be governed by the statutes and rules governing
21504 criminal proceedings in the district court, except the court may, and on stipulation of the
21505 parties, shall, transfer the case to the district court.
21506 Section 458. Section **78A-6-1003**, which is renumbered from Section 78-3a-804 is
21507 renumbered and amended to read:
21508 **[~~78-3a-804~~]. 78A-6-1003. Costs and expenses of trial.**
21509 The fees and expenses, the cost of publication of summons, and the expense of a trial of
21510 an adult, when approved by the court, are paid by the state, except prosecution costs and public

21511 defender costs are paid by the county where the hearing or trial is held.
21512 Section 459. Section **78A-6-1101**, which is renumbered from Section 78-3a-901 is
21513 renumbered and amended to read:
21514 **Part 11. Miscellaneous Provisions**
21515 **[~~78-3a-901~~]. 78A-6-1101. Violation of order of court -- Contempt --**
21516 **Penalty.**
21517 (1) Any person who willfully violates or refuses to obey any order of the court may be
21518 proceeded against for contempt of court.
21519 (2) Any person 18 years of age or older found in contempt of court may be punished in
21520 accordance with Section [~~78-32-10~~] 78B-6-310.
21521 (3) (a) Any person younger than 18 years of age found in contempt of court may be
21522 punished by any disposition permitted under Section [~~78-3a-118~~] 78A-6-117, except for
21523 commitment to a secure facility.
21524 (b) The court may stay or suspend all or part of the punishment upon compliance with
21525 conditions imposed by the court.
21526 (4) The court may enforce orders of fines, fees, or restitution through garnishments,
21527 wage withholdings, supplementary proceedings, or executions.
21528 Section 460. Section **78A-6-1102**, which is renumbered from Section 78-3a-902 is
21529 renumbered and amended to read:
21530 **[~~78-3a-902~~]. 78A-6-1102. Amendment of petition -- When authorized --**
21531 **Continuance of proceedings.**
21532 When it appears during the course of any proceeding in a minor's case that the evidence
21533 presented points to material facts not alleged in the petition, the court may consider the
21534 additional or different matters raised by the evidence, if the parties consent. The court on
21535 motion of any interested party or on its own motion shall direct that the petition be amended to
21536 conform to the evidence. If the amendment results in a substantial departure from the facts
21537 originally alleged, the court shall grant such continuance as justice may require.
21538 Section 461. Section **78A-6-1103**, which is renumbered from Section 78-3a-903 is
21539 renumbered and amended to read:
21540 **[~~78-3a-903~~]. 78A-6-1103. Modification or termination of custody order or**
21541 **decree -- Grounds -- Procedure.**

21542 (1) A parent, guardian, or next friend of a child whose legal custody has been
21543 transferred by the court to an individual, agency, or institution, except a secure youth
21544 corrections facility, may petition the court for restoration of custody or other modification or
21545 revocation of the court's order, on the ground that a change of circumstances has occurred
21546 which requires such modification or revocation in the best interest of the child or the public.
21547 (2) The court shall make a preliminary investigation. If the court finds that the alleged
21548 change of circumstances, if proved, would not affect the decree, it may dismiss the petition. If
21549 the court finds that a further examination of the facts is needed, or if the court on its own
21550 motion determines that the decree should be reviewed, it shall conduct a hearing. Notice shall
21551 be given to all persons concerned. At the hearing, the court may enter an order continuing,
21552 modifying, or terminating the decree.
21553 (3) A petition by a parent may not be filed under this section after the parent's parental
21554 rights have been terminated in accordance with Part [~~4~~] 5, Termination of Parental Rights Act.
21555 (4) An individual, agency, or institution vested with legal custody of a child may
21556 petition the court for a modification of the custody order on the ground that the change is
21557 necessary for the welfare of the child or in the public interest. The court shall proceed upon the
21558 petition in accordance with Subsections (1) and (2).
21559 Section 462. Section **78A-6-1104**, which is renumbered from Section 78-3a-904 is
21560 renumbered and amended to read:
21561 **[~~78-3a-904~~]. 78A-6-1104. When photographs, fingerprints, or HIV**
21562 **infection tests may be taken -- Distribution -- Expungement.**
21563 (1) Photographs may be taken of a minor 14 years of age or older who:
21564 (a) is taken into custody for the alleged commission of an offense under Sections
21565 [~~78-3a-104, 78-3a-601, and 78-3a-602~~] 78A-6-103, 78A-6-701, and 78A-6-702 that would also
21566 be an offense if the minor were 18 years of age or older; or
21567 (b) has been determined to be a serious habitual offender for tracking under Section
21568 63-92-2 and is under the continuing jurisdiction of the Juvenile Court or the Division of
21569 Juvenile Justice Services.
21570 (2) (a) Fingerprints may be taken of a minor 14 years of age or older who:
21571 (i) is taken into custody for the alleged commission of an offense that would be a
21572 felony if the minor were 18 years of age or older;

21573 (ii) has been determined to be a serious habitual offender for tracking under Section
21574 63-92-2 and is under the continuing jurisdiction of the Juvenile Court or the Division of
21575 Juvenile Justice Services; or
21576 (iii) is required to provide a DNA specimen under Section 53-10-403.
21577 (b) Fingerprints shall be forwarded to the Bureau of Criminal Identification and may be
21578 stored by electronic medium.
21579 (3) HIV testing may be conducted on a minor who is taken into custody after having
21580 been adjudicated to have violated state law prohibiting a sexual offense under Title 76, Chapter
21581 5, Part 4, Sexual Offenses, upon the request of the victim or the parent or guardian of a child
21582 victim.
21583 (4) HIV tests, photographs, and fingerprints may not be taken of a child younger than
21584 14 years of age without the consent of the court.
21585 (5) (a) Photographs may be distributed or disbursed to individuals or agencies other
21586 than state or local law enforcement agencies only when a minor 14 years of age or older is
21587 charged with an offense which would be a felony if committed by an adult.
21588 (b) Fingerprints may be distributed or disbursed to individuals or agencies other than
21589 state or local law enforcement agencies.
21590 (6) When a minor's juvenile record is expunged, all photographs and other records as
21591 ordered shall upon court order be destroyed by the law enforcement agency. Fingerprint records
21592 may not be destroyed.
21593 Section 463. Section **78A-6-1105**, which is renumbered from Section 78-3a-905 is
21594 renumbered and amended to read:
21595 **[~~78-3a-905~~]. 78A-6-1105. Expungement of juvenile court record --**
21596 **Petition -- Procedure.**
21597 (1) (a) A person who has been adjudicated under this chapter may petition the court for
21598 the expungement of the person's record in the juvenile court if:
21599 (i) the person has reached 18 years of age; and
21600 (ii) one year has elapsed from the date of termination of the continuing jurisdiction of
21601 the juvenile court or, if the person was committed to a secure youth corrections facility, one
21602 year from the date of the person's unconditional release from the custody of the Division of
21603 Juvenile Justice Services.

21604 (b) The court may waive the requirements in Subsection (1)(a), if the court finds, and
21605 states on the record, the reason why the waiver is appropriate.
21606 (c) The petitioner shall include with the petition the original criminal history report
21607 obtained from the Bureau of Criminal Identification in accordance with the provisions of
21608 Subsection 53-10-108(8).
21609 (d) The petitioner shall send a copy of the petition to the county attorney or, if within a
21610 prosecution district, the district attorney.
21611 (e) (i) Upon the filing of a petition, the court shall set a date for a hearing and shall
21612 notify the county attorney or district attorney, and the agency with custody of the records of the
21613 pendency of the petition and of the date of the hearing. Notice shall be given at least 30 days
21614 prior to the hearing.
21615 (ii) The court shall provide a victim with the opportunity to request notice of a petition
21616 for expungement. A victim shall receive notice of a petition for expungement at least 30 days
21617 prior to the hearing if, prior to the entry of an expungement order, the victim or, in the case of a
21618 child or a person who is incapacitated or deceased, the victim's next of kin or authorized
21619 representative, submits a written and signed request for notice to the court in the judicial
21620 district in which the crime occurred or judgment was entered. The notice shall include a copy
21621 of the petition and statutes and rules applicable to the petition.
21622 (2) (a) At the hearing, the county attorney or district attorney, a victim, and any other
21623 person who may have relevant information about the petitioner may testify.
21624 (b) In deciding whether to grant a petition for expungement, the court shall consider
21625 whether the rehabilitation of the petitioner has been attained to the satisfaction of the court,
21626 taking into consideration the petitioner's response to programs and treatment, the petitioner's
21627 behavior subsequent to adjudication, and the nature and seriousness of the conduct.
21628 (c) The court may order sealed all petitioner's records under the control of the juvenile
21629 court and any of petitioner's records under the control of any other agency or official pertaining
21630 to the petitioner's adjudicated juvenile court cases if the court finds that:
21631 (i) the petitioner has not, since the termination of the court's jurisdiction or his
21632 unconditional release from the Division of Juvenile Justice Services, been convicted of a:
21633 (A) felony; or
21634 (B) misdemeanor involving moral turpitude;

21635 (ii) no proceeding involving a felony or misdemeanor is pending or being instituted
21636 against the petitioner; and
21637 (iii) a judgment for restitution entered by the court on the conviction for which the
21638 expungement is sought has been satisfied.
21639 (3) The petitioner shall be responsible for service of the order of expungement to all
21640 affected state, county, and local entities, agencies, and officials. To avoid destruction or
21641 sealing of the records in whole or in part, the agency or entity receiving the expungement order
21642 shall only expunge all references to the petitioner's name in the records pertaining to the
21643 petitioner's adjudicated juvenile court cases.
21644 (4) Upon the entry of the order, the proceedings in the petitioner's case shall be
21645 considered never to have occurred and the petitioner may properly reply accordingly upon any
21646 inquiry in the matter. Inspection of the records may thereafter only be permitted by the court
21647 upon petition by the person who is the subject of the records, and only to persons named in the
21648 petition.
21649 (5) The court may not expunge a juvenile court record if the record contains an
21650 adjudication of:
21651 (a) Section 76-5-202, aggravated murder; or
21652 (b) Section 76-5-203, murder.
21653 (6) (a) A person whose juvenile court record consists solely of nonjudicial adjustments
21654 as provided in Section [~~78-3a-502~~] 78A-6-602 may petition the court for expungement of the
21655 person's record if the person:
21656 (i) has reached 18 years of age; and
21657 (ii) has completed the conditions of the nonjudicial adjustments.
21658 (b) The court shall, without a hearing, order sealed all petitioner's records under the
21659 control of the juvenile court and any of petitioner's records under the control of any other
21660 agency or official pertaining to the petitioner's nonjudicial adjustments.
21661 Section 464. Section **78A-6-1106**, which is renumbered from Section 78-3a-906 is
21662 renumbered and amended to read:
21663 **[~~78-3a-906~~]. 78A-6-1106. Child support obligation when custody of a**
21664 **child is vested in an individual or institution.**
21665 (1) When legal custody of a child is vested by the court in a secure youth corrections

21666 facility or any other state department, division, or agency other than the child's parents, or if the
21667 guardianship of the child has been granted to another party and an agreement for a guardianship
21668 subsidy has been signed by the guardian, the court shall order the parents, a parent, or any other
21669 obligated person to pay child support for each month the child is in custody. In the same
21670 proceeding the court shall inform the parents, a parent, or any other obligated person, verbally
21671 and in writing, of the requirement to pay child support in accordance with Title [~~78~~] 78B,
21672 Chapter [~~45, Uniform Civil Liability for~~] 12, Utah Child Support Act.
21673 (2) If legal custody of a child is vested by the court in a secure youth corrections
21674 facility, or any other state department, division, or agency, the court may refer the
21675 establishment of a child support order to the Office of Recovery Services. The referral shall be
21676 sent to the Office of Recovery Services within three working days of the hearing. Support
21677 obligation amounts shall be set by the Office of Recovery Services in accordance with Title
21678 [~~78~~] 78B, Chapter [~~45, Uniform Civil Liability for~~] 12, Utah Child Support Act.
21679 (3) If referred to the Office of Recovery Services pursuant to Subsection (2), the court
21680 shall also inform the parties that they are required to contact the Office of Recovery Services
21681 within 30 days of the date of the hearing to establish a child support order and the penalty in
21682 Subsection (5) for failing to do so. If there is no existing child support order for the child, the
21683 liability for support shall accrue beginning on the 61st day following the hearing that occurs the
21684 first time the court vests custody of the child in a secure youth corrections facility, or any other
21685 state department, division, or agency other than his parents.
21686 (4) If a child is returned home and legal custody is subsequently vested by the court in
21687 a secure youth corrections facility or any other state department, division, or agency other than
21688 his parents, the liability for support shall accrue from the date the child is subsequently
21689 removed from the home, including time spent in detention or sheltered care.
21690 (5) (a) If the parents, parent, or other obligated person meets with the Office of
21691 Recovery Services within 30 days of the date of the hearing, the child support order may not
21692 include a judgment for past due support for more than two months.
21693 (b) Notwithstanding Subsection (5)(a), the court may order the liability of support to
21694 begin to accrue from the date of the proceeding referenced in Subsection (1) if:
21695 (i) the parents, parent, or any other person obligated fails to meet with the Office of
21696 Recovery Services within 30 days after being informed orally and in writing by the court of that

21697 requirement; and
21698 (ii) the Office of Recovery Services took reasonable steps under the circumstances to
21699 contact the parents, parent, or other person obligated within the subsequent 30-day period to
21700 facilitate the establishment of the child support order.
21701 (c) For purposes of Subsection (5)(b)(ii), the Office of Recovery Services shall be
21702 presumed to have taken reasonable steps if the office:
21703 (i) has a signed, returned receipt for a certified letter mailed to the address of the
21704 parents, parent, or other obligated person regarding the requirement that a child support order
21705 be established; or
21706 (ii) has had a documented conversation, whether by telephone or in person, with the
21707 parents, parent, or other obligated person regarding the requirement that a child support order
21708 be established.
21709 (6) In collecting arrears, the Office of Recovery Services shall comply with Section
21710 62A-11-320 in setting a payment schedule or demanding payment in full.
21711 (7) Unless otherwise ordered, the parents or other person shall pay the child support to
21712 the Office of Recovery Services. The clerk of the court, the Office of Recovery Services, or the
21713 Department of Human Services and its divisions shall have authority to receive periodic
21714 payments for the care and maintenance of the child, such as Social Security payments or
21715 railroad retirement payments made in the name of or for the benefit of the child.
21716 (8) No court order under this section against a parent or other person shall be entered,
21717 unless notice of hearing has been served within the state, a voluntary appearance is made, or a
21718 waiver of service given. The notice shall specify that a hearing with respect to the financial
21719 support of the child will be held.
21720 (9) An existing child support order payable to a parent or other obligated person shall
21721 be assigned to the Department of Human Services as provided in Section 62A-1-117.
21722 (10) (a) Subsections (3) through (9) shall not apply if legal custody of a child is vested
21723 by the court in an individual.
21724 (b) If legal custody of a child is vested by the court in an individual, the court may
21725 order the parents, a parent, or any other obligated person to pay child support to the individual.
21726 In the same proceeding the court shall inform the parents, a parent, or any other obligated
21727 person, verbally and in writing, of the requirement to pay child support in accordance with

21728 Title [~~78~~] 78B, Chapter [~~45, Uniform Civil Liability for~~] 12, Utah Child Support Act.
21729 Section 465. Section **78A-6-1107**, which is renumbered from Section 78-3a-907 is
21730 renumbered and amended to read:
21731 **[~~78-3a-907~~]. 78A-6-1107. Transfer of continuing jurisdiction to other**
21732 **district.**
21733 Jurisdiction over a minor on probation or under protective supervision, or of a minor
21734 who is otherwise under the continuing jurisdiction of the court, may be transferred by the court
21735 to the court of another district, if the receiving court consents, or upon direction of the chair of
21736 the Board of Juvenile Court Judges. The receiving court has the same powers with respect to
21737 the minor that it would have if the proceedings originated in that court.
21738 Section 466. Section **78A-6-1108**, which is renumbered from Section 78-3a-908 is
21739 renumbered and amended to read:
21740 **[~~78-3a-908~~]. 78A-6-1108. New hearings authorized -- Grounds and**
21741 **procedure.**
21742 (1) A parent, guardian, custodian, or next friend of any child adjudicated under this
21743 chapter, or any minor who is at least 18 years old, or adult affected by a decree in a proceeding
21744 under this chapter, may at any time petition the court for a new hearing on the ground that new
21745 evidence which was not known and could not with due diligence have been made available at
21746 the original hearing and which might affect the decree, has been discovered.
21747 (2) If it appears to the court that there is new evidence which might affect its decree, it
21748 shall order a new hearing, enter a decree, and make any disposition of the case warranted by all
21749 the facts and circumstances and the best interests of the minor.
21750 (3) This section does not apply to a minor's case handled under the provisions of
21751 Section [~~78-3a-602~~] 78A-6-702.
21752 Section 467. Section **78A-6-1109**, which is renumbered from Section 78-3a-909 is
21753 renumbered and amended to read:
21754 **[~~78-3a-909~~]. 78A-6-1109. Appeals.**
21755 (1) An appeal to the Court of Appeals may be taken from any order, decree, or
21756 judgment of the juvenile court.
21757 (2) Appeals of right from juvenile court orders related to abuse, neglect, dependency,
21758 termination, and adoption proceedings, shall be taken within 15 days from entry of the order,

21759 decree, or judgment appealed from. In addition, the notice of appeal must be signed by
21760 appellant's counsel, if any, and by appellant, unless the appellant is a child or state agency. If
21761 an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed.
21762 (3) If the parties are present in the courtroom, the court shall inform them of:
21763 (a) their right to appeal within the specified time limits;
21764 (b) the need for their signature on a notice of appeal in appeals from juvenile court
21765 orders related to abuse, neglect, dependency, termination, and adoption proceedings; and
21766 (c) the need for parties to maintain regular contact with their counsel and to keep all
21767 other parties and the appellate court informed of their whereabouts.
21768 (4) If the parties are not present in the courtroom, the court shall mail a written
21769 statement containing the information provided in Subsection (3) to the parties at their last
21770 known address.
21771 (5) (a) The court shall inform the parties' counsel at the conclusion of the proceedings
21772 that, if an appeal is filed, they must represent their clients throughout the appellate process
21773 unless relieved of that obligation by the juvenile court upon a showing of extraordinary
21774 circumstances.
21775 (b) Until the petition on appeal is filed, claims of ineffective assistance of counsel do
21776 not constitute extraordinary circumstances. If a claim is raised by trial counsel or a party, it
21777 must be included in the petition on appeal.
21778 (6) During the pendency of an appeal from juvenile court orders related to abuse,
21779 neglect, dependency, termination, and adoption proceedings, parties shall maintain regular
21780 contact with their counsel, if any, and keep all other parties and the appellate court informed of
21781 their whereabouts.
21782 (7) In all other appeals of right, the appeal shall be taken within 30 days from the entry
21783 of the order, decree, or judgment appealed from and the notice of appeal must be signed by
21784 appellant's counsel, if any, or by appellant. The attorney general shall represent the state in all
21785 appeals under this chapter.
21786 (8) Unless the juvenile court stays its order, the pendency of an appeal does not stay the
21787 order or decree appealed from in a minor's case, unless otherwise ordered by the Court of
21788 Appeals, if suitable provision for the care and custody of the minor involved is made pending
21789 the appeal.

21790 (9) The name of the minor may not appear on the record on appeal.
21791 Section 468. Section **78A-6-1110**, which is renumbered from Section 78-3a-910 is
21792 renumbered and amended to read:
21793 **[~~78-3a-910~~]. 78A-6-1110. Cooperation of political subdivisions and public**
21794 **or private agencies and organizations.**
21795 Every county, municipality, and school district, the Division of Child and Family
21796 Services, the Department of Health, the Division of Substance Abuse and Mental Health, the
21797 State Board of Education, and state and local law enforcement officers, shall render all
21798 assistance and cooperation within their jurisdiction and power to further the objects of this
21799 chapter, and the juvenile courts are authorized to seek the cooperation of all agencies and
21800 organizations, public or private, whose object is the protection or aid of minors.
21801 Section 469. Section **78A-6-1111**, which is renumbered from Section 78-3a-913 is
21802 renumbered and amended to read:
21803 **[~~78-3a-913~~]. 78A-6-1111. Right to counsel -- Appointment of counsel for**
21804 **indigent -- Cost -- Court hearing to determine compelling reason to appoint a**
21805 **noncontracting attorney -- Rate of pay.**
21806 (1) (a) The parents, guardian, custodian, and the minor, if competent, shall be informed
21807 that they have the right to be represented by counsel at every stage of the proceedings. They
21808 have the right to employ counsel of their own choice and if any of them requests an attorney
21809 and is found by the court to be indigent, counsel shall be appointed by the court as provided in
21810 Subsection (3). The court may appoint counsel without a request if it considers representation
21811 by counsel necessary to protect the interest of the minor or of other parties.
21812 (b) The cost of appointed counsel for an indigent minor or other indigent party,
21813 including the cost of counsel and expense of appeal, shall be paid by the county in which the
21814 trial court proceedings are held. Counties may levy and collect taxes for these purposes.
21815 (c) The court shall take into account the income and financial ability to retain counsel
21816 of the parents or guardian of a child in determining the indigency of the child.
21817 (2) If the state or county responsible to provide legal counsel for an indigent under
21818 Subsection (1)(b) has arranged by contract to provide services, the court if it has received
21819 notice or a copy of such contract shall appoint the contracting attorney as legal counsel to
21820 represent that indigent.

21821 (3) In the absence of contrary contractual provisions regarding the selection and
21822 appointment of parental defense counsel, the court shall select and appoint the attorney or
21823 attorneys if:
21824 (a) the contract for indigent legal services is with multiple attorneys; or
21825 (b) the contract is with an additional attorney or attorneys in the event of a conflict of
21826 interest.
21827 (4) If the court considers the appointment of a noncontracting attorney to provide legal
21828 services to an indigent despite the existence of an indigent legal services contract and the court
21829 has a copy or notice of such contract, before the court may make the appointment, it shall:
21830 (a) set the matter for a hearing;
21831 (b) give proper notice to the attorney general and the Office of Child Welfare Parental
21832 Defense created in Section 63A-11-103; and
21833 (c) make findings that there is a compelling reason to appoint a noncontracting attorney
21834 before it may make such appointment.
21835 (5) The indigent's mere preference for other counsel shall not be considered a
21836 compelling reason justifying the appointment of a noncontracting attorney.
21837 (6) The court may order a minor, parent, guardian, or custodian for whom counsel is
21838 appointed and the parents or guardian of any child for whom counsel is appointed to reimburse
21839 the county for the cost of appointed counsel.
21840 Section 470. Section **78A-6-1112**, which is renumbered from Section 78-3a-914 is
21841 renumbered and amended to read:
21842 **[~~78-3a-914~~]. 78A-6-1112. Exchange of information with agency or**
21843 **institution having legal custody -- Transfer of minor to state prison or other adult facility**
21844 **prohibited.**
21845 (1) Whenever legal custody of a minor is vested in an institution or agency, the court
21846 shall transmit with the court order copies of the social study, any clinical reports, and other
21847 information pertinent to the care and treatment of the minor. The institution or agency shall
21848 give the court any information concerning the minor that the court may at any time require.
21849 (2) The Division of Juvenile Justice Services or any other institution or agency to
21850 whom a minor is committed under Section [~~78-3a-118~~] 78A-6-117 may not transfer custody of
21851 the minor to the state prison or any other institution for the correction of adult offenders.

21852 Section 471. Section **78A-6-1113**, which is renumbered from Section 78-11-20 is
21853 renumbered and amended to read:
21854 **[~~78-11-20~~]. 78A-6-1113. Property damage caused by a minor -- Liability of**
21855 **parent or legal guardian -- Criminal conviction or adjudication for criminal mischief or**
21856 **criminal trespass not a prerequisite for civil action under chapter -- When parent or**
21857 **guardian not liable.**
21858 (1) The parent or legal guardian having legal custody of the minor is liable for damages
21859 sustained to property not to exceed $2,000 when:
21860 (a) the minor intentionally damages, defaces, destroys, or takes the property of another;
21861 (b) the minor recklessly or willfully shoots or propels a missile, or other object at or
21862 against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether
21863 moving or standing; or
21864 (c) the minor intentionally and unlawfully tampers with the property of another and
21865 thereby recklessly endangers human life or recklessly causes or threatens a substantial
21866 interruption or impairment of any public utility service.
21867 (2) For purposes of this section, Subsection (1)(a) or (c) includes graffiti, as defined in
21868 Section 76-6-107.
21869 (3) A court may waive part or all of the liability for damages by the parent or legal
21870 guardian if the offender is adjudicated in the juvenile court under Section [~~78-3a-118~~]
21871 78A-6-117 only:
21872 (a) upon a finding of good cause; or
21873 (b) if the parent or legal guardian:
21874 (i) made a reasonable effort to restrain the wrongful conduct; and
21875 (ii) reported it to the property owner involved or the law enforcement agency having
21876 primary jurisdiction after he knew of the minor's unlawful act. No report is required under this
21877 section from a parent or legal guardian if the minor was arrested or apprehended by a peace
21878 officer or by anyone acting on behalf of the property owner involved.
21879 (4) A conviction for criminal mischief under Section 76-6-106, criminal trespass under
21880 Section 76-6-206, or an adjudication under Section 78A-6-117 is not a condition precedent to a
21881 civil action authorized under Subsection (1).
21882 (5) A parent or guardian is not liable under Subsection (1) if the parent or guardian

21883 made a reasonable effort to supervise and direct their minor child, or, in the event the parent
21884 knew in advance of the possible taking, injury, or destruction by their minor child, made a
21885 reasonable effort to restrain the child.
21886 Section 472. Section **78A-6-1201**, which is renumbered from Section 78-57-101 is
21887 renumbered and amended to read:
21888 **Part 12. Utah Youth Court Diversion Act**
21889 **[~~78-57-101~~]. 78A-6-1201. Title.**
21890 This [~~chapter~~] part is known as the "Utah Youth Court Diversion Act."
21891 Section 473. Section **78A-6-1202**, which is renumbered from Section 78-57-102 is
21892 renumbered and amended to read:
21893 **[~~78-57-102~~]. 78A-6-1202. Definitions.**
21894 (1) "Adult" means a person 18 years of age or older.
21895 (2) "Gang activity" means any criminal activity that is conducted as part of an
21896 organized youth gang. It includes any criminal activity that is done in concert with other gang
21897 members, or done alone if it is to fulfill gang purposes. "Gang activity" does not include
21898 graffiti.
21899 (3) "Minor offense" means any unlawful act that is a status offense or would be a class
21900 B or C misdemeanor, infraction, or violation of a municipal or county ordinance if the youth
21901 were an adult. "Minor offense" does not include:
21902 (a) class A misdemeanors;
21903 (b) felonies of any degree;
21904 (c) any offenses that are committed as part of gang activity;
21905 (d) any of the following offenses which would carry mandatory dispositions if referred
21906 to the juvenile court under Section [~~78-3a-506~~] 78A-6-606:
21907 (i) a second violation of Section 32A-12-209, Unlawful Purchase, Possession or
21908 Consumption by Minors -- Measurable Amounts in Body;
21909 (ii) a violation of Section 41-6a-502, Driving Under the Influence;
21910 (iii) a violation of Section 58-37-8, Controlled Substances Act;
21911 (iv) a violation of Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
21912 (v) a violation of Title 58, Chapter 37b, Imitation Controlled Substances Act; or
21913 (vi) a violation of Section 76-9-701, Intoxication; or

21914 (e) any offense where a dangerous weapon, as defined in Subsection 76-1-601(5), is
21915 used in the commission of the offense.
21916 (4) "Sponsoring entity" means any political subdivision of the state, including a school
21917 or school district, juvenile court, law enforcement agency, prosecutor's office, county, city, or
21918 town.
21919 (5) "Status offense" means a violation of the law that would not be a violation but for
21920 the age of the offender.
21921 (6) "Youth" means a person under the age of 18 years or who is 18 but still attending
21922 high school.
21923 Section 474. Section **78A-6-1203**, which is renumbered from Section 78-57-103 is
21924 renumbered and amended to read:
21925 **[~~78-57-103~~]. 78A-6-1203. Youth Court -- Authorization -- Referral.**
21926 (1) Youth Court is a diversion program which provides an alternative disposition for
21927 cases involving juvenile offenders in which youth participants, under the supervision of an
21928 adult coordinator, may serve in various capacities within the courtroom, acting in the role of
21929 jurors, lawyers, bailiffs, clerks, and judges.
21930 (a) Youth who appear before youth courts have been identified by law enforcement
21931 personnel, school officials, a prosecuting attorney, or the juvenile court as having committed
21932 acts which indicate a need for intervention to prevent further development toward juvenile
21933 delinquency, but which appear to be acts that can be appropriately addressed outside the
21934 juvenile court process.
21935 (b) Youth Courts may only hear cases as provided for in this [~~chapter~~] part.
21936 (c) Youth Court is a diversion program and not a court established under the Utah
21937 Constitution, Article VIII.
21938 (2) Any person may refer youth to a Youth Court for minor offenses. Once a referral is
21939 made, the case shall be screened by an adult coordinator to determine whether it qualifies as a
21940 Youth Court case.
21941 (3) Youth Courts have authority over youth:
21942 (a) referred for a minor offense or offenses, or who are granted permission for referral
21943 under this [~~chapter~~] part;
21944 (b) who, along with a parent, guardian, or legal custodian, voluntarily and in writing,

21945 request Youth Court involvement;
21946 (c) who admit having committed the referred offense;
21947 (d) who, along with a parent, guardian, or legal custodian, waive any privilege against
21948 self-incrimination and right to a speedy trial; and
21949 (e) who, along with their parent, guardian, or legal custodian, agree to follow the Youth
21950 Court disposition of the case.
21951 (4) Except with permission granted under Subsection (5), Youth Courts may not
21952 exercise authority over youth who are under the continuing jurisdiction of the juvenile court for
21953 law violations, including any youth who may have a matter pending which has not yet been
21954 adjudicated. Youth Courts may, however, exercise authority over youth who are under the
21955 continuing jurisdiction of the juvenile court as set forth in this Subsection (4) if the offense
21956 before the Youth Court is not a law violation, and the referring agency has notified the juvenile
21957 court of the referral.
21958 (5) Youth Courts may exercise authority over youth described in Subsection (4), and
21959 over any other offense with the permission of the juvenile court and the prosecuting attorney in
21960 the county or district that would have jurisdiction if the matter were referred to juvenile court.
21961 (6) Permission of the juvenile court may be granted by a probation officer of the court
21962 in the district that would have jurisdiction over the offense being referred to Youth Court.
21963 (7) Youth Courts may decline to accept a youth for Youth Court disposition for any
21964 reason and may terminate a youth from Youth Court participation at any time.
21965 (8) A youth or the youth's parent, guardian, or custodian may withdraw from the Youth
21966 Court process at any time. The Youth Court shall immediately notify the referring source of
21967 the withdrawal.
21968 (9) The Youth Court may transfer a case back to the referring source for alternative
21969 handling at any time.
21970 (10) Referral of a case of Youth Court may not prohibit the subsequent referral of the
21971 case to any court.
21972 Section 475. Section **78A-6-1204**, which is renumbered from Section 78-57-104 is
21973 renumbered and amended to read:
21974 **[~~78-57-104~~]. 78A-6-1204. Parental involvement -- Victims -- Restitution.**
21975 (1) Every youth appearing before the Youth Court shall be accompanied by a parent,

21976 guardian, or legal custodian.
21977 (2) Victims shall have the right to attend hearings and be heard.
21978 (3) Any restitution due a victim of an offense shall be made in full prior to the time the
21979 case is completed by the Youth Court. Restitution shall be agreed upon between the youth and
21980 victim.
21981 Section 476. Section **78A-6-1205**, which is renumbered from Section 78-57-105 is
21982 renumbered and amended to read:
21983 **[~~78-57-105~~]. 78A-6-1205. Dispositions.**
21984 (1) Youth Court dispositional options include:
21985 (a) community service;
21986 (b) participation in law-related educational classes, appropriate counseling, treatment,
21987 or other educational programs;
21988 (c) providing periodic reports to the Youth Court;
21989 (d) participating in mentoring programs;
21990 (e) participation by the youth as a member of a Youth Court;
21991 (f) letters of apology;
21992 (g) essays; and
21993 (h) any other disposition considered appropriate by the Youth Court and adult
21994 coordinator.
21995 (2) Youth Courts may not impose a term of imprisonment or detention and may not
21996 impose fines.
21997 (3) Youth Court dispositions shall be completed within 180 days from the date of
21998 referral.
21999 (4) Youth Court dispositions shall be reduced to writing and signed by the youth and a
22000 parent, guardian, or legal custodian indicating their acceptance of the disposition terms.
22001 (5) Youth Court shall notify the referring source if a participant fails to successfully
22002 complete the Youth Court disposition. The referring source may then take any action it
22003 considers appropriate.
22004 Section 477. Section **78A-6-1206**, which is renumbered from Section 78-57-106 is
22005 renumbered and amended to read:
22006 **[~~78-57-106~~]. 78A-6-1206. Liability.**

22007 (1) A person or entity associated with the referral, evaluation, adjudication, disposition,
22008 or supervision of matters under this [~~chapter~~] part may not be held civilly liable for any injury
22009 occurring to any person performing community service or any other activity associated with a
22010 certified Youth Court unless the person causing the injury acted in a willful or wanton manner.
22011 (2) Persons participating in a certified Youth Court shall be considered to be volunteers
22012 for purposes of Workers' Compensation and other risk-related issues.
22013 Section 478. Section **78A-6-1207**, which is renumbered from Section 78-57-107 is
22014 renumbered and amended to read:
22015 **[~~78-57-107~~]. 78A-6-1207. Fees.**
22016 (1) Youth Courts may require that the youth pay a reasonable fee, not to exceed $30, to
22017 participate in Youth Court. This fee may be reduced or waived by the Youth Court in exigent
22018 circumstances. This fee shall be paid to and accounted for by the sponsoring entity.
22019 (2) Fees for classes, counseling, treatment, or other educational programs that are the
22020 disposition of the Youth Court are the responsibility of the participant.
22021 Section 479. Section **78A-6-1208**, which is renumbered from Section 78-57-108 is
22022 renumbered and amended to read:
22023 **[~~78-57-108~~]. 78A-6-1208. Youth Court Board -- Membership --**
22024 **Responsibilities.**
22025 (1) The Utah attorney general's office shall provide staff support and assistance to a
22026 Youth Court Board comprised of the following:
22027 (a) the Utah attorney general or his designee;
22028 (b) one member of the Utah Prosecution Council;
22029 (c) one member from the Board of Juvenile Court Judges;
22030 (d) the juvenile court administrator or his designee;
22031 (e) one person from the Office of Juvenile Justice and Delinquency Prevention;
22032 (f) the state superintendent of education or his designee;
22033 (g) two representatives from Youth Courts based primarily in schools;
22034 (h) two representatives from Youth Courts based primarily in communities;
22035 (i) one member from the law enforcement community; and
22036 (j) one member from the community at large.
22037 (2) The members selected to fill the positions in Subsections (1)(a) through (f) shall

22038 jointly select the members to fill the positions in Subsections (1)(g) through (j).
22039 (3) Members shall serve two-year staggered terms beginning July 1, 1999, except the
22040 initial terms of the members designated by Subsections (1)(a), (c), (e), and (i), and one of the
22041 members from Subsections (1)(g) and (h) shall serve one-year terms, but may be reappointed
22042 for a full two-year term upon the expiration of their initial term.
22043 (4) The Youth Court Board shall meet at least quarterly to:
22044 (a) set minimum standards for the establishment of Youth Courts, including an
22045 application process, membership and training requirements, and the qualifications for the adult
22046 coordinator;
22047 (b) review certification applications; and
22048 (c) provide for a process to recertify each Youth Court every three years.
22049 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
22050 Youth Court Board shall make rules to accomplish the requirements of Subsection (3).
22051 (6) The Youth Court Board may deny certification or recertification, or withdraw the
22052 certification of any Youth Court for failure to comply with program requirements.
22053 (7) (a) Members shall receive no compensation or benefits for their services, but may
22054 receive per diem and expenses incurred in the performance of the member's official duties at
22055 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
22056 (b) Members may decline to receive per diem and expenses for their service.
22057 (8) The Youth Court Board shall provide a list of certified Youth Courts to the Board
22058 of Juvenile Court Judges, all law enforcement agencies in the state, all school districts, and the
22059 Utah Prosecution Council by December 31 of each year.
22060 Section 480. Section **78A-6-1209**, which is renumbered from Section 78-57-109 is
22061 renumbered and amended to read:
22062 **[~~78-57-109~~]. 78A-6-1209. Establishing a Youth Court -- Sponsoring entity**
22063 **responsibilities.**
22064 (1) Youth Courts may be established by a sponsoring entity or by a private nonprofit
22065 entity which contracts with a sponsoring entity.
22066 (2) The sponsoring entity shall:
22067 (a) oversee the formation of the Youth Court;
22068 (b) provide assistance with the application for certification from the Youth Court

22069 Board; and
22070 (c) provide assistance for the training of Youth Court members.
22071 Section 481. Section **78A-7-101**, which is renumbered from Section 78-5-101 is
22072 renumbered and amended to read:
22073 **Part 1. Creation, Jurisdiction, and Procedure**
22074 **[~~78-5-101~~]. 78A-7-101. Creation of justice court -- Not of record.**
22075 Under Article VIII, Section 1, Utah Constitution, there is created a court not of record
22076 known as the justice court. The judges of this court are justice court judges.
22077 Section 482. Section **78A-7-102**, which is renumbered from Section 78-5-101.5 is
22078 renumbered and amended to read:
22079 **[~~78-5-101.5~~]. 78A-7-102. Creation of justice courts -- Classes of justice**
22080 **courts.**
22081 (1) (a) For the purposes of this section, to "create a justice court" means to:
22082 (i) establish a justice court; or
22083 (ii) establish a justice court under Title 11, Chapter 13, Interlocal Cooperation Act.
22084 (b) A municipality or county that has created a justice court may change the form of its
22085 court to another listed in Subsection (1)(a) without being considered to have created a court.
22086 (2) Justice courts shall be divided into the following classes:
22087 (a) Class I: 501 or more citations or cases filed per month;
22088 (b) Class II: 201-500 citations or cases filed per month;
22089 (c) Class III: 61-200 citations or cases filed per month; and
22090 (d) Class IV: 60 or fewer citations or cases filed per month.
22091 (3) Municipalities or counties can elect to create a Class I or Class II justice court by
22092 filing a written declaration with the Judicial Council on or before July 1 at least two years prior
22093 to the effective date of the election. Upon demonstration of compliance with operating
22094 standards as established by statute and the Judicial Council, the Judicial Council shall certify
22095 the creation of the court pursuant to Section [~~78-5-139~~] 78A-7-103.
22096 (4) (a) Except as provided in Subsection (5), municipalities or counties can elect to
22097 create a Class III or Class IV justice court by establishing the need for the court and filing a
22098 written declaration with the Judicial Council on or before July 1 at least one year prior to the
22099 effective date of the election.

22100 (b) In evaluating the need for the creation of a Class III or Class IV justice court, the
22101 Judicial Council shall consider factors of population, case filings, public convenience,
22102 availability of law enforcement agencies and court support services, proximity to other courts,
22103 and any special circumstances.
22104 (c) The Judicial Council shall determine whether the municipality or county seeking to
22105 create a Class III or Class IV justice court has established the need for the court.
22106 (d) Upon demonstration of compliance with operating standards as established by
22107 statute and the Judicial Council, the Judicial Council shall certify the creation of the court
22108 pursuant to Section [~~78-5-139~~] 78A-7-103.
22109 (5) (a) The following municipalities may create a justice court by filing a written
22110 declaration with the Judicial Council: American Fork, Bountiful, Brigham City, Cedar City,
22111 Clearfield, Elk Ridge, Kaysville, Layton, Logan, Moab, Murray, Ogden, Orem, Park City,
22112 Price, Provo, Richfield, Roosevelt, Roy, Salem, Salt Lake City, Sandy, Spanish Fork, St.
22113 George, Taylorsville, Tooele, Vernal, and West Valley City.
22114 (b) To form a Class I or Class II justice court, the municipalities listed in Subsection
22115 (5)(a) shall file a written declaration with the Judicial Council on or before July 1 at least two
22116 years prior to the effective date of the election.
22117 (c) To form a Class III or Class IV justice court, the municipalities listed in Subsection
22118 (5)(a) shall file a written declaration with the Judicial Council on or before July 1 at least one
22119 year prior to the effective date of the election.
22120 (d) Upon demonstration of compliance with operating standards as established by
22121 statute and the Judicial Council, the Judicial Council shall certify the creation of the court
22122 pursuant to Section [~~78-5-139~~] 78A-7-103.
22123 (6) Upon request from a municipality or county seeking to create a justice court, the
22124 Judicial Council may shorten the time required between the city's or county's written
22125 declaration or election to create a justice court and the effective date of the election.
22126 (7) The Judicial Council may by rule provide resources and procedures adequate for
22127 the timely disposition of all matters brought before the courts. The administrative office of the
22128 courts and local governments shall cooperate in allocating resources to operate the courts in the
22129 most efficient and effective manner based on the allocation of responsibility between courts of
22130 record and not of record.

22131 Section 483. Section **78A-7-103**, which is renumbered from Section 78-5-139 is
22132 renumbered and amended to read:
22133 **[~~78-5-139~~]. 78A-7-103. Requirements by Judicial Council for creating and**
22134 **certifying justice courts.**
22135 (1) The Judicial Council has the responsibility for promulgating and publishing
22136 minimum requirements both for the creation of new courts and the certification of existing
22137 courts. The council shall also review requests for waiver of the minimum requirements and
22138 may authorize the creation of a court by waiving compliance with minimum requirements or by
22139 allowing for an extension of time to meet the minimum requirements.
22140 (2) Existing justice courts shall be recertified at the end of each four-year term if they
22141 continue to meet the minimum requirements for the establishment of a new court. Any existing
22142 court which does not meet the minimum requirements may request a review from the council,
22143 which may authorize the recertification of the court by waiving compliance with minimum
22144 requirements or by allowing for an extension of time to meet those requirements.
22145 Section 484. Section **78A-7-104**, which is renumbered from Section 78-5-106 is
22146 renumbered and amended to read:
22147 **[~~78-5-106~~]. 78A-7-104. Justice court judge authority.**
22148 Justice court judges:
22149 (1) have the same authority regarding matters within their jurisdiction as judges of
22150 courts of record;
22151 (2) may issue search warrants and warrants of arrest upon a finding of probable cause;
22152 and
22153 (3) may conduct proceedings to determine:
22154 (a) probable cause for any case within their jurisdiction; and
22155 (b) an accused person's release on bail or his own recognizance.
22156 Section 485. Section **78A-7-105**, which is renumbered from Section 78-5-103 is
22157 renumbered and amended to read:
22158 **[~~78-5-103~~]. 78A-7-105. Territorial jurisdiction -- Voting.**
22159 (1) The territorial jurisdiction of county justice courts extends to the limits of the
22160 precinct for which the justice court is created and includes all cities or towns within the
22161 precinct, except cities where a municipal justice court exists.

22162 (2) The territorial jurisdiction of municipal justice courts extends to the corporate
22163 limits of the municipality in which the justice court is created.
22164 (3) The territorial jurisdiction of county and municipal justice courts functioning as
22165 magistrates extends beyond the boundaries in Subsections (1) and (2):
22166 (a) as set forth in Section [~~78-7-17.5~~] 78A-2-220; and
22167 (b) to the extent necessary to carry out magisterial functions under Subsection
22168 77-7-23(2) regarding jailed persons.
22169 (4) For election of county justice court judges, all registered voters in the county justice
22170 court precinct may vote at the judge's retention election.
22171 Section 486. Section **78A-7-106**, which is renumbered from Section 78-5-104 is
22172 renumbered and amended to read:
22173 **[~~78-5-104~~]. 78A-7-106. Jurisdiction.**
22174 (1) Justice courts have jurisdiction over class B and C misdemeanors, violation of
22175 ordinances, and infractions committed within their territorial jurisdiction, except those offenses
22176 over which the juvenile court has exclusive jurisdiction.
22177 (2) Justice courts have jurisdiction of small claims cases under Title [~~78~~] 78A, Chapter
22178 [~~6~~] 8, Small Claims Courts, if the defendant resides in or the debt arose within the territorial
22179 jurisdiction of the justice court.
22180 Section 487. Section **78A-7-107**, which is renumbered from Section 78-5-105 is
22181 renumbered and amended to read:
22182 **[~~78-5-105~~]. 78A-7-107. Jurisdiction of justice court and juvenile court.**
22183 (1) Justice courts have jurisdiction over traffic misdemeanors and infractions
22184 committed by persons 16 or 17 years of age and that occur within the territorial jurisdiction of
22185 the court, except those offenses exclusive to the juvenile court under Section [~~78-3a-104~~]
22186 78A-6-103.
22187 (2) If the traffic offense involves the conviction of a person 16 years of age or older but
22188 younger than 18 years of age for an offense under Section [~~78-3a-506~~] 78A-6-606, the justice
22189 court judge shall notify the juvenile court of the conviction.
22190 (3) The justice court has authority to take the juvenile's driver license and return it to
22191 the Driver License Division, Department of Public Safety, for suspension under Section
22192 53-3-221.

22193 (4) Justice court judges may transfer matters within the court's jurisdiction under this
22194 section to the juvenile court for postjudgment proceedings according to rules of the Judicial
22195 Council.
22196 Section 488. Section **78A-7-108**, which is renumbered from Section 78-5-135.5 is
22197 renumbered and amended to read:
22198 **[~~78-5-135.5~~]. 78A-7-108. Justice court judge to collect fees before filing**
22199 **action -- Penalty.**
22200 Every justice court judge who files in his office any complaint, or allows a civil action
22201 to be commenced in his court, without the fees being paid in advance, except in cases permitted
22202 by law, is guilty of a class B misdemeanor.
22203 Section 489. Section **78A-7-109**, which is renumbered from Section 78-5-113 is
22204 renumbered and amended to read:
22205 **[~~78-5-113~~]. 78A-7-109. Process to any part of the state -- Service.**
22206 (1) Process from a justice court may be issued to any place in the state.
22207 (2) Subpoenas in any action or proceeding of a justice court may be issued to any place
22208 in the state.
22209 (3) All warrants issued by a justice court for violation of any state law or local
22210 ordinance within a court's jurisdiction are directed to the sheriff, any constable of the county, or
22211 to the marshal or city police of the town or city.
22212 Section 490. Section **78A-7-110**, which is renumbered from Section 78-5-121 is
22213 renumbered and amended to read:
22214 **[~~78-5-121~~]. 78A-7-110. Docket to be kept -- Enumeration of entries required.**
22215 Every justice court judge shall keep or cause to be kept a docket. The following
22216 information shall be entered in the docket under the title of the action to which it relates:
22217 (1) the title to every action or proceeding;
22218 (2) the object of the action or proceeding, and the amount of any money claimed;
22219 (3) the date of the service of the summons and the time of its return;
22220 (4) a statement of the fact if an order to arrest the defendant is made or a writ of
22221 attachment is issued;
22222 (5) the time when the parties or any party appears, or a party's nonappearance, if default
22223 is made;

22224 (6) minutes of the pleadings and motions in writing by referring to them, and if not in
22225 writing, by a concise statement of the material parts of the pleadings;
22226 (7) every adjournment, stating on whose application and to what time;
22227 (8) a demand for a trial by jury, when made, by whom, and the order for the jury;
22228 (9) the time appointed for the return of the jury and for the trial;
22229 (10) the names of the jurors who appear and are sworn;
22230 (11) the names of all witnesses sworn and at whose request;
22231 (12) the verdict of the jury and when received, or if the jury disagree and are
22232 discharged, the disagreement and discharge;
22233 (13) the judgment of the court including the costs included and when entered;
22234 (14) an itemized statement of the costs;
22235 (15) the time of issuing an execution and to whom, and the time of any renewals;
22236 (16) a statement of any money paid to the court, when, and by whom; and
22237 (17) the receipt of any notice of appeal, and of any appeal bond filed.
22238 Section 491. Section **78A-7-111**, which is renumbered from Section 78-5-122 is
22239 renumbered and amended to read:
22240 **[~~78-5-122~~]. 78A-7-111. Docket entries -- Prima facie evidence.**
22241 Entries in a justice court judge's docket under Section [~~78-5-121~~] 78A-7-110, certified
22242 by the judge or his successor in office, are prima facie evidence of the facts stated.
22243 Section 492. Section **78A-7-112**, which is renumbered from Section 78-5-123 is
22244 renumbered and amended to read:
22245 **[~~78-5-123~~]. 78A-7-112. Docket index.**
22246 A judge shall keep or cause to be kept an alphabetical index to the names of the parties
22247 to each judgment in his docket with a reference to the page of entry. The names of the parties
22248 shall be entered in the index by the first letter of the family surname.
22249 Section 493. Section **78A-7-113**, which is renumbered from Section 78-5-124 is
22250 renumbered and amended to read:
22251 **[~~78-5-124~~]. 78A-7-113. Delivery of docket and papers to successor.**
22252 A justice court judge upon the expiration of his term of office shall deposit with his
22253 successor his dockets and all papers filed in his office and also those of his predecessors or any
22254 others in his custody. The dockets and papers shall be kept as public records.

22255 Section 494. Section **78A-7-114**, which is renumbered from Section 78-5-117 is
22256 renumbered and amended to read:
22257 **[~~78-5-117~~]. 78A-7-114. Filing and docketing of abstract.**
22258 (1) The judge, on the demand of a party in whose favor judgment is rendered, shall
22259 provide the party with an abstract of the judgment in substantially the form approved by the
22260 Judicial Council.
22261 (2) The abstract may be filed in the office of the clerk of the district court of any county
22262 in the state but shall be docketed in the judgment docket of that district court.
22263 (3) The clerk shall note the time of receipt of the abstract on the abstract and on the
22264 docket.
22265 Section 495. Section **78A-7-115**, which is renumbered from Section 78-5-125 is
22266 renumbered and amended to read:
22267 **[~~78-5-125~~]. 78A-7-115. All papers issued, except subpoenas, to be filled out**
22268 **without blanks.**
22269 Every paper made or issued by a justice court judge except a subpoena is valid only if
22270 issued without any blank space to be filled or completed by another person.
22271 Section 496. Section **78A-7-116**, which is renumbered from Section 78-5-118 is
22272 renumbered and amended to read:
22273 **[~~78-5-118~~]. 78A-7-116. Execution on judgment.**
22274 From the time of the docketing in the office of the clerk of any district court execution
22275 may then be issued within the same time, in the same manner, and with the same effect as if
22276 issued on a judgment of the district court.
22277 Section 497. Section **78A-7-117**, which is renumbered from Section 78-5-119 is
22278 renumbered and amended to read:
22279 **[~~78-5-119~~]. 78A-7-117. Judgment not a lien unless so recorded.**
22280 (1) Except as provided under Subsection (3), a judgment rendered in a justice court
22281 does not create a lien upon any real property of the judgment debtor unless the judgment or
22282 abstract of the judgment:
22283 (a) is recorded in the office of the county recorder of the county in which the real
22284 property of the judgment debtor is located; and
22285 (b) contains the information identifying the judgment debtor as referred to in

22286 Subsection [~~78-22-1.5~~] 78B-5-201(4) either:
22287 (i) in the judgment or abstract of judgment; or
22288 (ii) as a separate information statement of the judgment creditor as referred to in
22289 Subsection [~~78-22-1.5~~] 78B-5-201(5).
22290 (2) The lien runs for eight years from the date the judgment was entered in the district
22291 court under Section [~~78-22-1~~] 78B-5-202 unless the judgment is earlier satisfied.
22292 (3) State agencies are exempt from the recording requirement of Subsection (1).
22293 Section 498. Section **78A-7-118**, which is renumbered from Section 78-5-120 is
22294 renumbered and amended to read:
22295 **[~~78-5-120~~]. 78A-7-118. Appeals from justice court -- Trial or hearing de novo in**
22296 **district court.**
22297 (1) In a criminal case, a defendant is entitled to a trial de novo in the district court only
22298 if the defendant files a notice of appeal within 30 days of:
22299 (a) sentencing after a bench or jury trial, or a plea of guilty in the justice court resulting
22300 in a finding or verdict of guilt; or
22301 (b) a plea of guilty in the justice court that is held in abeyance.
22302 (2) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with
22303 the prosecutor, and the defendant did not reserve the right to appeal as part of the plea
22304 negotiation, the negotiation is voided by the appeal.
22305 (3) A defendant convicted and sentenced in justice court is entitled to a hearing de
22306 novo in the district court on the following matters, if he files a notice of appeal within 30 days
22307 of:
22308 (a) an order revoking probation;
22309 (b) an order entering a judgment of guilt pursuant to the person's failure to fulfil the
22310 terms of a plea in abeyance agreement;
22311 (c) a sentence entered pursuant to Subsection (3)(b); or
22312 (d) an order denying a motion to withdraw a plea.
22313 (4) The prosecutor is entitled to a hearing de novo in the district court on:
22314 (a) a final judgment of dismissal;
22315 (b) an order arresting judgment;
22316 (c) an order terminating the prosecution because of a finding of double jeopardy or

22317 denial of a speedy trial;
22318 (d) a judgment holding invalid any part of a statute or ordinance;
22319 (e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of
22320 that evidence prevents continued prosecution; or
22321 (f) an order granting a motion to withdraw a plea of guilty or no contest.
22322 (5) Upon entering a decision in a hearing de novo, the district court shall remand the
22323 case to the justice court unless:
22324 (a) the decision results in immediate dismissal of the case;
22325 (b) with agreement of the parties, the district court consents to retain jurisdiction; or
22326 (c) the defendant enters a plea of guilty in the district court.
22327 (6) The district court shall retain jurisdiction over the case on trial de novo.
22328 (7) The decision of the district court is final and may not be appealed unless the district
22329 court rules on the constitutionality of a statute or ordinance.
22330 Section 499. Section **78A-7-119**, which is renumbered from Section 78-5-126 is
22331 renumbered and amended to read:
22332 **[~~78-5-126~~]. 78A-7-119. Disposition of moneys received.**
22333 Money received or collected on any process or order issued from a justice court shall be
22334 paid within seven days to the parties entitled or authorized to receive the money.
22335 Section 500. Section **78A-7-120**, which is renumbered from Section 78-5-116 is
22336 renumbered and amended to read:
22337 **[~~78-5-116~~]. 78A-7-120. Disposition of fines.**
22338 (1) Except as otherwise specified by this section, fines and forfeitures collected by a
22339 justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the
22340 court and 1/2 to the treasurer of the local government which prosecutes or which would
22341 prosecute the violation.
22342 (2) (a) For violation of Title 23, the court shall allocate 85% to the Division of Wildlife
22343 Resources and 15% to the general fund of the city or county government responsible for the
22344 justice court.
22345 (b) For violation of Title 41, Chapter 22, Off-highway Vehicles, or Title 73, Chapter
22346 18, State Boating Act, the court shall allocate 85% to the Division of Parks and Recreation and
22347 15% to the general fund of the city or county government responsible for the justice court.

22348 (3) The surcharge established by Section 63-63a-1 shall be paid to the state treasurer.
22349 (4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice
22350 court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations
22351 and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial
22352 Council, shall be paid to the state treasurer and distributed to the class B and C road account.
22353 (5) Revenue deposited in the class B and C road account pursuant to Subsection (4) is
22354 supplemental to the money appropriated under Section 72-2-107 but shall be expended in the
22355 same manner as other class B and C road funds.
22356 (6) Until July 1, 2007, fines and forfeitures collected by the court for a violation of
22357 Subsection 41-1a-1303(2) related to registration of vehicles after establishing residency shall
22358 be remitted:
22359 (a) 50% to the state or local governmental entity which issued the citation for a
22360 violation to be used for law enforcement purposes; and
22361 (b) 50% in accordance with Subsection (1).
22362 Section 501. Section **78A-7-121**, which is renumbered from Section 78-5-135 is
22363 renumbered and amended to read:
22364 **[~~78-5-135~~]. 78A-7-121. Funds collected -- Deposits and reports -- Special**
22365 **account -- Accounting.**
22366 (1) (a) Municipal justice courts shall deposit public funds in accordance with Section
22367 51-4-2.
22368 (b) The treasurer shall report to the city recorder the sums collected and deposited. The
22369 recorder shall then apportion and remit the collected proceeds as provided in Section
22370 [~~78-5-116~~] 78A-7-120.
22371 (c) The municipality shall retain all small claims filing fees including the governmental
22372 filing fee for actions filed by the municipality as provided in Section [~~78-6-14~~] 78A-8-105.
22373 (2) (a) County justice courts shall deposit public funds in accordance with Section
22374 51-4-2.
22375 (b) The treasurer shall report to the county auditor the sums collected and deposited.
22376 The auditor shall then apportion and remit the collected proceeds as provided in Section
22377 [~~78-5-116~~] 78A-7-120.
22378 (c) The county shall retain all small claims filing fees including the governmental filing

22379 fee for actions filed by the county as provided in Section [~~78-6-14~~] 78A-8-105.
22380 (3) Money received or collected on any civil process or order issued from a justice
22381 court shall be paid within seven days to the party entitled or authorized to receive it.
22382 (4) (a) With the approval of the governing body a trust or revolving account may be
22383 established in the name of the justice court and the treasurer for the deposit of money collected
22384 including bail, restitution, unidentified receipts, and other money that requires special
22385 accounting.
22386 (b) Disbursements from this account do not require the approval of the auditor,
22387 recorder, or governing body.
22388 (c) The account shall be reconciled at least quarterly by the auditor of the governing
22389 body.
22390 Section 502. Section **78A-7-122**, which is renumbered from Section 78-5-116.5 is
22391 renumbered and amended to read:
22392 **[~~78-5-116.5~~]. 78A-7-122. Security surcharge -- Application -- Deposit in**
22393 **restricted accounts.**
22394 (1) In addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge
22395 of $32 shall be assessed on all convictions for offenses listed in the uniform bail schedule
22396 adopted by the Judicial Council and moving traffic violations.
22397 (2) The security surcharge shall be collected and distributed pro rata with any fine
22398 collected. A fine that would otherwise have been charged may not be reduced due to the
22399 imposition of the security surcharge.
22400 (3) The security surcharge shall be allocated as follows:
22401 (a) the assessing court shall retain 20% of the amount collected for deposit into the
22402 general fund of the governmental entity; and
22403 (b) 80% shall be remitted to the state treasurer to be distributed as follows:
22404 (i) 62.5% to the treasurer of the county in which the justice court which remitted the
22405 amount is located;
22406 (ii) 25% to the Court Security Account created in Section [~~63-63c-102~~] 78A-2-602;
22407 and
22408 (iii) 12.5% to the Justice Court Technology, Security, and Training Account created in
22409 Section [~~78-5-116.7~~] 78A-7-301.

22410 (4) The court shall remit money collected in accordance with Title 51, Chapter 7, State
22411 Money Management Act.
22412 Section 503. Section **78A-7-123**, which is renumbered from Section 78-5-140 is
22413 renumbered and amended to read:
22414 **[~~78-5-140~~]. 78A-7-123. Dissolution of justice courts.**
22415 (1) (a) The county or municipality shall obtain legislative approval to dissolve a justice
22416 court if the caseload from that court would fall to the district court upon dissolution.
22417 (b) To obtain approval of the Legislature, the governing authority of the municipality
22418 or county shall petition the Legislature to adopt a joint resolution to approve the dissolution.
22419 (c) The municipality or county shall provide notice to the Judicial Council.
22420 (d) Notice of intent to dissolve a Class I or Class II justice court to the Judicial Council
22421 shall be given not later than July 1 two years prior to the general session in which the county or
22422 municipality intends to seek legislative approval.
22423 (e) Notice of intent to dissolve a Class III or Class IV justice court to the Judicial
22424 Council shall be given not later than July 1 immediately prior to the general session in which
22425 the county or municipality intends to seek legislative approval.
22426 (2) (a) A county or municipality shall give notice of intent to dissolve a justice court to
22427 the Judicial Council if the caseload of that court would fall to the county justice court. A
22428 municipality shall also give notice to the county of its intent to dissolve a justice court.
22429 (b) Notice of intent to dissolve a Class I or Class II court shall be given by July 1 at
22430 least two years prior to the effective date of the dissolution.
22431 (c) Notice of intent to dissolve a Class III or Class IV court shall be given by July 1 at
22432 least one year prior to the effective date of the dissolution.
22433 (3) Upon request from a municipality or county seeking to dissolve a justice court, the
22434 Judicial Council may shorten the time required between the city's or county's notice of intent to
22435 dissolve a justice court and the effective date of the dissolution.
22436 Section 504. Section **78A-7-201**, which is renumbered from Section 78-5-137 is
22437 renumbered and amended to read:
22438 **Part 2. Judges and Administration**
22439 **[~~78-5-137~~]. 78A-7-201. Justice court judge eligibility -- Mandatory retirement --**
22440 **Service after retirement.**

22441 (1) A county justice court judge shall be:
22442 (a) a citizen of the United States;
22443 (b) 25 years of age or older;
22444 (c) a resident of Utah for at least three years immediately preceding his appointment;
22445 (d) a resident of the precinct for which chosen for at least six months immediately
22446 preceding appointment; and
22447 (e) a qualified voter of the precinct for which chosen.
22448 (2) A municipal justice court judge shall be:
22449 (a) a citizen of the United States;
22450 (b) 25 years of age or older;
22451 (c) a resident of Utah for at least three years immediately preceding appointment;
22452 (d) a resident of the county in which the municipality is located or an adjacent county
22453 for at least six months immediately preceding appointment; and
22454 (e) a qualified voter of the county of residence.
22455 (3) Justice court judges are not required to be admitted to practice law in the state as a
22456 qualification to hold office but shall have at the minimum a diploma of graduation from high
22457 school or its equivalent. This requirement does not apply to justice court judges holding office
22458 on July 1, 1989, who successfully complete continuing education requirements under Section
22459 [~~78-5-127~~] 78A-7-205.
22460 (4) A justice court judge shall be a person who has demonstrated maturity of judgment,
22461 integrity, and the ability to understand and apply appropriate law with impartiality.
22462 (5) (a) Except as provided in Subsections (b) and (c), a county or municipal justice
22463 court judge shall retire upon attaining the age of 75 years.
22464 (b) A county justice court judge serving on July 1, 1996, who is 75 years of age or
22465 older on July 1, 1996, or who attains 75 years of age on or before the first Monday in February
22466 1999, may not be a candidate in the 1998 judicial retention elections and shall retire on or
22467 before the first Monday in February 1999.
22468 (c) A municipal justice court judge serving on July 1, 1996, who is 75 years of age or
22469 older on July 1, 1996, or who attains 75 years of age on or before the first Monday in February
22470 2000, may not be reappointed and shall retire on or before the first Monday in February 2000.
22471 (6) (a) A justice court judge whose tenure in office has terminated due to retirement

22472 and who is physically and mentally able to perform the duties of the office may hear a case as
22473 prescribed by rule of the Supreme Court.
22474 (b) The retired justice court judge shall take and subscribe an oath of office only upon
22475 the first appointment. The retired justice court judge shall receive reasonable compensation for
22476 services as set by local ordinance of the municipality or county.
22477 Section 505. Section **78A-7-202**, which is renumbered from Section 78-5-134 is
22478 renumbered and amended to read:
22479 **[~~78-5-134~~]. 78A-7-202. Justice court judges to be appointed -- Procedure --**
22480 **Report to Judicial Council -- Retention election -- Vacancy.**
22481 (1) As used in this section:
22482 (a) "Appointing authority" means:
22483 (i) the chair of the county commission in counties having the county commission form
22484 of county government;
22485 (ii) the county executive in counties having the county executive-council form of
22486 government;
22487 (iii) the chair of the city council or town council in municipalities having the traditional
22488 management arrangement established by Title 10, Chapter 3, Part 1, Governing Body;
22489 (iv) the city manager, in the council-manager optional form of government defined in
22490 Section 10-3-101; and
22491 (v) the mayor, in the council-mayor optional form of government defined in Section
22492 10-3-101.
22493 (b) "Local legislative body" means:
22494 (i) the county commission or county council; and
22495 (ii) the city council or town council.
22496 (2) Justice court judges shall be appointed by the appointing authority and confirmed
22497 by a majority vote of the local legislative body.
22498 (3) (a) After a newly appointed justice court judge has been confirmed, the local
22499 legislative body shall report the confirmed judge's name to the Judicial Council.
22500 (b) The Judicial Council shall certify the judge as qualified to hold office upon
22501 successful completion of the orientation program and upon the written opinion of the county or
22502 municipal attorney that the judge meets the statutory qualifications for office.

22503 (c) A justice court judge may not perform judicial duties until certified by the Judicial
22504 Council.
22505 (4) Upon the expiration of a county justice court judge's term of office the judge shall
22506 be subject to an unopposed retention election in accordance with the procedures set forth in
22507 Section 20A-12-201.
22508 (5) Upon the expiration of a municipal justice court judge's term of office a municipal
22509 justice court judge shall be reappointed absent a showing of good cause by the appointing
22510 authority.
22511 (a) If an appointing authority asserts good cause to not reappoint a municipal justice
22512 court judge, at the request of the judge, the good cause shall be presented at a formal hearing of
22513 the local legislative body.
22514 (b) The local legislative body shall determine by majority vote whether good cause
22515 exists not to reappoint the municipal justice court judge.
22516 (c) The decision of the local legislative body is not subject to appeal.
22517 (d) In determining whether good cause exists to not reappoint a municipal justice court
22518 judge, the appointing authority and local legislative body shall consider:
22519 (i) whether or not the judge has been certified as meeting the evaluation criteria for
22520 judicial performance established by the Judicial Council; and
22521 (ii) any other factors considered relevant by the appointing authority.
22522 (6) Before reappointment or retention election, each justice court judge shall be
22523 evaluated in accordance with the performance evaluation program established in Subsection
22524 [~~78-3-21(4)~~] 78A-2-104(5).
22525 (7) (a) At the conclusion of a term of office or when a vacancy occurs in the position of
22526 justice court judge, the appointing authority may contract with a justice court judge in the
22527 county or an adjacent county to serve as justice court judge.
22528 (b) The contract shall be for the duration of the justice court judge's term of office.
22529 (8) Vacancies in the office of justice court judge shall be filled as provided in Section
22530 20A-1-506.
22531 Section 506. Section **78A-7-203**, which is renumbered from Section 78-5-132 is
22532 renumbered and amended to read:
22533 **[~~78-5-132~~]. 78A-7-203. Term of office for county court.**

22534 (1) (a) The term of a county justice court judge is four years beginning the first
22535 Monday in February 1991.
22536 (b) Judges holding office when this act takes effect or appointed to fill any vacancy
22537 hold office until reappointed or a successor is appointed and certified by the Judicial Council.
22538 (2) (a) The term of office of a municipal justice court judge is four years, beginning the
22539 first Monday in February 1992.
22540 (b) Judges holding office when this section takes effect or appointed to fill any vacancy
22541 hold office until reappointed or a successor is appointed and certified by the Judicial Council.
22542 Section 507. Section **78A-7-204**, which is renumbered from Section 78-5-102 is
22543 renumbered and amended to read:
22544 **[~~78-5-102~~]. 78A-7-204. Offices of justice court judges.**
22545 (1) Justice court judges holding office in:
22546 (a) county precincts are county justice court judges; and
22547 (b) cities or towns are municipal justice court judges.
22548 (2) With the concurrence of the governing bodies of both the county and municipality,
22549 a justice court judge may hold both the offices of county and municipal justice court judge.
22550 (3) The county legislative body may establish a single precinct or divide the county
22551 into multiple precincts to create county justice courts for public convenience.
22552 (4) (a) The governing body may assign as many justice court judges to a court as
22553 required for efficient judicial administration.
22554 (b) If more than one judge is assigned to a court, any citations, informations, or
22555 complaints within that court shall be assigned to the judges at random.
22556 (5) A municipality or county may contract with any other municipality or
22557 municipalities within the county under Title 11, Chapter 13, Interlocal Cooperation Act, to
22558 establish a justice court. A justice court established under Title 11, Chapter 13, shall meet the
22559 requirements for certification under Section [~~78-5-139~~] 78A-7-103. A justice court established
22560 under Title 11, Chapter 13, shall have territorial jurisdiction as if established separately.
22561 Section 508. Section **78A-7-205**, which is renumbered from Section 78-5-127 is
22562 renumbered and amended to read:
22563 **[~~78-5-127~~]. 78A-7-205. Required annual training -- Expenses -- Failure to**
22564 **attend.**

22565 (1) Prior to assuming office all justice court judges shall attend an orientation seminar
22566 conducted under the direction of the Judicial Council.
22567 (2) All justice court judges shall attend the continuing education conducted under the
22568 supervision of the Judicial Council each calendar year.
22569 (a) Successful completion of the continuing education requirement includes instruction
22570 regarding competency and understanding of constitutional provisions and laws relating to the
22571 jurisdiction of the court, rules of evidence, and rules of civil and criminal procedure as
22572 indicated by a certificate awarded by the Judicial Council.
22573 (b) The county or municipality creating and maintaining a justice court shall assume
22574 the expenses of travel, meals, and lodging for the judge to attend education and training
22575 seminars conducted by the Judicial Council.
22576 (3) Any judge not obtaining a certificate for two consecutive years may be removed
22577 from office for cause under this section.
22578 (4) The Judicial Council shall inform the Judicial Conduct Commission of the names
22579 of justice court judges failing to comply with this section.
22580 Section 509. Section **78A-7-206**, which is renumbered from Section 78-5-128 is
22581 renumbered and amended to read:
22582 **[~~78-5-128~~]. 78A-7-206. Determination of compensation and limits -- Salary**
22583 **survey -- Limits on secondary employment.**
22584 (1) (a) Every justice court judge shall be paid a fixed compensation determined by the
22585 governing body of the respective municipality or county taking into consideration
22586 recommendations of the office of the state court administrator as provided in Subsection (2).
22587 (i) A justice court judge employed by one entity may not receive a salary greater than
22588 85% of the salary of a district court judge.
22589 (ii) A justice court judge employed by more than one entity as a justice court judge,
22590 may not receive a total salary for service as a justice court judge greater than the salary of a
22591 district court judge.
22592 (b) The compensation shall be comprised of a monthly salary and shall be computed
22593 upon the number of hours, days, or other periods of time that the justice court judge is to be
22594 available to perform all judicial functions.
22595 (2) (a) The state court administrator with the approval of the Judicial Council shall

22596 survey areas of the state relating to the functions and activities of the justice courts, taking into
22597 consideration the diverse economic factors of the various localities of the justice courts, and
22598 develop recommended monthly salaries. These recommendations shall be furnished to the
22599 governing bodies of the municipalities and the counties to assist them in determining salaries.
22600 (b) The state court administrator may make studies concerned with the economic as
22601 well as administrative feasibility to encourage the various political subdivisions to utilize the
22602 same person or persons to act as justice court judges for their several jurisdictions and to assist
22603 political subdivisions desiring to enter into agreements for that purpose.
22604 (3) A justice court judge may not appear as an attorney in any criminal matter in a
22605 federal, state, or justice court or appear as an attorney in any justice court or in any juvenile
22606 court case involving conduct which would be criminal if committed by an adult.
22607 (4) A justice court judge may not hold any office or employment including contracting
22608 for services in any justice agency of state government or any political subdivision of the state
22609 including law enforcement, prosecution, criminal defense, corrections, or court employment.
22610 (5) A justice court judge may not hold any office in any political party or organization
22611 engaged in any political activity or serve as an elected official in state government or any
22612 political subdivision of the state.
22613 (6) A justice court judge may not own or be employed by any business entity which
22614 regularly litigates in small claims court.
22615 (7) Any judge who violates this section is subject to removal by the Judicial Conduct
22616 Commission under Title [~~78~~] 78A, Chapter [~~8~~] 11, Judicial Conduct Commission [~~and~~
22617 ~~Supreme Court Oversight of Judges~~].
22618 Section 510. Section **78A-7-207**, which is renumbered from Section 78-5-129 is
22619 renumbered and amended to read:
22620 **[~~78-5-129~~]. 78A-7-207. Compensation -- Annual review and adjustment.**
22621 (1) The governing body of each municipality or county shall annually review and may
22622 adjust the compensation paid.
22623 (2) The salary fixed for a justice court judge may not be diminished during the term for
22624 which the judge has been appointed or elected.
22625 (3) A copy of the resolution, ordinance, or other document fixing the salary of the
22626 justice court judge and any adjustments to the document shall be furnished to the state court

22627 administrator by the governing body of the municipality or county.
22628 Section 511. Section **78A-7-208**, which is renumbered from Section 78-5-138 is
22629 renumbered and amended to read:
22630 **[~~78-5-138~~]. 78A-7-208. Temporary justice court judge.**
22631 If a justice court judge is absent or disqualified, the appointing authority may appoint
22632 another justice court judge currently holding office within the judicial district to serve as a
22633 temporary justice court judge. A retired justice court judge may also be appointed as a
22634 temporary justice court judge under rule of the Supreme Court.
22635 Section 512. Section **78A-7-209**, which is renumbered from Section 78-5-111 is
22636 renumbered and amended to read:
22637 **[~~78-5-111~~]. 78A-7-209. Justice court staff to be provided.**
22638 (1) Each county, city, or town creating and maintaining a justice court shall provide:
22639 (a) sufficient staff public prosecutors to attend the court and perform the duties of
22640 prosecution before the justice court;
22641 (b) adequate funding for the costs of defense for persons charged with a public offense
22642 who are determined by the court to be indigent under Title 77, Chapter 32; and
22643 (c) sufficient local peace officers to attend the justice court when required and provide
22644 security for the court.
22645 (2) The county attorney or district attorney may appoint city prosecutors as deputies to
22646 prosecute state offenses in municipal justice courts.
22647 Section 513. Section **78A-7-210**, which is renumbered from Section 78-5-106.5 is
22648 renumbered and amended to read:
22649 **[~~78-5-106.5~~]. 78A-7-210. Justice court judge administrative**
22650 **responsibilities.**
22651 (1) Justice court judges shall comply with and ensure that court personnel comply with
22652 applicable county or municipal rules and regulations related to personnel, budgets, and other
22653 administrative functions.
22654 (2) Failure by the judge to comply with applicable administrative county or municipal
22655 rules and regulations may be referred, by the county executive or municipal legislative body, to
22656 the state Justice Court Administrator.
22657 (3) Compliance with appropriate administrative requirements shall be considered as

22658 part of the Judicial Council's judicial performance evaluation program for justice court judges.
22659 (4) Repeated or willful noncompliance may be referred, by the county executive or
22660 municipal legislative body, to the Judicial Conduct Commission.
22661 Section 514. Section **78A-7-211**, which is renumbered from Section 78-5-110 is
22662 renumbered and amended to read:
22663 **[~~78-5-110~~]. 78A-7-211. Compensation and expenses -- Clerical personnel.**
22664 (1) The county, city, or town creating or maintaining a justice court shall provide and
22665 compensate clerical personnel to conduct the business of the court.
22666 (2) The selection, supervision, and discipline of court clerical personnel shall be in
22667 accordance with local government personnel policies.
22668 (3) Clerical personnel are governed by Title 52, Chapter 3, regarding employment of
22669 relatives.
22670 (4) The county, city, or town assumes the cost of travel and training expenses of
22671 clerical personnel at training sessions conducted by the Judicial Council.
22672 Section 515. Section **78A-7-212**, which is renumbered from Section 78-5-107 is
22673 renumbered and amended to read:
22674 **[~~78-5-107~~]. 78A-7-212. Place of holding court.**
22675 (1) (a) County justice court judges may hold court in any municipality within the
22676 precinct but may exercise only the jurisdiction provided by law for county justice courts.
22677 (b) County justice court judges may also, at the direction of the county legislative body,
22678 hold court anywhere in the county as needed but may only hear cases arising within the
22679 precinct.
22680 (2) A municipal justice court judge shall hold court in the municipality where the court
22681 is located and, as directed by the municipal governing body, at the county jail or municipal
22682 prison.
22683 Section 516. Section **78A-7-213**, which is renumbered from Section 78-5-108 is
22684 renumbered and amended to read:
22685 **[~~78-5-108~~]. 78A-7-213. Trial facilities -- Hours of business.**
22686 (1) A justice court judge shall conduct all official court business in a courtroom or
22687 office located in a public facility which is conducive and appropriate to the administration of
22688 justice.

22689 (2) Each county, city, or town shall provide adequate courtroom and auxiliary space for
22690 the justice court. The facility need not be specifically constructed for or allocated solely for the
22691 justice court if existing facilities adequately serve the purposes of the justice court.
22692 (3) County and municipal justice courts shall be open and judicial business shall be
22693 transacted:
22694 (a) five days per week; or
22695 (b) no less than four days per week for at least 11 hours per day.
22696 (4) The legislative body of the county, city, or town shall establish operating hours for
22697 the justice courts within the requirements of Subsection (3) and the code of judicial
22698 administration.
22699 (5) The hours the courts are open shall be posted conspicuously at the courts and in
22700 local public buildings.
22701 (6) The clerk of the court and judges of county and municipal courts shall attend the
22702 court at regularly scheduled times.
22703 Section 517. Section **78A-7-214**, which is renumbered from Section 78-5-109 is
22704 renumbered and amended to read:
22705 **[~~78-5-109~~]. 78A-7-214. Laws, ordinances, and reference materials provided by**
22706 **counties, cities, and towns.**
22707 Each county, city, or town shall provide and keep current for each justice court in its
22708 jurisdiction a copy of the motor vehicle laws of Utah, appropriate copies of the Utah code, the
22709 justice court manual published by the state court administrator, state laws affecting local
22710 government, the county, city, or town ordinances, and other legal reference materials as
22711 determined to be necessary by the judge.
22712 Section 518. Section **78A-7-215**, which is renumbered from Section 78-5-130 is
22713 renumbered and amended to read:
22714 **[~~78-5-130~~]. 78A-7-215. Monthly reports to court administrator and governing**
22715 **body.**
22716 (1) Every justice court judge shall file monthly with the state court administrator a
22717 report of the judicial business of the judge. The report shall be on forms supplied by the state
22718 court administrator.
22719 (2) The report shall state the number of criminal and small claims actions filed, the

22720 dispositions entered, and other information as specified in the forms.
22721 (3) A copy of the report shall be furnished by the justice court judge to the governing
22722 body in the municipality or county, or to the person or office in the county, city, or town
22723 designated by the governing body.
22724 Section 519. Section **78A-7-301**, which is renumbered from Section 78-5-116.7 is
22725 renumbered and amended to read:
22726 **Part 3. Technology, Security, and Training Account**
22727 **[~~78-5-116.7~~]. 78A-7-301. Justice Court Technology, Security, and**
22728 **Training Account established -- Funding -- Uses.**
22729 There is created a restricted account in the General Fund known as the Justice Court
22730 Technology, Security, and Training Account.
22731 (1) The state treasurer shall deposit in the account monies collected from the surcharge
22732 established in Subsection [~~78-5-116.5~~] 78A-6-122(3)(b)(iii).
22733 (2) Monies shall be appropriated from the account to the Administrative Office of the
22734 Courts to only be used for technology, security, and training needs in justice courts throughout
22735 the state.
22736 Section 520. Section **78A-8-101** is enacted to read:
22737 **CHAPTER 8. SMALL CLAIMS COURTS**
22738 **78A-8-101. Creation.**
22739 There is created a limited jurisdiction division of the district court designated small
22740 claims court.
22741 Section 521. Section **78A-8-102**, which is renumbered from Section 78-6-1 is
22742 renumbered and amended to read:
22743 **[~~78-6-1~~]. 78A-8-102. Small claims -- Defined -- Counsel not necessary --**
22744 **Deferring multiple claims of one plaintiff -- Supreme Court to govern procedures.**
22745 (1) A small claims action is a civil action:
22746 (a) for the recovery of money where:
22747 (i) the amount claimed does not exceed $7,500 including attorney fees but exclusive of
22748 court costs and interest; and
22749 (ii) the defendant resides or the action of indebtedness was incurred within the
22750 jurisdiction of the court in which the action is to be maintained; or

22751 (b) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in
22752 which the amount claimed does not exceed $7,500 including attorney fees but exclusive of
22753 court costs and interest.
22754 (2) The judgment in a small claims action may not exceed $7,500 including attorney
22755 fees but exclusive of court costs and interest.
22756 (3) Counter claims may be maintained in small claims actions if the counter claim
22757 arises out of the transaction or occurrence [~~that~~] which is the subject matter of the plaintiff's
22758 claim. A counter claim may not be raised for the first time in the trial de novo of the small
22759 claims action.
22760 [~~(4) The Judicial Council shall present to the Judiciary Interim Committee prior to the~~
22761 ~~general session of the Legislature during odd-numbered years a report and recommendations~~
22762 ~~concerning the maximum amount of small claims actions.~~]
22763 [~~(5)~~] (4) (a) With or without counsel, persons or corporations may litigate actions on
22764 behalf of themselves:
22765 (i) in person; or
22766 (ii) through authorized employees.
22767 (b) A person or corporation may be represented in an action by an individual who is
22768 not an employee of the person or corporation and is not licensed to practice law only in
22769 accordance with the Utah rules of small claims procedure as promulgated by the Supreme
22770 Court.
22771 [~~(6)~~] (5) If a person or corporation other than a municipality or a political subdivision
22772 of the state files multiple small claims in any one court, the clerk or judge of the court may
22773 remove all but the initial claim from the court's calendar in order to dispose of all other small
22774 claims matters. Claims so removed shall be rescheduled as permitted by the court's calendar.
22775 [~~(7)~~] (6) Small claims matters shall be managed in accordance with simplified rules of
22776 procedure and evidence promulgated by the Supreme Court.
22777 Section 522. Section **78A-8-103**, which is renumbered from Section 78-6-6 is
22778 renumbered and amended to read:
22779 **[~~78-6-6~~]. 78A-8-103. Assignee may not file claim.**
22780 [~~No~~] A claim [~~shall~~] may not be filed or prosecuted in [~~such~~] small [~~claim~~] claims court
22781 by any assignee of [~~such~~] a claim.

22782 Section 523. Section **78A-8-104**, which is renumbered from Section 78-6-8 is
22783 renumbered and amended to read:
22784 **[~~78-6-8~~]. 78A-8-104. Object of small claims -- Attachment, garnishment, and**
22785 **execution.**
22786 (1) The hearing in a small claims action has the sole object of dispensing speedy justice
22787 between the parties. The record of small claims proceedings shall be as provided by rule of the
22788 Judicial Council.
22789 (2) Attachment, garnishment, and execution may issue after judgment as prescribed by
22790 law, upon the payment of the fees required for those services.
22791 Section 524. Section **78A-8-105**, which is renumbered from Section 78-6-14 is
22792 renumbered and amended to read:
22793 **[~~78-6-14~~]. 78A-8-105. Civil filing fees.**
22794 (1) Except as provided in this section, the fees for a small claims action in justice court
22795 shall be the same as provided in Section [~~78-7-35~~] 78A-2-301.
22796 (2) Fees collected in small claims actions filed in municipal justice court are remitted
22797 to the municipal treasurer. Fees collected in small claims actions filed in a county justice court
22798 are remitted to the county treasurer.
22799 (3) (a) Seven dollars and 50 cents shall be withheld from the fee for the small claims
22800 affidavit and allocated to the Judges' Retirement Trust Fund. Five dollars shall be withheld
22801 from the fee for a small claims counter affidavit and allocated to the Judges' Retirement Trust
22802 Fund.
22803 (b) [~~Two~~] Four dollars withheld from the civil filing fee in a court of record as
22804 provided in Subsection 63-63a-8(4)(b) [~~shall~~] may not apply to the fees collected for small
22805 claims actions in justice court.
22806 (4) The fee in the justice court for filing a notice of appeal for trial de novo in a court
22807 of record is $10. The fee covers all services of the justice court on appeal but does not satisfy
22808 the trial de novo filing fee in the court of record.
22809 Section 525. Section **78A-8-106**, which is renumbered from Section 78-6-10 is
22810 renumbered and amended to read:
22811 **[~~78-6-10~~]. 78A-8-106. Appeals -- Who may take and jurisdiction.**
22812 (1) Either party may appeal the judgment in a small claims action to the district court

22813 of the county by filing a notice of appeal in the original trial court within 30 days of entry of the
22814 judgment. If the judgment in a small claims action is entered by a judge or judge pro tempore
22815 of the district court, the notice of appeal shall be filed with the district court.
22816 (2) The appeal is a trial de novo and shall be tried in accordance with the procedures of
22817 small claims actions[~~, except a~~]. A record of the trial shall be maintained. The trial de novo
22818 may not be heard by a judge pro tempore appointed under Section [~~78-6-1.5~~] 78A-8-108. The
22819 decision of the trial de novo may not be appealed unless the court rules on the constitutionality
22820 of a statute or ordinance.
22821 Section 526. Section **78A-8-107**, which is renumbered from Section 78-6-15 is
22822 renumbered and amended to read:
22823 **[~~78-6-15~~]. 78A-8-107. Costs.**
22824 The prevailing party in any small claims action is entitled to costs of the action and also
22825 the costs of execution upon a judgment rendered therein.
22826 Section 527. Section **78A-8-108**, which is renumbered from Section 78-6-1.5 is
22827 renumbered and amended to read:
22828 **[~~78-6-1.5~~]. 78A-8-108. Evening hours -- Judges pro tempore.**
22829 (1) The district or justice court may request that the Supreme Court appoint a member
22830 of the Utah State Bar in good standing, with the member's consent, as judge pro tempore to
22831 hear and determine small claims at times, including evening sessions, to be set by the court.
22832 [~~Such judges pro tempore, after~~]
22833 (2) After being duly sworn, judges pro tempore shall:
22834 (a) serve voluntarily and without compensation at the request of the court[~~, shall~~]; and
22835 (b) be extended the same immunities, and [~~shall~~] have the same powers with respect to
22836 matters within the jurisdiction of the small claims court as [~~may be~~] exercised by a regular
22837 judge [~~thereof~~].
22838 Section 528. Section **78A-8-109** is enacted to read:
22839 **78A-8-109. Report to Judiciary Interim Committee.**
22840 The Judicial Council shall present to the Judiciary Interim Committee not later than
22841 November 30 of each odd-numbered year a report and recommendation concerning the
22842 maximum amount of small claims actions.
22843 Section 529. Section **78A-9-101**, which is renumbered from Section 78-2-4.5 is

22844 renumbered and amended to read:
22845 **[~~78-2-4.5~~]. 78A-9-101. Admission to state bar -- Criminal history background**
22846 **checks.**
22847 (1) The Utah State Bar shall require each person applying for admission to the Utah
22848 State Bar to submit a complete set of fingerprints for the purpose of conducting a national
22849 criminal history background check.
22850 (2) Fingerprints of applicants for admission to the Utah State Bar shall be submitted to
22851 the Department of Public Safety, Bureau of Criminal Identification to be used to conduct a
22852 criminal history background check and to the Federal Bureau of Investigation to obtain a
22853 national criminal history background check.
22854 (3) The criminal history background information obtained from the Department of
22855 Public Safety and the national criminal history background information obtained from the
22856 Federal Bureau of Investigation pursuant to this section may be used by the Utah State Bar to
22857 determine an applicant's character, fitness, and suitability for admission to the Utah State Bar.
22858 Section 530. Section **78A-9-102**, which is renumbered from Section 78-7-35.1 is
22859 renumbered and amended to read:
22860 **[~~78-7-35.1~~]. 78A-9-102. Fees for certificate of admission.**
22861 The appellate courts shall receive a $50 fee for a certificate of admission as attorney
22862 and counselor, $30 of which shall be retained by the state treasurer for the benefit of the State
22863 Law Library, to be expended by the Judicial Council.
22864 Section 531. Section **78A-9-103**, which is renumbered from Section 78-9-101 is
22865 renumbered and amended to read:
22866 **[~~78-9-101~~]. 78A-9-103. Practicing law without a license prohibited --**
22867 **Exceptions.**
22868 (1) Unless otherwise provided by law, a person may not practice law or assume to act
22869 or hold himself out to the public as a person qualified to practice law within this state if he:
22870 (a) is not admitted and licensed to practice law within this state;
22871 (b) has been disbarred or suspended from the practiced of law; or
22872 (c) is prohibited from doing so by court order entered pursuant to the courts' inherent
22873 powers or published court rule.
22874 (2) The prohibition against the practice of law in Subsection (1) shall be enforced by

22875 any civil action or proceedings instituted by the Board of Commissioners of the Utah State Bar.
22876 (3) Nothing in this section shall prohibit a person from personally and fully
22877 representing his own interests in a cause to which he is a party in his own right and not as an
22878 assignee.
22879 Section 532. Section **78A-10-101** is enacted to read:
22880 **CHAPTER 10. JUDICIAL SELECTION ACT**
22881 **Part 1. General Provisions**
22882 **78A-10-101. Title.**
22883 This chapter is known as the "Judicial Selection Act."
22884 Section 533. Section **78A-10-102**, which is renumbered from Section 20A-12-101 is
22885 renumbered and amended to read:
22886 **[~~20A-12-101~~]. 78A-10-102. Nomination, appointment, and confirmation of**
22887 **judges.**
22888 Judges for courts of record in Utah shall be nominated, appointed, and confirmed as
22889 provided in Utah Constitution Article VIII, Section 8, and this [~~part~~] chapter.
22890 Section 534. Section **78A-10-103**, which is renumbered from Section 20A-12-104 is
22891 renumbered and amended to read:
22892 **[~~20A-12-104~~]. 78A-10-103. Procedures governing meetings of judicial**
22893 **nominating commissions.**
22894 (1) The Judicial Council shall:
22895 (a) enact rules establishing procedures governing the meetings of the judicial
22896 nominating commissions; and
22897 (b) ensure that those procedures include:
22898 (i) a minimum recruitment period of 30 days and a procedure to extend that period for
22899 an additional 30 days if fewer than nine applications are received for a judicial vacancy;
22900 (ii) standards for maintaining the confidentiality of the applications and related
22901 documents;
22902 (iii) standards governing the release of applicant names before nomination;
22903 (iv) standards for destroying the records of the names of applicants, applications, and
22904 related documents upon completion of the nominating process;
22905 (v) an opportunity for public comment concerning the nominating process,

22906 qualifications for judicial office, and individual applicants;
22907 (vi) evaluation criteria for the selection of judicial nominees;
22908 (vii) procedures for taking summary minutes at nominating commission meetings;
22909 (viii) procedures for simultaneously forwarding the names of nominees to the
22910 governor, the president of the Senate, and the Office of Legislative Research and General
22911 Counsel; and
22912 (ix) standards governing a nominating commissioner's disqualification and inability to
22913 serve.
22914 (2) (a) (i) Except as provided in this Subsection (2)(a)(ii), if a judicial nominating
22915 commission receives 15 or more applications to fill a judicial vacancy, the nominating
22916 commission shall submit at least five names to the governor.
22917 (ii) Notwithstanding Subsection (2)(a)(i), if five applicants do not receive the required
22918 number of votes as specified in Subsection (2)(c) from the nominating commission, the
22919 commission shall submit only the names of applicants that received the required number of
22920 votes, but must submit the names of at least three applicants.
22921 (b) In determining whether or not to submit an applicant's name to the governor, a
22922 commission may not decline to consider an applicant merely because:
22923 (i) the nominating commission had declined to submit that candidate's name to the
22924 governor to fill a previous vacancy;
22925 (ii) a previous nominating commission had declined to submit that candidate's name to
22926 the governor; or
22927 (iii) that nominating commission or a previous nominating commission had submitted
22928 the applicant's name to the governor and the governor selected someone else to fill the vacancy.
22929 (c) The vote required to submit an applicant's name to the governor is as follows:
22930 (i) if all seven members of the nominating commission are present and considering
22931 applicants, a vote in favor of the applicant by four commissioners submits the candidate's name
22932 to the governor;
22933 (ii) if only six members of the nominating commission are present and considering
22934 applicants because one member is unable to attend, has recused himself or is otherwise
22935 disqualified, a vote in favor of the applicant by four commissioners submits the candidate's
22936 name to the governor;

22937 (iii) if only five members of the nominating commission are present and considering
22938 applicants because two members are unable to attend, have recused themselves, or are
22939 otherwise disqualified, a vote in favor of the applicant by three commissioners submits the
22940 candidate's name to the governor; and
22941 (iv) if only four members of the nominating commission are present and considering
22942 applicants because three members are unable to attend, have recused themselves, or are
22943 otherwise disqualified, a vote in favor of the applicant by three commissioners submits the
22944 candidate's name to the governor.
22945 (3) A judicial nominating commission may not nominate a justice or judge who was
22946 not retained by the voters for the office for which the justice or judge was defeated until after
22947 the expiration of that term of office.
22948 (4) Judicial nominating commissions are exempt from the requirements of Title 52,
22949 Chapter 4, Open and Public Meetings Act, and Title 63, Chapter 46a, Utah Administrative
22950 Rulemaking Act.
22951 Section 535. Section **78A-10-104**, which is renumbered from Section 20A-12-105 is
22952 renumbered and amended to read:
22953 **[~~20A-12-105~~]. 78A-10-104. Convening of judicial nominating commissions**
22954 **-- Certification to governor of nominees -- Meetings to investigate prospective candidates.**
22955 (1) When a vacancy occurs or is about to occur in the office of a justice or judge of any
22956 court of record, the chair of the judicial nominating commission for the office to be filled shall
22957 convene the commission as soon as practicable.
22958 (2) The nominating commission may:
22959 (a) meet as necessary to perform its function; and
22960 (b) investigate prospective candidates.
22961 (3) (a) Not later than 45 days after convening, the commission shall certify to the
22962 governor a list of nominees who a majority of the members of the commission have
22963 determined:
22964 (i) have the qualifications required by law to fill the office;
22965 (ii) are willing to serve; and
22966 (iii) possess the ability, temperament, training, and experience that fits them for the
22967 office.

22968 (b) (i) The appellate court nominating commission shall certify a list of at least five
22969 appellate nominees to the governor.
22970 (ii) If there is a tie vote, the commission may certify both nominees to the governor.
22971 (iii) The commission may not certify more than seven nominees to the governor.
22972 (c) (i) The trial court nominating commission shall certify a list of at least three
22973 nominees to the governor.
22974 (ii) If there is a tie vote, the commission may certify both nominees to the governor.
22975 (iii) The commission may not certify more than five nominees to the governor.
22976 (4) A nominating commission may not, during a commissioner's term of office,
22977 nominate a person who has served as a replacement for that commission member within six
22978 months of the date that the commission was last convened.
22979 Section 536. Section **78A-10-201** is enacted to read:
22980 **Part 2. Appellate Court Nominating Commission**
22981 **78A-10-201. Creation.**
22982 (1) There is created an Appellate Court Nominating Commission.
22983 (2) The Appellate Court Nominating Commission shall nominate justices of the
22984 Supreme Court and judges of the Court of Appeals.
22985 Section 537. Section **78A-10-202** is enacted to read:
22986 **78A-10-202. Membership.**
22987 (1) The Appellate Court Nominating Commission shall consist of seven
22988 commissioners, each appointed by the governor to serve a single four-year term.
22989 (2) Each commissioner shall:
22990 (a) be a United States citizen;
22991 (b) be a resident of Utah; and
22992 (c) serve until the commissioner's successor is appointed.
22993 (3) The governor may not appoint:
22994 (a) a commissioner to serve successive terms;
22995 (b) a member of the Legislature to serve as a member of the Appellate Court
22996 Nominating Commission; or
22997 (c) more than four commissioners from the same political party to the Appellate Court
22998 Nominating Commission.

22999 (4) (a) The Utah State Bar shall submit to the governor a list of six nominees to serve
23000 as Appellate Court Nominating Commissioners.
23001 (b) The governor shall appoint two commissioners from the list of nominees provided
23002 by the Utah State Bar.
23003 (c) The governor may reject the list submitted by the Utah State Bar and request a new
23004 list of nominees.
23005 (5) The governor may not appoint more than four persons who are members of the
23006 Utah State Bar to the Appellate Court Nominating Commission.
23007 (6) (a) The chief justice of the Supreme Court is an ex officio, nonvoting member of
23008 the Appellate Court Nominating Commission.
23009 (b) If the chief justice cannot serve on the commission, the chief justice shall appoint
23010 another justice of the Supreme Court to serve.
23011 (7) The governor shall appoint the chair of the Appellate Court Nominating
23012 Commission from among the membership.
23013 Section 538. Section **78A-10-203** is enacted to read:
23014 **78A-10-203. Procedure.**
23015 (1) Except for the chief justice of the Supreme Court, each commissioner is a voting
23016 member of the Appellate Court Nominating Commission.
23017 (2) Four commissioners are a quorum.
23018 (3) The state court administrator shall serve as secretary to the Appellate Court
23019 Nominating Commission.
23020 (4) The chief justice of the Supreme Court shall:
23021 (a) ensure that the commission follows the rules promulgated by the Judicial Council;
23022 and
23023 (b) resolve any questions regarding those rules.
23024 (5) A member of the commission who is also a member of the Utah State Bar may
23025 recuse himself if there is a conflict of interest that makes the member unable to serve.
23026 Section 539. Section **78A-10-204** is enacted to read:
23027 **78A-10-204. Vacancies.**
23028 (1) The governor shall fill any vacancy in the office of Appellate Court Nominating
23029 Commission.

23030 (2) If an appellate court nominating commissioner is disqualified or is otherwise
23031 unable to serve, the governor shall appoint a new commissioner of the same political party as
23032 the unavailable commissioner.
23033 (3) If a vacancy occurs among commission members who are also members of the Utah
23034 State Bar, the governor shall replace that commissioner with a person from a list of nominees
23035 submitted by the Utah State Bar as provided in Section 78A-10-202.
23036 (4) The governor shall ensure that each person who is appointed to fill any vacancy on
23037 the Appellate Court Nominating Commission, other than a vacancy caused by expiration of
23038 term, is a member of the same political party as the commissioner whom the person replaced.
23039 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
23040 appointed for the unexpired term and may not be reappointed.
23041 Section 540. Section **78A-10-205** is enacted to read:
23042 **78A-10-205. Expenses -- Per diem.**
23043 (1) (a) Members who are not government employees shall receive no compensation or
23044 benefits for their services, but may receive per diem and expenses incurred in the performance
23045 of the member's official duties at the rates established by the Division of Finance under
23046 Sections 63A-3-106 and 63A-3-107.
23047 (b) Members may decline to receive per diem and expenses for their service.
23048 (2) (a) State government officer and employee members who do not receive salary, per
23049 diem, or expenses from their agency for their service may receive per diem and expenses
23050 incurred in the performance of their official duties from the commission at the rates established
23051 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
23052 (b) State government officer and employee members may decline to receive per diem
23053 and expenses for their service.
23054 Section 541. Section **78A-10-301** is enacted to read:
23055 **Part 3. Trial Court Nominating Commission**
23056 **78A-10-301. Creation.**
23057 (1) There is created a Trial Court Nominating Commission for each geographical
23058 division of the trial courts of record.
23059 (2) The Trial Court Nominating Commission shall nominate judges of the district court
23060 and the juvenile court within its geographical division.

23061 Section 542. Section **78A-10-302** is enacted to read:
23062 **78A-10-302. Membership.**
23063 (1) The Trial Court Nominating Commission shall consist of seven commissioners,
23064 each appointed by the governor to serve a single four-year term.
23065 (2) Each commissioner shall:
23066 (a) be a United States citizen;
23067 (b) be a resident of Utah;
23068 (c) be a resident of the geographic division to be served by the commission to which
23069 the commissioner is appointed; and
23070 (d) serve until the commissioner's successor is appointed.
23071 (3) The governor may not appoint:
23072 (a) a commissioner to serve successive terms;
23073 (b) a member of the Legislature to serve as a member of a Trial Court Nominating
23074 Commission; or
23075 (c) more than four commissioners from the same political party to a Trial Court
23076 Nominating Commission.
23077 (4) The governor shall appoint two commissioners from a list of nominees provided by
23078 the Utah State Bar.
23079 (5) The Utah State Bar shall submit:
23080 (a) six nominees from Districts 2, 3, and 4; and
23081 (b) four nominees from Districts 1, 5, 6, 7, and 8.
23082 (6) The governor may reject any list and request a new list of nominees.
23083 (7) The governor may not appoint more than four persons who are members of the
23084 Utah State Bar to a Trial Court Nominating Commission.
23085 (8) (a) The chief justice of the Supreme Court is an ex officio, nonvoting member of
23086 each Trial Court Nominating Commission.
23087 (b) If the chief justice cannot serve on the commission, the chief justice shall appoint
23088 another justice of the Supreme Court to serve.
23089 (9) The governor shall appoint the chair of each Trial Court Nominating Commission
23090 from among its membership.
23091 Section 543. Section **78A-10-303** is enacted to read:

23092 **78A-10-303. Procedure.**
23093 (1) Except for the chief justice of the Supreme Court, each trial court nominating
23094 commissioner is a voting member of the commission.
23095 (2) Four commissioners are a quorum.
23096 (3) The state court administrator shall serve as secretary to each Trial Court
23097 Nominating Commission.
23098 (4) The chief justice of the Supreme Court shall:
23099 (a) ensure that each Trial Court Nominating Commission follows the rules
23100 promulgated by the Judicial Council; and
23101 (b) resolve any questions regarding those rules.
23102 (5) A member of a Trial Court Nominating Commission who is also a member of the
23103 Utah State Bar may recuse himself if there is a conflict of interest that makes the member
23104 unable to serve.
23105 Section 544. Section **78A-10-304** is enacted to read:
23106 **78A-10-304. Vacancies.**
23107 (1) The governor shall fill any vacancy on the Trial Court Nominating Commission.
23108 (2) If a commissioner is disqualified or otherwise unable to serve, the governor shall
23109 appoint a new commissioner of the same political party as the unavailable commissioner.
23110 (3) If a vacancy occurs among commission members who are also members of the Utah
23111 State Bar, the governor shall replace that commissioner with a person from a list of nominees
23112 submitted by the Utah State Bar as provided in Section 78A-10-302.
23113 (4) The governor shall ensure that each person who is appointed to fill any vacancy in
23114 the office of commissioner, other than a vacancy caused by expiration of term, is a member of
23115 the same political party as the commissioner whom the person replaced.
23116 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
23117 appointed for the unexpired term of the commissioner being replaced and may not be
23118 reappointed.
23119 Section 545. Section **78A-10-305** is enacted to read:
23120 **78A-10-305. Expenses -- Per diem.**
23121 (1) (a) Members who are not government employees shall receive no compensation or
23122 benefits for their services, but may receive per diem and expenses incurred in the performance

23123 of the member's official duties at the rates established by the Division of Finance under
23124 Sections 63A-3-106 and 63A-3-107.
23125 (b) Members may decline to receive per diem and expenses for their service.
23126 (2) (a) State government officer and employee members who do not receive salary, per
23127 diem, or expenses from their agency for their service may receive per diem and expenses
23128 incurred in the performance of their official duties from the commission at the rates established
23129 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
23130 (b) State government officer and employee members may decline to receive per diem
23131 and expenses for their service.
23132 (3) (a) Local government members who do not receive salary, per diem, or expenses
23133 from the entity that they represent for their service may receive per diem and expenses incurred
23134 in the performance of their official duties at the rates established by the Division of Finance
23135 under Sections 63A-3-106 and 63A-3-107.
23136 (b) Local government members may decline to receive per diem and expenses for their
23137 service.
23138 Section 546. Section **78A-11-101** is enacted to read:
23139 **CHAPTER 11. Judicial Conduct Commission**
23140 **78A-11-101. Creation.**
23141 In accordance with Article VIII, Section 13 of the Utah Constitution, a Judicial Conduct
23142 Commission is created.
23143 Section 547. Section **78A-11-102**, which is renumbered from Section 78-8-101 is
23144 renumbered and amended to read:
23145 **[~~78-8-101~~]. 78A-11-102. Definitions.**
23146 As used in this chapter:
23147 (1) "Commission" means the Judicial Conduct Commission established by Utah
23148 Constitution Article VIII, Section 13 and [~~Section 78-8-102~~] this chapter.
23149 (2) (a) "Complaint" includes:
23150 (i) a written complaint against a judge; or
23151 (ii) an allegation based on reliable information received in any form, from any source,
23152 that alleges, or from which a reasonable inference can be drawn that a judge is in violation of
23153 any provision of Utah Constitution Article VIII, Section 13.

23154 (b) "Complaint" does not include an allegation initiated by the commission or its staff.
23155 (3) "Investigation" means an inquiry into an allegation of misconduct, including a
23156 search for and examination of evidence concerning the allegations, which begins upon the
23157 receipt of a complaint and is completed when either the complaint is dismissed by a majority
23158 vote of the commission or when an order is sent to the Supreme Court for its review in
23159 accordance with Utah Constitution Article VIII, Section 13.
23160 (4) "Judge" includes the chief justice of the Supreme Court, a justice of the Supreme
23161 Court, an appellate court judge, a district court judge, an active senior judge, a juvenile court
23162 judge, a justice court judge, an active senior justice court judge, and a judge pro tempore of any
23163 court of this state.
23164 Section 548. Section **78A-11-103**, which is renumbered from Section 78-8-102 is
23165 renumbered and amended to read:
23166 **[~~78-8-102~~]. 78A-11-103. Judicial Conduct Commission -- Members -- Terms --**
23167 **Vacancies -- Voting -- Power of chair.**
23168 (1) The membership of the commission [~~established by Article VIII, Section 13 of the~~
23169 ~~Utah Constitution~~] consists of the following 11 members:
23170 (a) two members of the House of Representatives to be appointed by the speaker of the
23171 House of Representatives for a four-year term, not more than one of whom may be of the same
23172 political party as the speaker;
23173 (b) two members of the Senate to be appointed by the president of the Senate for a
23174 four-year term, not more than one of whom may be of the same political party as the president;
23175 (c) two members of, and in good standing with, the Utah State Bar, who shall be
23176 appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may
23177 reside in the same judicial district;
23178 (d) three persons not members of the Utah State Bar, who shall be appointed by the
23179 governor, with the consent of the Senate, for four-year terms, not more than two of whom may
23180 be of the same political party as the governor;
23181 (e) one member of the Utah Court of Appeals to be selected by a majority of the Utah
23182 Supreme Court for a four-year term; and
23183 (f) one judge from a trial court of record to be selected by a majority of the Utah
23184 Supreme Court for a four-year term.

23185 (2) (a) The terms of the members shall be staggered so that approximately half of the
23186 commission expires every two years.
23187 (b) [~~All members~~] Members of the commission [~~shall~~] may not serve [~~no~~] longer than
23188 eight years.
23189 (3) The commission shall establish guidelines and procedures for the disqualification
23190 of any member from consideration of any matter. A judge who is a member of the commission
23191 or the Supreme Court may not participate in any proceedings involving the judge's own
23192 removal or retirement.
23193 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall
23194 be appointed by the appointing authority for that position for the unexpired term.
23195 (b) If the appointing authority fails to appoint a replacement, the commissioners who
23196 have been appointed may act as a commission under all the provisions of this section.
23197 (5) Six members of the commission shall constitute a quorum. Any action of a
23198 majority of the quorum constitutes the action of the commission.
23199 [~~(6) (a) (i) Members who are not government employees shall receive no compensation~~
23200 ~~or benefits for their services, but may receive per diem and expenses incurred in the~~
23201 ~~performance of the member's official duties at the rates established by the Division of Finance~~
23202 ~~under Sections 63A-3-106 and 63A-3-107.~~]
23203 [~~(ii) Members may decline to receive per diem and expenses for their service.~~]
23204 [~~(b) (i) State government officer and employee members who do not receive salary, per~~
23205 ~~diem, or expenses from their agency for their service may receive per diem and expenses~~
23206 ~~incurred in the performance of their official duties from the commission at the rates established~~
23207 ~~by the Division of Finance under Sections 63A-3-106 and 63A-3-107.~~]
23208 [~~(ii) State government officer and employee members may decline to receive per diem~~
23209 ~~and expenses for their service.~~]
23210 [~~(c) Legislators on the commission shall receive compensation and expenses as~~
23211 ~~provided in Section 36-2-2 and Legislative Joint Rule 15.03.~~]
23212 [~~(d) (i) The chair shall be allowed the actual expenses of secretarial services, the~~
23213 ~~expenses of services for either a court reporter or a transcriber of electronic tape recordings,~~
23214 ~~and other necessary administrative expenses incurred in the performance of the duties of the~~
23215 ~~commission.~~]

23216 [~~(ii)~~] (6) (a) At each commission meeting, the chair and executive director shall
23217 schedule all complaints to be heard by the commission and present any information from which
23218 a reasonable inference can be drawn that a judge has committed misconduct so that the
23219 commission may determine by majority vote of a quorum whether the executive director shall
23220 draft a written complaint in accordance with Subsection [~~78-8-101~~] 78A-11-102(2)(b).
23221 [~~(iii)~~] (b) The chair and executive director may not act to dismiss any complaint
23222 without a majority vote of a quorum of the commission.
23223 (7) It is the responsibility of the chair and the executive director to ensure that the
23224 commission complies with the procedures of the commission.
23225 (8) The chair shall be nonvoting except in the case of a tie vote.
23226 (9) The chair shall be allowed the actual expenses of secretarial services, the expenses
23227 of services for either a court reporter or a transcriber of electronic tape recordings, and other
23228 necessary administrative expenses incurred in the performance of the duties of the commission.
23229 [~~(9)~~] (10) Upon a majority vote of the quorum, the commission may:
23230 (a) employ an executive director, legal counsel, investigators, and other staff to assist
23231 the commission; and
23232 (b) incur other reasonable and necessary expenses within the authorized budget of the
23233 commission and consistent with the duties of the commission.
23234 (11) The commission shall make rules in accordance with Title 63, Chapter 46a, Utah
23235 Administrative Rulemaking Act, outlining its procedures and the appointment of masters.
23236 Section 549. Section **78A-11-104** is enacted to read:
23237 **78A-11-104. Expenses -- Per diem.**
23238 (1) (a) Members who are not government employees shall receive no compensation or
23239 benefits for their services, but may receive per diem and expenses incurred in the performance
23240 of the member's official duties at the rates established by the Division of Finance under
23241 Sections 63A-3-106 and 63A-3-107.
23242 (b) Members may decline to receive per diem and expenses for their service.
23243 (2)(a) State government officer and employee members who do not receive salary, per
23244 diem, or expenses from their agency for their service may receive per diem and expenses
23245 incurred in the performance of their official duties from the commission at the rates established
23246 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

23247 (b) State government officer and employee members may decline to receive per diem
23248 and expenses for their service.
23249 (3) Legislators on the commission shall receive compensation and expenses as
23250 provided in Section 36-2-2 and Legislative Joint Rules Title 5, Chapter 3, Expense and Mileage
23251 Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override
23252 Sessions.
23253 Section 550. Section **78A-11-105**, which is renumbered from Section 78-8-103 is
23254 renumbered and amended to read:
23255 **[~~78-8-103~~]. 78A-11-105. Grounds for reprimand, censure, suspension, removal,**
23256 **or involuntary retirement of justice, judge, or justice court judge -- Suspension.**
23257 (1) The commission may issue an order, subject to the Supreme Court's review and
23258 issuance of a final order implementing, rejecting, or modifying the commission's order, that any
23259 judge be reprimanded, censured, suspended, removed from office, or involuntarily retired, for:
23260 (a) action which constitutes willful misconduct in office;
23261 (b) final conviction of a crime punishable as a felony under state or federal law;
23262 (c) willful and persistent failure to perform judicial duties;
23263 (d) disability that seriously interferes with the performance of judicial duties; or
23264 (e) conduct prejudicial to the administration of justice which brings a judicial office
23265 into disrepute.
23266 (2) In addition to the reasons specified in Subsection (1), the Supreme Court shall order
23267 the reprimand, censure, suspension, removal, or involuntary retirement of any justice court
23268 judge who fails to obtain and maintain certification from the Judicial Council for attendance at
23269 required judicial training courses or who fails to meet the minimum requirements for office,
23270 including residency.
23271 (3) (a) The Supreme Court may, on its own motion, suspend or remove a judge from
23272 office if the judge:
23273 (i) develops a physical or mental disability that seriously interferes with the
23274 performance of his judicial duties as provided in the Utah Constitution, Article VIII, Section
23275 13, Paragraph 4;
23276 (ii) becomes unqualified to hold the judicial office as provided in the Utah
23277 Constitution, Article VIII, Sections 7 and 10, and Section [~~78-7-2~~] 78A-2-221; or

23278 (iii) brings the judicial office into disrepute by engaging in conduct prejudicial to the
23279 administration of justice as provided in the Utah Constitution, Article VIII, Section 13,
23280 Paragraph 5.
23281 (b) The Supreme Court shall provide notice to the judge and an opportunity to be
23282 heard.
23283 Section 551. Section **78A-11-106**, which is renumbered from Section 78-8-104 is
23284 renumbered and amended to read:
23285 **[~~78-8-104~~]. 78A-11-106. Criminal investigation of a judge -- Administrative**
23286 **leave.**
23287 (1) (a) (i) If the commission, during the course of its investigation into an allegation of
23288 judicial misconduct, receives information upon which a reasonable person might conclude that
23289 a misdemeanor or felony under state or federal law has been committed by a judge other than
23290 the chief justice of the Supreme Court, the commission shall immediately refer the allegation
23291 and any information relevant to the potential criminal violation to the chief justice of the
23292 Supreme Court.
23293 (ii) (A) Unless the allegation is plainly frivolous, the commission shall also
23294 immediately refer the allegation of criminal misconduct and any information relevant to the
23295 potential criminal violation to the local prosecuting attorney having jurisdiction to investigate
23296 and prosecute the crime.
23297 (B) If the local prosecuting attorney receiving the allegation of criminal misconduct of
23298 a judge practices before that judge on a regular basis, or has a conflict of interest in
23299 investigating the crime, the local prosecuting attorney shall refer the allegation of criminal
23300 misconduct to another local or state prosecutor who would not have the same disability or
23301 conflict.
23302 (C) The commission may concurrently proceed with its investigation of the complaint
23303 without waiting for the resolution of the criminal investigation by the prosecuting attorney.
23304 (b) The chief justice of the Supreme Court may place a justice of the Supreme Court,
23305 an appellate court judge, district court judge, active senior judge, juvenile court judge, justice
23306 court judge, active senior justice court judge, or judge pro tempore on administrative leave with
23307 or without pay if the chief justice has a reasonable basis to believe that the alleged crime
23308 occurred, that [~~a~~] the justice of the Supreme Court, [~~an~~] appellate court judge, district court

23309 judge, active senior judge, juvenile court judge, justice court judge, active senior justice court
23310 judge, or judge pro tempore committed the crime, and that the crime was either a felony or a
23311 misdemeanor which conduct may be prejudicial to the administration of justice or which brings
23312 a judicial office into disrepute.
23313 (2) (a) If the commission, during the course of its investigation into an allegation of
23314 judicial misconduct, receives information upon which a reasonable person might conclude that
23315 a misdemeanor or felony under state or federal law has been committed by the chief justice of
23316 the Supreme Court, the commission shall immediately refer the allegation and any information
23317 relevant to the potential criminal violation to two justices of the Supreme Court and the local
23318 prosecuting attorney in accordance with Subsection (1)(a)(ii).
23319 (b) Two justices of the Supreme Court may place the chief justice of the Supreme
23320 Court on administrative leave with or without pay if the two justices have a reasonable basis to
23321 believe that the alleged crime occurred, that the chief justice committed the crime, and that the
23322 crime was either a felony or a misdemeanor which conduct may be prejudicial to the
23323 administration of justice or which brings a judicial office into disrepute.
23324 (3) (a) If a judge is or has been criminally charged or indicted for a class A
23325 misdemeanor or any felony under state or federal law and if the Supreme Court has not already
23326 acted under Subsection (1) or (2), the appropriate member or members of the Supreme Court as
23327 provided in Subsection (1) or (2), shall place the judge on administrative leave with or without
23328 pay pending the outcome of the criminal proceeding.
23329 (b) The administrator of the courts shall, for the duration of the administrative leave,
23330 withhold all employer and employee contributions required under Sections 49-17-301 and
23331 49-18-301.
23332 (c) If the judge is not convicted of the criminal charge, and if after an investigation and
23333 final disposition of the case by the Judicial Conduct Commission, the judge is reinstated by the
23334 Supreme Court as provided in Subsection (4), then the judge shall be paid the salary or
23335 compensation for the period of administrative leave, and all contributions withheld under
23336 Subsection (3)(b) shall be deposited in accordance with Sections 49-17-301 and 49-18-301.
23337 (4) The chief justice of the Supreme Court or two justices of the Supreme Court who
23338 ordered the judge on administrative leave shall order the reinstatement of the judge:
23339 (a) if the prosecutor to whom the allegations are referred by the commission [~~as~~

23340 ~~required under Section 78-8-107,~~] determines no charge or indictment should be filed; or
23341 (b) after final disposition of the criminal case, if the judge is not convicted of a
23342 criminal charge and if the commission has not ordered the removal of the judge.
23343 Section 552. Section **78A-11-107**, which is renumbered from Section 78-8-105 is
23344 renumbered and amended to read:
23345 **[~~78-8-105~~]. 78A-11-107. Referral of attorney misconduct.**
23346 If the commission, during the course of its investigation into an allegation of judicial
23347 misconduct, receives information upon which a reasonable person might conclude that a
23348 member of the state bar has violated one of the Rules of Professional Conduct, the commission
23349 shall refer that information about the attorney to the Office of Professional Conduct of the Utah
23350 State Bar.
23351 Section 553. Section **78A-11-108**, which is renumbered from Section 78-8-106 is
23352 renumbered and amended to read:
23353 **[~~78-8-106~~]. 78A-11-108. Involuntary disability retirement or removal of a**
23354 **judge.**
23355 (1) The commission shall recommend and issue an order for the removal or involuntary
23356 retirement of a judge of any court of this state, in accordance with the procedure outlined in this
23357 section, for a disability that seriously interferes with the performance of the judge's judicial
23358 duties and which is, or is likely to become, of a permanent character.
23359 (2) The commission shall order a medical examination and report.
23360 (3) The commission in recommending an order of involuntary retirement or removal of
23361 a judge for a disability, shall base it on the evaluation and recommendations submitted by one
23362 or more medical examiners or physicians, including an examination of essential statements
23363 submitted by either bar or judicial associations or committees certifying that:
23364 (a) the judge is mentally or physically disabled and this disability seriously interferes
23365 with the performance of the judge's judicial duties; and
23366 (b) the judge's incapacity is likely to continue and be permanent and that the judge
23367 should be involuntarily retired or removed.
23368 (4) (a) The Supreme Court shall review the commission's proceedings as to both law
23369 and fact and may permit the introduction of additional evidence.
23370 (b) After its review, the Supreme Court shall issue its order implementing, rejecting, or

23371 modifying the commission's order.
23372 (5) Retirement or involuntary retirement as provided in this chapter shall be processed
23373 through the Utah State Retirement Office, and the judge retiring shall meet the requirements for
23374 retirement as specified in this chapter.
23375 (6) Upon an order for involuntary retirement, the judge shall retire with the same rights
23376 and privileges as if the judge retired pursuant to statute.
23377 Section 554. Section **78A-11-109** is enacted to read:
23378 **78A-11-109. Receipt of complaints.**
23379 (1) The commission shall receive and investigate any complaint against a judge.
23380 (2) During the course of any investigation, the commission may order a hearing to be
23381 held concerning the reprimand, censure, suspension, removal, or involuntary retirement of a
23382 judge.
23383 (3) The commission shall provide the judge with all information necessary to prepare
23384 an adequate response or defense, which may include the identity of the complainant.
23385 Section 555. Section **78A-11-110** is enacted to read:
23386 **78A-11-110. Hearing.**
23387 (1) (a) A hearing may be conducted before a quorum of the commission.
23388 (b) Any finding or order shall be made upon a majority vote of the quorum.
23389 (2) Alternatively, the commission may appoint three special masters, who are judges of
23390 courts of record, to hear and take evidence in the matter and to report to the commission.
23391 (3) (a) After the hearing or after considering the record and report of the masters, if the
23392 commission finds by a preponderance of the evidence that misconduct occurred, it shall order
23393 the reprimand, censure, suspension, removal, or involuntary retirement of the judge.
23394 (b) When a commission order is sent to the Supreme Court, it shall also be:
23395 (i) publicly disclosed; and
23396 (ii) sent to the entity that appointed the judge.
23397 (c) In recommending any order, including stipulated orders, the commission may not
23398 place, or attempt to place, any condition or limitation upon the Supreme Court's constitutional
23399 power to:
23400 (i) review the commission's proceedings as to both law and fact; or
23401 (ii) implement, reject, or modify a commission order.

23402 (4) When the commission issues any order, including a stipulated order, that is sent to
23403 the Supreme Court, the record shall include:
23404 (a) the original complaint and any other information regarding violations, or potential
23405 violations, of the Code of Judicial Conduct;
23406 (b) the charges;
23407 (c) all correspondence and other documents which passed between the commission and
23408 the judge;
23409 (d) all letters which may explain the charges;
23410 (e) all affidavits, subpoenas, and testimony of witnesses;
23411 (f) the commission's findings of fact and conclusions of law;
23412 (g) a transcript of any proceedings, including hearings on motions;
23413 (h) a copy of each exhibit admitted into evidence;
23414 (i) a summary of all the complaints dismissed by the commission against the judge
23415 which contained allegations or information similar in nature to the misconduct under review by
23416 the Supreme Court;
23417 (j) a summary of all the orders implemented, rejected, or modified by the Supreme
23418 Court against the judge; and
23419 (k) all information in the commission's files on any informal resolution, including any
23420 letter of admonition, comment, or caution, that the commission issued against the judge prior to
23421 May 1, 2000.
23422 Section 556. Section **78A-11-111** is enacted to read:
23423 **78A-11-111. Supreme Court action.**
23424 (1) Before the implementation, rejection, or modification of any commission order the
23425 Supreme Court shall:
23426 (a) review the commission's proceedings as to both law and fact and may permit the
23427 introduction of additional evidence; and
23428 (b) consider the number and nature of previous orders issued by the Supreme Court and
23429 may increase the severity of the order based on a pattern or practice of misconduct or for any
23430 other reason that the Supreme Court finds just and proper.
23431 (2) After briefs have been submitted and any oral argument made, the Supreme Court
23432 shall issue its order implementing, rejecting, or modifying the commission's order.

23433 (3) (a) Upon an order for removal, the judge shall be removed from office and his
23434 salary or compensation ceases from the date of the order.
23435 (b) Upon an order for suspension from office, the judge may not perform any judicial
23436 functions and may not receive a salary for the period of suspension.
23437 Section 557. Section **78A-11-112** is enacted to read:
23438 **78A-11-112. Confidentiality.**
23439 (1) The transmission, production, or disclosure of any complaints, papers, or testimony
23440 in the course of proceedings before the commission, the masters appointed under Section
23441 78A-11-110, or the Supreme Court may not be introduced in any civil action.
23442 (2) The transmission, production, or disclosure of any complaints, papers, or testimony
23443 in the course of proceedings before the commission or the masters appointed under Section
23444 78A-11-110 may be introduced in any criminal action, consistent with the Utah Rules of
23445 Evidence. This information shall be shared with the prosecutor conducting a criminal
23446 investigation or prosecution of a judge as provided in Section 78A-11-106.
23447 (3) Complaints, papers, testimony, or the record of the commission's confidential
23448 hearing may not be disclosed by the commission, masters, or any court until the Supreme Court
23449 has entered its final order in accordance with this section, except:
23450 (a) upon order of the Supreme Court;
23451 (b) upon the request of the judge who is the subject of the complaint;
23452 (c) as provided in Subsection (4);
23453 (d) to aid in a criminal investigation or prosecution as provided in Section 78A-11-106;
23454 or
23455 (e) this information is subject to audit by the Office of Legislative Auditor General, and
23456 any records released to the Office of Legislative Auditor General shall be maintained as
23457 confidential, except:
23458 (i) for information that has already been made public; and
23459 (ii) the final written and oral audit report of the Legislative Auditor General may
23460 present information about the commission as long as it contains no specific information that
23461 would easily identify a judge, witness, or complainant.
23462 (4) Upon the dismissal of a complaint or allegation against a judge, the dismissal shall
23463 be disclosed without consent of the judge to the person who filed the complaint.

23464 Section 558. Section **78A-11-113**, which is renumbered from Section 78-8-108 is
23465 renumbered and amended to read:
23466 **[~~78-8-108~~]. 78A-11-113. Subpoena power of the commission -- Testimony --**
23467 **Contempt.**
23468 (1) The commission may issue subpoenas in aid of an investigation of a complaint filed
23469 with the commission. The subpoena shall have the same authority as an order of the district
23470 court. Commission subpoenas shall be issued in the manner and form prescribed for subpoenas
23471 by the Utah Rules of Civil Procedure. Commission subpoenas shall be served in the manner
23472 prescribed for subpoenas by the Utah Rules of Civil Procedure.
23473 (2) The commission may administer oaths and compel testimony under oath in aid of
23474 an investigation of a complaint filed with the commission and at hearings before the
23475 commission.
23476 (3) If a person fails to comply with a subpoena, or if a person appears before the
23477 commission and refuses to testify to a matter upon which the person may be lawfully
23478 questioned, the person is in contempt of the commission, and the commission may file in the
23479 district court a motion for an order to show cause why the penalties established in Title [~~78~~]
23480 78B, Chapter [~~32~~] 6, Part 3, Contempt, should not be imposed.
23481 Section 559. Section **78B-1-101**, which is renumbered from Section 78-46-1 is
23482 renumbered and amended to read:
23483 **Part 1. Jury and Witness Act**
23484 **[~~78-46-1~~]. 78B-1-101. Title.**
23485 This [~~chapter~~] part is known as the "Jury and Witness Act."
23486 Section 560. Section **78B-1-102**, which is renumbered from Section 78-46-4 is
23487 renumbered and amended to read:
23488 **[~~78-46-4~~]. 78B-1-102. Definitions.**
23489 As used in this part:
23490 (1) "Clerk" or "clerk of the court" means the person so designated by title and includes
23491 any deputy clerk.
23492 (2) "Court" means trial [~~courts~~] court.
23493 (3) "Jury" means a body of persons temporarily selected from the citizens of a
23494 particular county invested with the power to present and indict a person for a public offense or

23495 to try a question of fact.
23496 (4) "Master jury list" means the source lists as prescribed by the Judicial Council under
23497 Section [~~78-46-10~~] 78B-1-106.
23498 (5) "Public necessity" means circumstances in which services performed by the
23499 prospective juror to members of the public in either a public or a private capacity cannot
23500 adequately be performed by others.
23501 (6) "Qualified jury list" means the list of prospective jurors whose names are drawn at
23502 random from the master jury list and are determined to be qualified to serve as jurors.
23503 (7) "Trial jury" means a body of persons selected from the citizens of a particular
23504 county before a court or officer of competent jurisdiction and sworn to try and determine by
23505 verdict a question of fact.
23506 (8) "Undue hardship" means circumstances in which the prospective juror would:
23507 (a) be required to abandon a person under his or her personal care or incur the cost of
23508 substitute care [~~that~~] which is unreasonable under the circumstances;
23509 (b) suffer extreme physical hardship due to an illness, injury, or disability; or
23510 (c) incur substantial costs or lost opportunities due to missing an event that was
23511 scheduled prior to the initial notice of potential jury service.
23512 Section 561. Section **78B-1-103**, which is renumbered from Section 78-46-2 is
23513 renumbered and amended to read:
23514 **[~~78-46-2~~]. 78B-1-103. Jurors selected from random cross section --**
23515 **Opportunity and obligation to serve.**
23516 (1) It is the policy of this state that:
23517 (a) persons selected for jury service be selected at random from a fair cross section of
23518 the population of the county[~~, and that~~]:
23519 (b) all qualified citizens have the opportunity in accordance with this chapter to be
23520 considered for service; and [~~have the obligation~~]
23521 (c) all qualified citizens are obligated to serve when summoned [~~for that purpose~~],
23522 unless excused.
23523 (2) A qualified citizen may not be excluded from jury service on account of race, color,
23524 religion, sex, national origin, age, occupation, disability, or economic status.
23525 Section 562. Section **78B-1-104**, which is renumbered from Section 78-46-5 is

23526 renumbered and amended to read:
23527 **[~~78-46-5~~]. 78B-1-104. Jury composition.**
23528 (1) A trial jury consists of:
23529 (a) twelve persons in a capital case;
23530 (b) eight persons in a noncapital first degree felony aggravated murder or other
23531 criminal case which carries a term of incarceration of more than one year as a possible sentence
23532 for the most serious offense charged;
23533 (c) six persons in a criminal case which carries a term of incarceration of more than six
23534 months but not more than one year as a possible sentence for the most serious offense charged;
23535 (d) four persons in a criminal case which carries a term of incarceration of six months
23536 or less as a possible sentence for the most serious offense charged; and
23537 (e) eight persons in a civil case at law except that the jury shall be four persons in a
23538 civil case for damages of less than $20,000, exclusive of costs, interest, and attorney fees.
23539 (2) Except in the trial of a capital felony, the parties may stipulate upon the record to a
23540 jury of a lesser number than established by this section.
23541 (3) (a) The verdict in a criminal case shall be unanimous.
23542 (b) The verdict in a civil case shall be by not less than three-fourths of the jurors.
23543 (4) There is no jury in the trial of small claims cases.
23544 (5) There is no jury in the adjudication of a minor charged with what would constitute
23545 a crime if committed by an adult.
23546 Section 563. Section **78B-1-105**, which is renumbered from Section 78-46-7 is
23547 renumbered and amended to read:
23548 **[~~78-46-7~~]. 78B-1-105. Jurors -- Competency to serve -- Persons not competent**
23549 **to serve as jurors -- Court to determine disqualification.**
23550 (1) A person is competent to serve as a juror if the person is:
23551 (a) a citizen of the United States;
23552 (b) 18 years of age or older;
23553 (c) a resident of the county; and
23554 (d) able to read, speak, and understand the English language.
23555 (2) A person who has been convicted of a felony [~~that~~] which has not been expunged is
23556 not competent to serve as a juror.

23557 (3) The court, on its own initiative or when requested by a prospective juror, shall
23558 determine whether the prospective juror is disqualified from jury service. The court shall base
23559 its decision on:
23560 (a) information provided on the juror qualification form;
23561 (b) an interview with the prospective juror; or
23562 (c) other competent evidence.
23563 (4) The clerk shall enter the court's determination in the records of the court.
23564 Section 564. Section **78B-1-106**, which is renumbered from Section 78-46-10 is
23565 renumbered and amended to read:
23566 **[~~78-46-10~~]. 78B-1-106. Master jury list -- Inclusive -- Review -- Renewal --**
23567 **Public examination.**
23568 (1) The Judicial Council shall designate one or more regularly maintained lists of
23569 persons residing in each county as the source lists for the master jury list for that county. The
23570 master jury list shall be as inclusive of the adult population of the county as is reasonably
23571 practicable.
23572 (2) The Judicial Council shall by rule provide for the biannual review of the master
23573 jury list to evaluate its inclusiveness of the adult population of the county.
23574 (3) Not less than once every six months the Administrative Office of the Courts shall
23575 renew the master jury list for a county by incorporating any additions, deletions, or
23576 amendments to the source lists. The Administrative Office of the Courts shall include any
23577 additional source lists designated by the Judicial Council upon the next renewal of the master
23578 jury list for a county.
23579 (4) The person having custody, possession, or control of any list used in compiling the
23580 master jury list shall make the list available to the Administrative Office of the Courts at all
23581 reasonable times without charge.
23582 Section 565. Section **78B-1-107**, which is renumbered from Section 78-46-12 is
23583 renumbered and amended to read:
23584 **[~~78-46-12~~]. 78B-1-107. Qualified jury list -- Term of availability -- Juror**
23585 **qualification form -- Content -- Joint jury list for court authorized.**
23586 (1) Prospective jurors shall be selected at random from the master jury list and, if
23587 qualified, placed on the qualified jury list. A prospective juror shall remain on the qualified

23588 jury list for no longer than six months or for such shorter period established by rule of the
23589 Judicial Council. The qualified jury list may be used by all courts within the county, but no
23590 person shall be summoned to serve as a juror in more than one court.
23591 (2) The Judicial Council shall by rule govern the process for the qualification of jurors
23592 and the selection of qualified jurors for voir dire.
23593 (3) The state court administrator shall develop a standard form for the qualification of
23594 jurors. The form shall include:
23595 (a) the name, address, and daytime telephone number of the prospective juror;
23596 (b) questions suitable for determining whether the prospective juror is competent under
23597 statute to serve as a juror; and
23598 (c) the person's declaration that the responses to questions on the qualification form are
23599 true to the best of the person's knowledge.
23600 Section 566. Section **78B-1-108**, which is renumbered from Section 78-46-14 is
23601 renumbered and amended to read:
23602 **[~~78-46-14~~]. 78B-1-108. Qualified prospective jurors not exempt from jury**
23603 **service.**
23604 No qualified prospective juror is exempt from jury service.
23605 Section 567. Section **78B-1-109**, which is renumbered from Section 78-46-15 is
23606 renumbered and amended to read:
23607 **[~~78-46-15~~]. 78B-1-109. Excuse from jury service -- Postponement.**
23608 (1) A person may be excused from jury service by the court upon a showing of undue
23609 hardship, public necessity, or that the person is incapable of jury service. The excused period
23610 may be for any period for which the grounds exist.
23611 (2) The grounds for excusal from jury service shall be shown by affidavit, sworn
23612 testimony, or other competent evidence.
23613 (3) The court may postpone jury service upon a showing of good cause.
23614 Section 568. Section **78B-1-110**, which is renumbered from Section 78-46-19 is
23615 renumbered and amended to read:
23616 **[~~78-46-19~~]. 78B-1-110. Limitations on jury service.**
23617 In any two-year period, a person [~~shall~~] may not be required:
23618 (1) to serve on more than one grand jury;

23619 (2) to serve as both a grand and trial juror; or
23620 (3) to attend court for prospective jury service as a trial juror more than one court day,
23621 except if necessary to complete service in a particular case.
23622 Section 569. Section **78B-1-111**, which is renumbered from Section 78-46-29 is
23623 renumbered and amended to read:
23624 **[~~78-46-29~~]. 78B-1-111. Food allowance for jurors -- Sequestration costs.**
23625 (1) Jurors may be provided with a reasonable food allowance under the rules of the
23626 Judicial Council.
23627 (2) When a jury has been placed in sequestration by order of the court, the necessary
23628 expenses for food and lodging shall be provided [~~under~~] in accordance with the rules of the
23629 Judicial Council.
23630 Section 570. Section **78B-1-112**, which is renumbered from Section 78-46-17 is
23631 renumbered and amended to read:
23632 **[~~78-46-17~~]. 78B-1-112. Jurors -- Preservation of records.**
23633 All records and papers compiled in connection with the selection and service of jurors
23634 shall be preserved by the clerk for four years, or for any longer period ordered by the court.
23635 Section 571. Section **78B-1-113**, which is renumbered from Section 78-46-16 is
23636 renumbered and amended to read:
23637 **[~~78-46-16~~]. 78B-1-113. Jury not selected in conformity with chapter --**
23638 **Procedure to challenge -- Relief available -- Exclusive remedy.**
23639 (1) Within seven days after the moving party discovered, or by the exercise of diligence
23640 could have discovered the grounds therefore, and in any event before the trial jury is sworn to
23641 try the case, a party may move to stay the proceedings or to quash an indictment, or for other
23642 appropriate relief, on the ground of substantial failure to comply with this act in selecting a
23643 grand or trial jury.
23644 (2) Upon motion filed under this section containing a sworn statement of acts which if
23645 true would constitute a substantial failure to comply with this act, the moving party may
23646 present testimony of the county clerk, the clerk of the court, any relevant records and papers
23647 not public or otherwise available used by the jury commission or the clerk, and any other
23648 relevant evidence. If the court determines that in selecting either a grand or a trial jury there
23649 has been a substantial failure to comply with this act and it appears that actual and substantial

23650 injustice and prejudice has resulted or will result to a party in consequence of the failure, the
23651 court shall stay the proceedings pending the selection of the jury in conformity with this act,
23652 quash an indictment, or grant other appropriate relief.
23653 (3) The procedures prescribed by this section are the exclusive means by which a
23654 person accused of a crime, the state, or a party in a civil case may challenge a jury on the
23655 ground that the jury was not selected in conformity with this act.
23656 Section 572. Section **78B-1-114**, which is renumbered from Section 78-46-37 is
23657 renumbered and amended to read:
23658 **[~~78-46-37~~]. 78B-1-114. Jury fee assessments -- Payment.**
23659 (1) The court has discretionary authority in any civil or criminal action or proceeding
23660 triable by jury to assess the entire cost of one day's juror fees against either the plaintiff or
23661 defendant or their counsel, or to divide the cost and assess them against both plaintiff and
23662 defendant or their counsel, or additional parties plaintiff or defendant, if:
23663 (a) a jury demand has been made and is later withdrawn within the 48 hours preceding
23664 the commencement of the trial; or
23665 (b) the case is settled or continued within 48 hours of trial without just cause for not
23666 having settled or continued the case prior to the 48-hour period.
23667 (2) The party assessed shall make payment to the clerk of the court within a prescribed
23668 period. Payment shall be enforced by contempt proceedings.
23669 (3) The court clerk shall transfer the assessment to the state treasury, or the auditor of
23670 the city or county incurring the juror expenses.
23671 Section 573. Section **78B-1-115**, which is renumbered from Section 78-46-20 is
23672 renumbered and amended to read:
23673 **[~~78-46-20~~]. 78B-1-115. Jurors -- Penalties.**
23674 (1) A person who fails to respond timely to questions regarding qualification for jury
23675 service shall be in contempt of court and subject to penalties under Title [~~78~~] 78B, Chapter
23676 [~~32,~~] 6, Part 3, Contempt.
23677 (2) A person summoned for jury service who fails to appear or to complete jury service
23678 as directed shall be in contempt of court and subject to penalties under Title [~~78~~] 78B, Chapter
23679 [~~32,~~] 6, Part 3, Contempt.
23680 (3) Any person who willfully misrepresents a material fact regarding qualification for,

23681 excuse from, or postponement of jury service is guilty of a class C misdemeanor.
23682 Section 574. Section **78B-1-116**, which is renumbered from Section 78-46-21 is
23683 renumbered and amended to read:
23684 **[~~78-46-21~~]. 78B-1-116. Jurors -- Employer not to discharge or threaten**
23685 **employee for jury service -- Criminal penalty -- Civil action by employee.**
23686 (1) An employer may not deprive an employee of employment, threaten or take any
23687 adverse employment action, or otherwise coerce the employee regarding [~~his~~] employment
23688 because the employee receives a summons, responds to it, serves as a juror, or a grand juror, or
23689 attends court for prospective jury or grand jury service.
23690 (2) An employee may not be required or requested to use annual, vacation, or sick
23691 leave for time spent responding to a summons for jury duty, time spent participating in the jury
23692 selection process, or for time spent actually serving on a jury. Nothing in this provision shall
23693 be construed to require an employer to provide annual, vacation, or sick leave to employees
23694 under the provisions of this statute who otherwise are not entitled to those benefits under
23695 company policies.
23696 (3) Any employer who violates this section is guilty of criminal contempt and upon
23697 conviction may be fined not more than $500 or imprisoned not more than six months, or both.
23698 (4) If any employer discharges an employee in violation of this section, the employee
23699 within 30 days may bring a civil action for recovery of wages lost as a result of the violation
23700 and for an order requiring the reinstatement of the employee. Damages recoverable may not
23701 exceed lost wages for six weeks. If the employee prevails, the employee shall be allowed [~~a~~]
23702 reasonable [~~attorney's fee~~] attorney fees fixed by the court.
23703 Section 575. Section **78B-1-117**, which is renumbered from Section 78-46-25 is
23704 renumbered and amended to read:
23705 **[~~78-46-25~~]. 78B-1-117. Jurors and witnesses -- State payment for jurors and**
23706 **subpoenaed persons -- Appropriations and costs -- Expenses in justice court.**
23707 (1) The state is responsible for payment of all fees and expenses authorized by law for
23708 prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter costs in
23709 criminal actions in the courts of record and actions in the juvenile court. The state is
23710 responsible for payment of all fees and expenses authorized by law for jurors in the courts of
23711 record. For [~~such~~] these payments, the Judicial Council shall receive an annual appropriation

23712 contained in a separate line item appropriation.
23713 (2) If expenses exceed the line item appropriation, the administrator of the courts shall
23714 submit a claim against the state to the Board of Examiners and request the board to recommend
23715 and submit a supplemental appropriation request to the Legislature for the deficit incurred.
23716 (3) In the justice courts, the fees, mileage, and other expenses authorized by law for
23717 jurors, prosecution witnesses, witnesses subpoenaed by indigent defendants, and interpreter
23718 costs shall be paid by the municipality if the action is prosecuted by the city attorney, and by
23719 the county if the action is prosecuted by the county attorney or district attorney.
23720 Section 576. Section **78B-1-118**, which is renumbered from Section 78-46-24 is
23721 renumbered and amended to read:
23722 **[~~78-46-24~~]. 78B-1-118. Jurors and witnesses -- Judicial Council rules governing**
23723 **fee payment.**
23724 The Judicial Council shall adopt rules governing the method of payment of fees,
23725 mileage, and other expenses of jurors and witnesses, authorization for payment, record of
23726 payment, and the audit of payment records.
23727 Section 577. Section **78B-1-119**, which is renumbered from Section 78-46-28 is
23728 renumbered and amended to read:
23729 **[~~78-46-28~~]. 78B-1-119. Jurors and witnesses -- Fees and mileage.**
23730 (1) Every juror and witness legally required or in good faith requested to attend a trial
23731 court of record or not of record or a grand jury is entitled to:
23732 (a) $18.50 for the first day of attendance and $49 per day for each subsequent day of
23733 attendance; and
23734 (b) if traveling more than 50 miles, $1 for each four miles in excess of 50 miles
23735 actually and necessarily traveled in going only, regardless of county lines.
23736 (2) Persons in the custody of a penal institution upon conviction of a criminal offense
23737 are not entitled to a witness fee.
23738 (3) A witness attending from outside the state in a civil case is allowed mileage at the
23739 rate of 25 cents per mile and is taxed for the distance actually and necessarily traveled inside
23740 the state in going only.
23741 (4) If the witness is attending from outside the state in a criminal case, the state shall
23742 reimburse the witness under Section 77-21-3.

23743 (5) A prosecution witness or a witness subpoenaed by an indigent defendant attending
23744 from outside the county but within the state may receive reimbursement for necessary lodging
23745 and meal expenses under rule of the Judicial Council.
23746 (6) There is created within the General Fund, a restricted account known as the CASA
23747 Volunteer Account. A juror may donate the juror's fee to the CASA Volunteer Account in
23748 $18.50 or $49 increments. The Legislature shall annually appropriate money from the CASA
23749 Volunteer Account to the Administrative Office of the Courts for the purpose of recruiting,
23750 training, and supervising volunteers for the Court Appointed Special Advocate program
23751 established pursuant to Section [~~78-3a-912~~] 78A-6-902.
23752 Section 578. Section **78B-1-120**, which is renumbered from Section 78-46-26 is
23753 renumbered and amended to read:
23754 **[~~78-46-26~~]. 78B-1-120. Jurors and witnesses -- Fees in criminal cases -- Daily**
23755 **report of attendance.**
23756 Every witness in a criminal case subpoenaed for the state, or for a defendant by order of
23757 the court at the expense of the state, and every juror, whether grand or trial, shall, unless
23758 temporarily excused, in person report daily to the clerk [~~his attendance at court from the time of~~
23759 ~~his appearance to the date of his discharge, and no~~]. No per diem shall be allowed for any day
23760 upon which attendance is not so reported.
23761 Section 579. Section **78B-1-121**, which is renumbered from Section 78-46-27 is
23762 renumbered and amended to read:
23763 **[~~78-46-27~~]. 78B-1-121. Jurors and witnesses -- Statement of service --**
23764 **Certificate.**
23765 Whenever a grand juror, or a witness for the state before the grand jury, is finally
23766 discharged, the foreman of the grand jury shall furnish to the clerk of the district court a
23767 statement containing information necessary for the clerk to make the juror's or witness's
23768 certificate.
23769 Section 580. Section **78B-1-122**, which is renumbered from Section 78-46-31 is
23770 renumbered and amended to read:
23771 **[~~78-46-31~~]. 78B-1-122. Jurors and witnesses -- Justice court judge -- Certificate**
23772 **of attendance -- Records and reporting.**
23773 (1) Every justice court judge shall give to each person who has served before him as a

23774 juror or as a witness in a criminal cause when summoned for the prosecution by the county or
23775 city attorney, or for the defense by order of the court, a numbered certificate, in which must be
23776 stated:
23777 (a) the name of the juror or witness;
23778 (b) the title of the proceeding;
23779 (c) the number of days in attendance;
23780 (d) the number of miles traveled if the witness has traveled more than 50 miles in
23781 going only; and
23782 (e) the amount due.
23783 (2) The certificate shall be presented to the county or city attorney. When certified [~~by~~
23784 ~~him~~] as being correct, it shall be presented to the county or city auditor and when allowed by
23785 the county executive or town council, the auditor shall draw [~~his~~] a warrant for it on the
23786 treasurer.
23787 (3) Every justice court judge shall keep a record of all certificates issued [~~by him~~]. The
23788 record shall show all of the facts stated in each certificate. On the first Monday of each month
23789 [~~he shall file with the treasurer~~] a detailed statement of all certificates issued shall be filed with
23790 the treasurer.
23791 Section 581. Section **78B-1-123**, which is renumbered from Section 78-46-41 is
23792 renumbered and amended to read:
23793 **[~~78-46-41~~]. 78B-1-123. Jurors and witnesses -- Limit of time for presentation of**
23794 **certificate.**
23795 Any holder of a witness's or juror's certificate specified in this title shall be required to
23796 present it to the county treasurer or to the county auditor, as the case may be, of the county
23797 where [~~such~~] the certificate was issued within one year from the date of its issuance. If the
23798 same [~~shall~~] is not [~~be~~] presented for payment within that time, it [~~shall be~~] is invalid and
23799 [~~shall~~] will not be paid.
23800 Section 582. Section **78B-1-124**, which is renumbered from Section 78-46-38 is
23801 renumbered and amended to read:
23802 **[~~78-46-38~~]. 78B-1-124. Jurors and witnesses -- Statement of certificates --**
23803 **Contents -- Payment by state.**
23804 (1) At the end of each quarter it shall be the duty of the county treasurer and the county

23805 auditor of each county to prepare in duplicate and verify under oath a full and complete
23806 itemized statement of all certificates issued by the clerk of the district court since the date of
23807 the last statement for mileage and attendance of:
23808 (a) grand jurors[~~, for mileage and attendance of~~];
23809 (b) trial jurors engaged in the trial of criminal causes in the district court[~~,~~]; and [~~for~~
23810 ~~mileage and attendance of~~]
23811 (c) witnesses summoned by or on behalf of the state in criminal causes in the district
23812 court.
23813 (2) The statement shall set forth in detail [~~the number of~~] for each certificate[~~,~~]:
23814 (a) the number of the certificate;
23815 (b) the date [~~of same,~~] issued;
23816 (c) the name of the person in whose favor it was issued[~~,~~];
23817 (d) the nature of the service rendered[~~,~~]; and [~~such~~]
23818 (e) any other information as may be necessary and required by the state auditor.
23819 (3) Within 30 days of the end of the quarter one of these statements shall be
23820 transmitted to the state auditor and the other [~~shall be~~] filed in the office of the county clerk.
23821 Upon the timely receipt of this statement [~~by~~] the state auditor [~~he~~] shall, unless [~~he finds the~~
23822 ~~same~~] it is found to be incorrect, draw [~~his~~] a warrant in favor of the county treasurer upon the
23823 state treasurer for the whole amount of jurors' and witnesses' certificates as shown by the
23824 statement, and [~~shall~~] transmit [~~the same~~] it to the county treasurer.
23825 (4) The county treasurer shall hold the funds drawn from the state treasury upon the
23826 certificates for mileage and attendance of jurors and witnesses as a separate fund for the
23827 redemption of jurors' and witnesses' certificates.
23828 Section 583. Section **78B-1-125**, which is renumbered from Section 78-46-39 is
23829 renumbered and amended to read:
23830 **[~~78-46-39~~]. 78B-1-125. Jurors and witnesses -- Certifying excessive fees a**
23831 **felony.**
23832 [~~Every~~] Any clerk or judge of any court, county attorney, district attorney, or other
23833 officer who [~~shall certify~~] certifies false information as a fact [~~any matter which he knows to be~~
23834 ~~untrue~~], whereby any witness or juror shall be allowed a greater sum than [~~he would~~] otherwise
23835 [~~be~~] entitled to under the provisions of this title, is guilty of a felony.

23836 Section 584. Section **78B-1-126**, which is renumbered from Section 78-46-40 is
23837 renumbered and amended to read:
23838 **[~~78-46-40~~]. 78B-1-126. Jurors and witnesses -- Purchase of certificate forbidden**
23839 **-- Penalty.**
23840 (1) No person connected officially with any of the district courts of this state, and no
23841 state, district, county or precinct officer, shall purchase or cause to be purchased any certificate
23842 issued to any juror or witness under the provisions of this title.
23843 (2) Any person who violates the provisions of this section is guilty of a misdemeanor.
23844 Section 585. Section **78B-1-127**, which is renumbered from Section 78-24-2 is
23845 renumbered and amended to read:
23846 **[~~78-24-2~~]. 78B-1-127. Witnesses -- Competency.**
23847 Every person is competent to be a witness except as otherwise provided in the Utah
23848 Rules of Evidence.
23849 Section 586. Section **78B-1-128**, which is renumbered from Section 78-24-1 is
23850 renumbered and amended to read:
23851 **[~~78-24-1~~]. 78B-1-128. Who may be witnesses -- Jury to judge credibility.**
23852 (1) All persons, without exception, otherwise than as specified in this [~~chapter~~] part,
23853 who, having organs of sense, can perceive, and, perceiving, can make known their perceptions
23854 to others, may be witnesses.
23855 (2) Neither parties nor other persons who have an interest in the event of an action or
23856 proceeding are excluded; nor those who have been convicted of crime; nor persons on account
23857 of their opinions on matters of religious belief[~~; although, in every case the~~].
23858 (3) The credibility of [~~the~~] a witness may be [~~drawn in question,~~] questioned by:
23859 (a) the manner in which [~~he~~] the witness testifies[~~, by~~];
23860 (b) the character of [~~his~~] the witness testimony[~~, or by~~];
23861 (c) evidence affecting [~~his~~] the witness' character for truth, honesty, or integrity[~~, or by~~
23862 ~~his~~];
23863 (d) the witness' motives[~~,~~]; or [~~by~~]
23864 (e) contradictory evidence[~~; and the~~].
23865 (4) The jury [~~are~~] is the exclusive [~~judges~~] judge of [~~his~~] credibility.
23866 Section 587. Section **78B-1-129**, which is renumbered from Section 78-24-5 is

23867 renumbered and amended to read:

23868 **[~~78-24-5~~]. 78B-1-129. Witnesses -- Subpoena defined.**

23869 The process by which the attendance of a witness is required is a subpoena. It is a writ
23870 or order directed to a person and requiring [~~his~~] the person's attendance at a particular time and
23871 place to testify as a witness. [~~It~~] The person may also [~~require him~~] be required to bring [~~with~~
23872 ~~him~~] any books, documents, or other things under [~~his~~] the person's control which [~~he~~] is
23873 [~~bound by law to produce~~] required to be produced in evidence.

23874 Section 588. Section **78B-1-130**, which is renumbered from Section 78-24-6 is
23875 renumbered and amended to read:

23876 **[~~78-24-6~~]. 78B-1-130. Witnesses -- Duty when served with subpoena.**

23877 A witness served with a subpoena [~~must~~] shall:

23878 (1) attend at the time appointed with any papers [~~under his control~~] required by the
23879 subpoena[~~, and~~];

23880 (2) answer all pertinent and legal questions; and[~~,~~]

23881 (3) unless sooner discharged, [~~must~~] remain until the testimony is closed.

23882 Section 589. Section **78B-1-131**, which is renumbered from Section 78-24-7 is
23883 renumbered and amended to read:

23884 **[~~78-24-7~~]. 78B-1-131. Witnesses -- Liability to forfeiture and damages.**

23885 A witness [~~disobeying~~] who disobeys a subpoena shall, in addition to any penalty
23886 imposed for contempt, be liable to the party aggrieved in the sum of $100, and all damages
23887 [~~which he may sustain~~] sustained by the failure of the witness to attend[~~, which forfeiture~~].
23888 Forfeiture and damages may be recovered in a civil action.

23889 Section 590. Section **78B-1-132**, which is renumbered from Section 78-11-26 is
23890 renumbered and amended to read:

23891 **[~~78-11-26~~]. 78B-1-132. Employer not to discharge or threaten employee for**
23892 **responding to subpoena -- Criminal penalty -- Civil action by employee.**

23893 (1) An employer may not deprive an employee of employment or threaten or otherwise
23894 coerce the employee regarding employment because the employee attends a deposition or
23895 hearing in response to a subpoena.

23896 (2) Any employer who violates this section is guilty of criminal contempt and upon
23897 conviction may be fined not more than $500 or imprisoned not more than six months or both.

23898 (3) If an employer violates this section, in addition to any other remedy, the employee
23899 may bring a civil action in district court for recovery of wages lost as a result of the violation
23900 and for an order requiring the reinstatement of the employee. Damages recoverable may not
23901 exceed lost wages for six weeks. If the employee prevails, the employee shall be allowed
23902 reasonable attorney fees.
23903 Section 591. Section **78B-1-133**, which is renumbered from Section 78-24-3 is
23904 renumbered and amended to read:
23905 **[~~78-24-3~~]. 78B-1-133. Witnesses -- Judge or juror may be witness --**
23906 **Procedure.**
23907 The judge [~~himself~~] or any juror may be called as a witness by either party[~~; but in such~~
23908 ~~case it~~]. It is in the discretion of the court to order the trial to be postponed [~~or~~], suspended,
23909 [~~and to~~] or take place before another judge or jury.
23910 Section 592. Section **78B-1-134**, which is renumbered from Section 78-24-9 is
23911 renumbered and amended to read:
23912 **[~~78-24-9~~]. 78B-1-134. Witnesses -- Duty to answer questions -- Privilege.**
23913 (1) A witness [~~must~~] shall answer all questions legal and pertinent to the matter in
23914 issue, although [~~his~~] an answer may establish a claim against [~~himself; but he~~] the witness.
23915 (2) A witness need not give an answer which will [~~have a tendency to~~] subject him to
23916 punishment for a felony[~~; nor~~].
23917 (3) A witness need [~~he~~] not give an answer which will [~~have a direct tendency to~~]
23918 degrade his character, unless it is to the very fact in issue or to a fact from which the fact in
23919 issue would be presumed. [~~But a~~]
23920 (4) A witness must answer as to the fact of [~~his~~] any previous conviction of a felony.
23921 Section 593. Section **78B-1-135**, which is renumbered from Section 78-24-10 is
23922 renumbered and amended to read:
23923 **[~~78-24-10~~]. 78B-1-135. Witnesses -- Proceedings in aid of or supplemental to**
23924 **attachment, garnishment, or execution.**
23925 (1) Notwithstanding the provisions of Section [~~78-24-9~~] 78B-1-134, a party or a
23926 witness examined in proceedings in aid of or supplemental to attachment, garnishment, or
23927 execution is not excused from answering a question on the ground that [~~his~~];
23928 (a) the answer will tend to convict [~~him~~] the party or witness of the commission of a

23929 fraud[~~, or to~~];
23930 (b) the answer will prove [~~that he~~] the party or witness has been a party or privy to, or
23931 has knowledge of, a conveyance, assignment, transfer or other disposition of property
23932 concerned for any purpose; [~~or on the ground that he~~]
23933 (c) the party, witness, or any other person claims to be entitled, as against the judgment
23934 creditor or a receiver appointed or to be appointed in the proceedings, to hold property derived
23935 from or through the judgment debtor or to be discharged from the payment of a debt which was
23936 due to the judgment debtor or to a person in [~~his~~] the debtor's behalf. [~~But an~~]
23937 (2) An answer cannot be used as evidence against the person so answering in a
23938 criminal action or proceeding, except in an action for perjury against [~~him~~] the person for
23939 falsely testifying.
23940 Section 594. Section **78B-1-136**, which is renumbered from Section 78-24-11 is
23941 renumbered and amended to read:
23942 **[~~78-24-11~~]. 78B-1-136. Witnesses -- Rights.**
23943 It is the right of a witness to be protected from irrelevant, improper or insulting
23944 questions, and from harsh or insulting demeanor, to be detained only so long as the interests of
23945 justice require it, and to be examined only as to matters legal and pertinent to the issue.
23946 Section 595. Section **78B-1-137**, which is renumbered from Section 78-24-8 is
23947 renumbered and amended to read:
23948 **[~~78-24-8~~]. 78B-1-137. Witnesses -- Privileged communications.**
23949 There are particular relations in which it is the policy of the law to encourage
23950 confidence and to preserve it inviolate. Therefore, a person cannot be examined as a witness in
23951 the following cases:
23952 (1) (a) Neither a wife nor a husband may either during the marriage or afterwards be,
23953 without the consent of the other, examined as to any communication made by one to the other
23954 during the marriage.
23955 (b) This exception does not apply:
23956 (i) to a civil action or proceeding by one spouse against the other;
23957 (ii) to a criminal action or proceeding for a crime committed by one spouse against the
23958 other;
23959 (iii) to the crime of deserting or neglecting to support a spouse or child;

23960 (iv) to any civil or criminal proceeding for abuse or neglect committed against the child
23961 of either spouse; or
23962 (v) if otherwise specifically provided by law.
23963 (2) An attorney cannot, without the consent of [~~his~~] the client, be examined as to any
23964 communication made by the client to [~~him~~] the attorney or [~~his~~] any advice given regarding the
23965 communication in the course of [~~his~~] the professional employment. An attorney's secretary,
23966 stenographer, or clerk cannot be examined, without the consent of [~~his employer~~] the attorney,
23967 concerning any fact, the knowledge of which has been acquired [~~in his capacity~~] as an
23968 employee.
23969 (3) A [~~clergyman~~] member of the clergy or priest cannot, without the consent of the
23970 person making the confession, be examined as to any confession made to [~~him~~] either of them
23971 in [~~his~~] their professional character in the course of discipline enjoined by the church to which
23972 [~~he belongs~~] they belong.
23973 (4) A physician or surgeon cannot, without the consent of [~~his~~] the patient, be
23974 examined in a civil action as to any information acquired in attending the patient which was
23975 necessary to enable [~~him~~] the physician or surgeon to prescribe or act for the patient. However,
23976 this privilege shall be [~~deemed to be~~] waived by the patient in an action in which the patient
23977 places [~~his~~] the patient's medical condition at issue as an element or factor of [~~his~~] the claim or
23978 defense. Under those circumstances, a physician or surgeon who has prescribed for or treated
23979 that patient for the medical condition at issue may provide information, interviews, reports,
23980 records, statements, memoranda, or other data relating to the patient's medical condition and
23981 treatment which are placed at issue.
23982 (5) A public officer cannot be examined as to communications made [~~to him~~] in
23983 official confidence when the public interests would suffer by the disclosure.
23984 (6) A sexual assault counselor as defined in Section [~~78-3c-3~~] 77-38-203 cannot,
23985 without the consent of the victim, be examined in a civil or criminal proceeding as to any
23986 confidential communication as defined in Section [~~78-3c-3~~] 77-38-203 made by the victim.
23987 Section 596. Section **78B-1-138**, which is renumbered from Section 78-24-12 is
23988 renumbered and amended to read:
23989 **[~~78-24-12~~]. 78B-1-138. Witnesses -- Exempt from arrest in civil action.**
23990 Every person who has been in good faith served with a subpoena to attend as a witness

23991 before a court, judge, commissioner, referee or other person, in a case where the disobedience
23992 of the witness may be punished as a contempt, is exempt from arrest in a civil action while
23993 going to the place of attendance, necessarily remaining there and returning therefrom.
23994 Section 597. Section **78B-1-139**, which is renumbered from Section 78-24-13 is
23995 renumbered and amended to read:
23996 **[~~78-24-13~~]. 78B-1-139. Witnesses -- Unlawful arrest -- Void -- Damages**
23997 **recoverable.**
23998 The arrest of a witness contrary to Section [~~78-24-12~~] 78B-1-138 is void, and when
23999 willfully made is a contempt of the court[~~, and the~~]. The person making [~~it~~] the arrest is
24000 responsible to the witness arrested for double the amount of the damages which may be
24001 assessed against [~~him~~] the witness, and is also liable to an action at the suit of the party serving
24002 the witness with the subpoena for the damages sustained by [~~him~~] the party in consequence of
24003 the arrest.
24004 Section 598. Section **78B-1-140**, which is renumbered from Section 78-24-14 is
24005 renumbered and amended to read:
24006 **[~~78-24-14~~]. 78B-1-140. Liability of officer making arrest.**
24007 (1) An officer is not liable for making the arrest in ignorance of the facts creating the
24008 exemption, but is liable for any subsequent detention of the witness, if [~~such~~] the witness
24009 claims the exemption and makes an affidavit stating:
24010 (a) [~~that~~] he has been served with a subpoena to attend as a witness before a court,
24011 officer or other person, specifying the same, the place of attendance and the action or
24012 proceeding in which the subpoena was issued;
24013 (b) [~~that~~] he has not [~~thus~~] been served by his own procurement, with the intention of
24014 avoiding an arrest; and
24015 (c) [~~that~~] he is at the time going to the place of attendance, [~~or~~] returning therefrom, or
24016 remaining there in obedience to the subpoena.
24017 (2) The affidavit may be taken by the officer, and exonerates him from liability for
24018 discharging the witness when arrested.
24019 Section 599. Section **78B-1-141**, which is renumbered from Section 78-24-15 is
24020 renumbered and amended to read:
24021 **[~~78-24-15~~]. 78B-1-141. Witnesses -- Discharge when unlawfully arrested.**

24022 The court or officer issuing the subpoena, and the court or officer before whom the
24023 attendance is required, may discharge the witness from an arrest made in violation of Section
24024 [~~78-24-12~~] 78B-1-138. If the court has adjourned before the arrest or before application for the
24025 discharge, a judge of the court may grant the discharge.
24026 Section 600. Section **78B-1-142**, which is renumbered from Section 78-24-16 is
24027 renumbered and amended to read:
24028 **[~~78-24-16~~]. 78B-1-142. Witnesses -- Oaths -- Who may administer.**
24029 Every court, every judge, clerk and deputy clerk of any court, every justice, every notary
24030 public, and every officer or person authorized to take testimony in any action or proceeding, or
24031 to decide upon evidence, has the power to administer oaths or affirmations.
24032 Section 601. Section **78B-1-143**, which is renumbered from Section 78-24-17 is
24033 renumbered and amended to read:
24034 **[~~78-24-17~~]. 78B-1-143. Witnesses -- Form of oath.**
24035 (1) An oath or affirmation in an action or proceeding may be administered[~~, the person~~
24036 ~~who swears or affirms expressing his assent when addressed,~~] in the following form:
24037 You do solemnly swear (or affirm) that the evidence you shall give in this issue (or
24038 matter) pending between ____ and ____ shall be the truth, the whole truth and nothing but the
24039 truth, so help you God (or, under the pains and penalties of perjury).
24040 (2) The person swearing or affirming shall express assent when addressed.
24041 Section 602. Section **78B-1-144**, which is renumbered from Section 78-24-18 is
24042 renumbered and amended to read:
24043 **[~~78-24-18~~]. 78B-1-144. Witnesses -- Affirmation or declaration instead of oath**
24044 **allowed.**
24045 Any person may [~~at his option~~], instead of taking an oath, opt to make [~~his~~] a solemn
24046 affirmation or declaration, by assenting, when addressed in the following form:
24047 "You do solemnly affirm (or declare) that... ." etc., as in Section [~~78-24-17~~] 78B-1-143.
24048 Section 603. Section **78B-1-145**, which is renumbered from Section 78-24-19 is
24049 renumbered and amended to read:
24050 **[~~78-24-19~~]. 78B-1-145. Witnesses -- Variance in form of swearing to suit beliefs.**
24051 (1) Whenever the court before which a person is offered as a witness is satisfied that
24052 [~~he~~] the person has a peculiar mode of swearing, connected with or in addition to the usual

24053 form, which in [~~his~~] the person's opinion is more solemn or obligatory, the court may in its
24054 discretion adopt that mode.
24055 [~~If a~~] (2) A person who [~~is sworn~~] believes in [~~any~~] a religion other than the Christian
24056 religion[~~, he~~] may be sworn according to the [~~peculiar~~] particular ceremonies of [~~his~~] the
24057 person's religion, if there are any.
24058 Section 604. Section **78B-1-146**, which is renumbered from Section 78-24-4 is
24059 renumbered and amended to read:
24060 **[~~78-24-4~~]. 78B-1-146. Witnesses -- Interpreters -- Subpoena -- Contempt --**
24061 **Costs.**
24062 (1) When a witness does not understand and speak the English language, an interpreter
24063 [~~must~~] shall be sworn in to interpret. Any person may be subpoenaed by any court or judge to
24064 appear before [~~such~~] the court or judge to act as an interpreter in any action or proceeding. Any
24065 person so subpoenaed who fails to attend at the time and place named is guilty of a contempt.
24066 (2) The Judicial Council may establish a fee for the issuance and renewal of a license
24067 of a certified court interpreter. Any fee established under this section shall be deposited as a
24068 nonlapsing dedicated credit to the Judicial Council.
24069 (3) If the court appoints an interpreter, the court may assess all or part of the fees and
24070 costs of the interpreter against the person for whom the service is provided. The court [~~shall~~]
24071 may not assess interpreter fees or costs against a person found to be impecunious.
24072 Section 605. Section **78B-1-147**, which is renumbered from Section 78-46-30 is
24073 renumbered and amended to read:
24074 **[~~78-46-30~~]. 78B-1-147. Witnesses -- Fees in civil cases -- How paid -- Taxed as**
24075 **costs.**
24076 (1) The fees and compensation of witnesses in all civil causes shall be paid by the party
24077 who causes the witnesses to attend. A [~~witness~~] person is not obliged to attend court in a civil
24078 cause when subpoenaed unless [~~his~~] the person's:
24079 (a) fees for one day's attendance are tendered or paid [~~to him~~] on demand[~~,~~]; or [~~his~~]
24080 (b) fees for attendance for each day are tendered or paid [~~to him~~] on demand.
24081 (2) The fees of witnesses paid in civil causes may be taxed as costs against the losing
24082 party.
24083 Section 606. Section **78B-1-148**, which is renumbered from Section 78-46-35 is

24084 renumbered and amended to read:
24085 **[~~78-46-35~~]. 78B-1-148. Witnesses -- Only one fee per day allowed.**
24086 No witness shall receive fees in more than one criminal cause on the same day.
24087 Section 607. Section **78B-1-149**, which is renumbered from Section 78-46-34 is
24088 renumbered and amended to read:
24089 **[~~78-46-34~~]. 78B-1-149. Witnesses -- Officials subpoenaed not entitled to fee or**
24090 **per diem -- Exception.**
24091 No officer of the United States, or [~~of~~] the state [~~of Utah~~], or of any county,
24092 incorporated city or town within the state [~~of Utah, shall~~], may receive any witness fee or per
24093 diem when testifying in a criminal proceeding unless the officer is required to testify at a time
24094 other than during [~~his or her~~] normal working hours.
24095 Section 608. Section **78B-1-150**, which is renumbered from Section 78-46-32 is
24096 renumbered and amended to read:
24097 **[~~78-46-32~~]. 78B-1-150. Witnesses -- When criminal defense witness may be**
24098 **called at expense of state.**
24099 A witness for a defendant in a criminal cause may not be subpoenaed at the expense of
24100 the state, county, or city, except upon order of the court. The order shall be made only upon
24101 affidavit of the defendant, showing:
24102 (1) the defendant is impecunious and unable to pay the per diems of the witness;
24103 (2) the evidence of the witness is material for defendant's defense as [~~he is~~] advised by
24104 [~~his~~] counsel, if [~~he has~~] counsel is in place; and
24105 (3) the defendant cannot safely proceed to trial without the witness.
24106 Section 609. Section **78B-1-151**, which is renumbered from Section 78-46-33 is
24107 renumbered and amended to read:
24108 **[~~78-46-33~~]. 78B-1-151. Witnesses -- Expenses for expert witnesses.**
24109 (1) The court may appoint any expert witness agreed upon by the parties or of its own
24110 selection. The court shall inform the expert of required duties in writing and a copy shall be
24111 filed with the court record.
24112 (2) The appointed expert shall advise the court and the parties of findings and may be
24113 called to testify by the court or by any party. The expert witness is subject to
24114 cross-examination by each party.

24115 (3) The court shall determine the reasonable compensation of the expert and order
24116 payment. The parties may call expert witnesses of their own at their own expense. Upon a
24117 showing that a defendant is financially unable to pay the compensation of an expert whose
24118 services are necessary for an adequate defense, the compensation shall be paid as if the expert
24119 were called on behalf of the prosecution.
24120 (4) Payment by the court for an expert witness in a criminal case is limited to the fee
24121 and mileage allowance for witnesses under Section [~~78-46-28~~] 78B-1-119 and necessary meals
24122 and lodging expenses as provided by rule of the Judicial Council. Compensation of an expert
24123 witness beyond the statutory fee and mileage allowance shall be paid by the parties under
24124 Subsection (3).
24125 Section 610. Section **78B-1-152**, which is renumbered from Section 78-24-20 is
24126 renumbered and amended to read:
24127 **[~~78-24-20~~]. 78B-1-152. Witnesses -- Prohibition of expert witness contingent**
24128 **fees in civil actions.**
24129 (1) As used in this section, "contingent fee agreement" means an agreement for the
24130 provision of testimony or other evidence and related services by an expert witness in a civil
24131 action that specifies:
24132 (a) the payment of compensation to the expert witness for the testimony, other
24133 evidence, and services is contingent, in whole or in part, upon a judgment being rendered in
24134 favor of the plaintiff or defendant in a civil action, upon a favorable settlement being obtained
24135 by the plaintiff or defendant in a civil action, or upon the plaintiff in a civil action being
24136 awarded in a judgment or settlement damages in at least a specified amount; and
24137 (b) upon satisfaction of the contingency described in Subsection (1)(a), the
24138 compensation to be paid to the expert witness is in a fixed amount or an amount to be
24139 determined by a specified formula, including, but not limited to, a percentage of a judgment
24140 rendered in favor of the plaintiff or a percentage of a favorable settlement obtained by the
24141 plaintiff.
24142 (2) A plaintiff or defendant in a civil action may not engage an expert witness by
24143 means of a contingent fee agreement unless approval is sought and received from the court.
24144 (3) An expert witness may be engaged by the plaintiff or defendant on the contingency
24145 that the expert actually qualify as an expert. Once the witness is qualified as an expert

24146 Subsection (2) applies to his continued participation in the action.
24147 Section 611. Section **78B-1-201**, which is renumbered from Section 78-24a-1 is
24148 renumbered and amended to read:
24149 **Part 2. Interpreters for Hearing Impaired**
24150 **[~~78-24a-1~~]. 78B-1-201. Definitions.**
24151 As used in this [~~chapter~~] part:
24152 (1) "Appointing authority" means the presiding officer or similar official of any court,
24153 board, commission, authority, department, agency, legislative body, or of any proceeding of
24154 any nature where a qualified interpreter is required under this [~~act~~] part.
24155 (2) "Hearing-impaired person" and "hearing-impaired parent" means a deaf or hard of
24156 hearing person who, because of sensory or environmental conditions, requires the assistance of
24157 a qualified interpreter or other special assistance for communicative purposes.
24158 (3) "Necessary steps" or "necessary services" include provisions of qualified
24159 interpreters, lip reading, pen and paper, typewriters, closed-circuit television with
24160 closed-caption translations, computers with print-out capability, and telecommunications
24161 devices for the deaf or similar devices.
24162 (4) "Qualified interpreter" means a sign language or oral interpreter as provided in
24163 Sections [~~78-24a-3~~] 78B-1-203 and [~~78-24a-6~~] 78B-1-206 of this [~~act~~] part.
24164 Section 612. Section **78B-1-202**, which is renumbered from Section 78-24a-2 is
24165 renumbered and amended to read:
24166 **[~~78-24a-2~~]. 78B-1-202. Proceedings at which interpreter is to be provided for**
24167 **hearing impaired.**
24168 (1) If a hearing-impaired person is a party or witness at any stage of any judicial or
24169 quasi-judicial proceeding in this state or in its political subdivisions, [~~(~~]including [~~but not~~
24170 ~~limited to~~] civil and criminal court proceedings, grand jury proceedings, proceedings before a
24171 magistrate, juvenile proceedings, adoption proceedings, mental health commitment
24172 proceedings, and any proceeding in which a hearing-impaired person may be subjected to
24173 confinement or criminal sanction[~~)~~], the appointing authority shall appoint and pay for a
24174 qualified interpreter to interpret the proceedings to the hearing-impaired person and to interpret
24175 the hearing-impaired person's testimony. If the hearing-impaired person does not understand
24176 sign language, the appointing authority shall take necessary steps to ensure that the

24177 hearing-impaired person may effectively and accurately communicate in the proceeding.
24178 (2) If a juvenile whose parent or parents are hearing-impaired is brought before a court
24179 for any reason whatsoever, the court shall appoint and pay for a qualified interpreter to interpret
24180 the proceedings to the hearing-impaired parent and to interpret the hearing-impaired parent's
24181 testimony. If the hearing-impaired parent or parents do not understand sign language, the
24182 appointing authority shall take any reasonable, necessary steps to ensure that the
24183 hearing-impaired person may effectively and accurately communicate in the proceeding.
24184 (3) In any hearing, proceeding, or other program or activity of any department, board,
24185 licensing authority, commission, or administrative agency of the state or of its political
24186 subdivisions, the appointing authority shall appoint and pay for a qualified interpreter for the
24187 hearing-impaired participants if the interpreter is not otherwise compensated for those services.
24188 If the hearing-impaired participants do not understand sign language, the appointing authority
24189 shall take any reasonable, necessary steps to ensure that hearing-impaired persons may
24190 effectively and accurately communicate in the proceeding.
24191 (4) If a hearing-impaired person is a witness before any legislative committee or
24192 subcommittee, or legislative research or interim committee or subcommittee or commission
24193 authorized by the state Legislature or by the legislative body of any political subdivision of the
24194 state, the appointing authority shall appoint and pay for a qualified interpreter to interpret the
24195 proceedings to the hearing-impaired person and to interpret the hearing-impaired person's
24196 testimony. If the hearing-impaired witness does not understand sign language, the appointing
24197 authority shall take any reasonable, necessary steps to ensure that hearing-impaired witness
24198 may effectively and accurately communicate in the proceeding.
24199 (5) If it is the policy and practice of a court of this state or of its political subdivisions
24200 to appoint counsel for indigent people, the appointing authority shall appoint and pay for a
24201 qualified interpreter or other necessary services for hearing-impaired, indigent people to assist
24202 in communication with counsel in all phases of the preparation and presentation of the case.
24203 (6) If a hearing-impaired person is involved in administrative, legislative, or judicial
24204 proceedings, the appointing authority shall recognize that family relationship between the
24205 particular hearing-impaired person and an interpreter may constitute a possible conflict of
24206 interest and select a qualified interpreter who will be impartial in the proceedings.
24207 Section 613. Section **78B-1-203**, which is renumbered from Section 78-24a-3 is

24208 renumbered and amended to read:
24209 **[~~78-24a-3~~]. 78B-1-203. Effectiveness of interpreter determined.**
24210 Before appointing an interpreter, the appointing authority shall make a preliminary
24211 determination, on the basis of the proficiency level established by the Utah division of
24212 rehabilitation services and on the basis of the hearing-impaired person's testimony, that the
24213 interpreter is able to accurately communicate with and translate information to and from the
24214 hearing-impaired person involved. If the interpreter is not able to provide effective
24215 communication with the hearing-impaired person, the appointing authority shall appoint
24216 another qualified interpreter.
24217 Section 614. Section **78B-1-204**, which is renumbered from Section 78-24a-4 is
24218 renumbered and amended to read:
24219 **[~~78-24a-4~~]. 78B-1-204. Appointment of more qualified interpreter.**
24220 If a qualified interpreter is unable to render a satisfactory interpretation, the appointing
24221 authority shall appoint a more qualified interpreter.
24222 Section 615. Section **78B-1-205**, which is renumbered from Section 78-24a-5 is
24223 renumbered and amended to read:
24224 **[~~78-24a-5~~]. 78B-1-205. Readiness of interpreter prerequisite to commencement**
24225 **of proceeding.**
24226 If an interpreter is required to be appointed under this [~~act~~] part, the appointing
24227 authority may not commence proceedings until the appointed interpreter is in full view of and
24228 spatially situated to assure effective communication with the hearing-impaired participants.
24229 Section 616. Section **78B-1-206**, which is renumbered from Section 78-24a-6 is
24230 renumbered and amended to read:
24231 **[~~78-24a-6~~]. 78B-1-206. List of qualified interpreters -- Use -- Appointment of**
24232 **another.**
24233 (1) The Utah division of rehabilitation services shall establish, maintain, update, and
24234 distribute a list of qualified interpreters.
24235 (2) When an interpreter is required under this [~~act~~] part, the appointing authority shall
24236 use one of the interpreters on the list provided by the Utah division of rehabilitation services.
24237 If none of the listed interpreters are available or are able to provide effective interpreting with
24238 the particular hearing-impaired person, then the appointing authority shall appoint another

24239 qualified interpreter who is able to accurately and simultaneously communicate with and
24240 translate information to and from the particular hearing-impaired person involved.
24241 Section 617. Section **78B-1-207**, which is renumbered from Section 78-24a-7 is
24242 renumbered and amended to read:
24243 **[~~78-24a-7~~]. 78B-1-207. Oath of interpreter.**
24244 Before he or she begins to interpret, every interpreter appointed under this [~~act~~] part
24245 shall take an oath that he or she will make a true interpretation in an understandable manner to
24246 the best of his or her skills and judgment.
24247 Section 618. Section **78B-1-208**, which is renumbered from Section 78-24a-8 is
24248 renumbered and amended to read:
24249 **[~~78-24a-8~~]. 78B-1-208. Compensation of interpreter.**
24250 An interpreter appointed under this [~~act~~] part is entitled to a reasonable fee for his or her
24251 services, including waiting time and reimbursement for necessary travel and subsistence
24252 expenses. The fee shall be based on a fee schedule for interpreters recommended by the
24253 division of rehabilitation services or on prevailing market rates. Reimbursement for necessary
24254 travel and subsistence expenses shall be at rates provided by law for state employees generally.
24255 Compensation for interpreter services shall be paid by the appointing authority if the interpreter
24256 is not otherwise compensated for those services.
24257 Section 619. Section **78B-1-209**, which is renumbered from Section 78-24a-9 is
24258 renumbered and amended to read:
24259 **[~~78-24a-9~~]. 78B-1-209. Waiver of right to interpreter.**
24260 The right of a hearing-impaired person to an interpreter may not be waived, except by a
24261 hearing-impaired person who requests a waiver in writing. The waiver is subject to the
24262 approval of counsel to the hearing-impaired person, if existent, and is subject to the approval of
24263 the appointing authority. In no event may the failure of the hearing-impaired person to request
24264 an interpreter be considered a waiver of that right.
24265 Section 620. Section **78B-1-210**, which is renumbered from Section 78-24a-10 is
24266 renumbered and amended to read:
24267 **[~~78-24a-10~~]. 78B-1-210. Privileged communications.**
24268 If a hearing-impaired person communicates through an interpreter to any person under
24269 such circumstances that the communication would be privileged and the person could not be

24270 compelled to testify as to the communications, this privilege shall apply to the interpreter as
24271 well.
24272 Section 621. Section **78B-1-211**, which is renumbered from Section 78-24a-11 is
24273 renumbered and amended to read:
24274 **[~~78-24a-11~~]. 78B-1-211. Video recording of testimony of**
24275 **hearing-impaired person.**
24276 The appointing authority, on his or her own motion or on the motion of a party to the
24277 proceedings, may order that the testimony of the hearing-impaired person and its interpretation
24278 be electronically recorded by a video recording device for use in verification of the official
24279 transcript of the proceedings.
24280 Section 622. Section **78B-2-101**, which is renumbered from Section 78-12-5.3 is
24281 renumbered and amended to read:
24282 **Part 1. General Provisions and Special Actions**
24283 **[~~78-12-5.3~~]. 78B-2-101. Definitions of "tax title" and "action."**
24284 [~~(1) The term "tax title" as used in Section 78-12-5.2 and Section 59-2-1364, and the~~
24285 ~~related amended Sections 78-12-5, 78-12-7, and 78-12-12, means any title to real property,~~
24286 ~~whether valid or not, which has been derived through or is dependent upon any sale,~~
24287 ~~conveyance, or transfer of property in the course of a statutory proceeding for the liquidation of~~
24288 ~~any tax levied against the property whereby the property is relieved from a tax lien.~~]
24289 [~~(2)~~] (1) The word "action" as used in [~~these sections~~] this chapter includes
24290 counterclaims and cross-complaints and all other civil actions [~~wherein~~] in which affirmative
24291 relief is sought.
24292 (2) The term "tax title" as used in Sections 59-2-1364 and 78B-2-206, and the related
24293 amended Sections 78B-2-204, 78B-2-208, and 78B-2-214, means any title to real property,
24294 whether valid or not, which has been derived through, or is dependent upon, any sale,
24295 conveyance, or transfer of property in the course of a statutory proceeding for the liquidation of
24296 any tax levied against the property whereby the property is relieved from a tax lien.
24297 Section 623. Section **78B-2-102**, which is renumbered from Section 78-12-1 is
24298 renumbered and amended to read:
24299 **[~~78-12-1~~]. 78B-2-102. Time for commencement of actions generally.**
24300 Civil actions may be commenced only within the periods prescribed in this chapter,

24301 after the cause of action has accrued, except in specific cases where a different limitation is
24302 prescribed by statute.
24303 Section 624. Section **78B-2-103**, which is renumbered from Section 78-12-45 is
24304 renumbered and amended to read:
24305 **[~~78-12-45~~]. 78B-2-103. Action barred in another state barred in Utah.**
24306 [~~When a~~] A cause of action [~~has arisen~~] which arises in another [~~state or territory, or in~~
24307 ~~a foreign country, and by the laws thereof an action thereon cannot there be maintained against~~
24308 ~~a person~~] jurisdiction, and which is not actionable in the other jurisdiction by reason of the
24309 lapse of time, [~~an action thereon shall~~] may not be [~~maintained against him~~] pursued in this
24310 state, [~~except in favor~~] unless the cause of [~~one who has been~~] action is held by a citizen of this
24311 state [~~and~~] who has held the cause of action from the time it accrued.
24312 Section 625. Section **78B-2-104**, which is renumbered from Section 78-12-35 is
24313 renumbered and amended to read:
24314 **[~~78-12-35~~]. 78B-2-104. Effect of absence from state.**
24315 [~~Where~~] If a cause of action accrues against a person [~~when he~~] while the person is out
24316 of the state, the action may be commenced within the term as limited by this chapter after his
24317 return to the state. If after a cause of action accrues [~~he~~] the person departs from the state, the
24318 time of his absence is not part of the time limited for the commencement of the action.
24319 Section 626. Section **78B-2-105**, which is renumbered from Section 78-12-37 is
24320 renumbered and amended to read:
24321 **[~~78-12-37~~]. 78B-2-105. Effect of death.**
24322 (1) If a person entitled to bring an action dies before the expiration of the [~~time limited~~
24323 ~~for the commencement thereof,~~] statute of limitations and the cause of action survives, an
24324 action may be [~~commenced~~] brought by his representatives after the expiration of [~~that~~] the
24325 time and within one year from his death.
24326 (2) If a person against whom an action may be brought dies before the expiration of the
24327 [~~time limited for the commencement thereof~~] statute of limitations and the cause of action
24328 survives, an action may be commenced against the representatives after the expiration of [~~that~~]
24329 the time and within one year after the issue of letters testamentary or of administration.
24330 Section 627. Section **78B-2-106**, which is renumbered from Section 78-12-38 is
24331 renumbered and amended to read:

24332 **[~~78-12-38~~]. 78B-2-106. Effect of death of defendant outside this state.**
24333 If a person against whom a cause of action exists dies [~~without~~] outside the state, the
24334 time which elapses between his death and the expiration of one year after [~~the issuing, within~~]
24335 this state[~~, of~~] issues letters testamentary or letters of administration is not a part of the time
24336 limited for the commencement of an action [~~therefor~~] against his executor or administrator.
24337 Section 628. Section **78B-2-107**, which is renumbered from Section 78-12-39 is
24338 renumbered and amended to read:
24339 **[~~78-12-39~~]. 78B-2-107. Effect of war.**
24340 When a person is an alien subject or a citizen of a country at war with the United States,
24341 the [~~time of the continuance~~] duration of the war [~~is~~] may not [~~a~~] be counted as part of the
24342 [~~period limited~~] statute of limitations for the commencement of the action.
24343 Section 629. Section **78B-2-108**, which is renumbered from Section 78-12-36 is
24344 renumbered and amended to read:
24345 **[~~78-12-36~~]. 78B-2-108. Effect of disability -- Minority or mental incompetence.**
24346 [~~If a~~] A person [~~entitled to~~] may not bring an action[~~, other than for the recovery of real~~
24347 ~~property, is at the time the cause of action accrued, either~~] while under the age of majority or
24348 mentally incompetent [~~and~~] without a legal guardian[~~, the time of the disability is not a part of~~
24349 ~~the time limited for the commencement of the action~~]. During the time the person is underage
24350 or incompetent, the statute of limitations for a cause of action other than for the recovery of real
24351 property may not run.
24352 Section 630. Section **78B-2-109**, which is renumbered from Section 78-12-42 is
24353 renumbered and amended to read:
24354 **[~~78-12-42~~]. 78B-2-109. Disability must exist when right of action accrues.**
24355 [~~No~~] A person [~~can avail himself~~] may not take advantage of a disability, unless it
24356 existed when [~~his~~] the person's right of action accrued.
24357 Section 631. Section **78B-2-110**, which is renumbered from Section 78-12-43 is
24358 renumbered and amended to read:
24359 **[~~78-12-43~~]. 78B-2-110. All disabilities must be removed.**
24360 When two or more disabilities coexist at the time the right of action accrues, the
24361 limitation does not attach until all are removed.
24362 Section 632. Section **78B-2-111**, which is renumbered from Section 78-12-40 is

24363 renumbered and amended to read:
24364 **[~~78-12-40~~]. 78B-2-111. Failure of action -- Right to commence new action.**
24365 (1) If any action is timely filed and the judgment for the plaintiff is reversed, or if the
24366 plaintiff fails in the action or upon a cause of action otherwise than upon the merits, and the
24367 time limited either by law or contract for commencing the action has expired, the plaintiff, or if
24368 he dies and the cause of action survives, his representatives, may commence a new action
24369 within one year after the reversal or failure.
24370 (2) On and after December 31, 2007, a new action may be commenced under this
24371 section only once.
24372 Section 633. Section **78B-2-112**, which is renumbered from Section 78-12-41 is
24373 renumbered and amended to read:
24374 **[~~78-12-41~~]. 78B-2-112. Effect of injunction or prohibition.**
24375 [~~When the commencement~~] The duration of an [~~action is stayed by~~] injunction or [~~a~~]
24376 statutory prohibition [~~the time of the continuance of the injunction or prohibition is not part of~~
24377 ~~the time limited for the commencement of the action~~] which delays the filing of an action may
24378 not be counted as part of the statute of limitations.
24379 Section 634. Section **78B-2-113**, which is renumbered from Section 78-12-44 is
24380 renumbered and amended to read:
24381 **[~~78-12-44~~]. 78B-2-113. Effect of payment, acknowledgment, or promise to pay.**
24382 [~~In any case founded on contract, when any part~~]
24383 (1) An action based on a contract may not be brought without the defendant's
24384 agreement in writing if the defendant has:
24385 (a) paid any portion of the principal or interest [~~shall have been paid, or an~~
24386 ~~acknowledgment of an existing liability, debt or claim, or any promise to pay the same, shall~~
24387 ~~have been made, an action may be brought within the period prescribed for the same after such~~
24388 ~~payment, acknowledgment or promise; but such acknowledgment or promise must be in~~
24389 ~~writing, signed by the party to be charged thereby. When~~]; or
24390 (b) acknowledged the debt or claim in writing.
24391 (2) If a right of action is barred by the provisions of any statute, it shall be unavailable
24392 either as a cause of action or ground [~~of~~] for defense.
24393 Section 635. Section **78B-2-114**, which is renumbered from Section 78-12-47 is

24394 renumbered and amended to read:
24395 **[~~78-12-47~~]. 78B-2-114. Separate trial of statute of limitations issue in**
24396 **malpractice actions.**
24397 [~~In any action against a physician and surgeon, dentist, osteopathic physician,~~
24398 ~~chiropractor, physical therapist, registered nurse, clinical laboratory bioanalyst, clinical~~
24399 ~~laboratory technologist, or a licensed hospital, person, firm or corporation as the employer of~~
24400 ~~any such person~~]
24401 (1) An issue raised by the defense regarding the statute of limitations in a case may be
24402 tried separately if the action is for professional negligence or for rendering professional
24403 services without consent, [~~if the responsive pleading of the defendant pleads that the action is~~
24404 ~~barred by the statute of limitations, and if either party so moves the court, the~~] and against:
24405 (a) a physician;
24406 (b) a surgeon;
24407 (c) a dentist;
24408 (d) an osteopathic physician;
24409 (e) a chiropractor;
24410 (f) a physical therapist;
24411 (g) a registered nurse;
24412 (h) a clinical laboratory bioanalyst;
24413 (i) a clinical laboratory technologist; or
24414 (j) a licensed hospital, person, firm, or corporation as the employer of any of the
24415 persons in Subsection (1)(a) through (i).
24416 (2) The issue raised [~~thereby~~] may be tried [~~separately and~~] before any other issues in
24417 the case are tried. If the issue raised by the defense of the statute of limitations is finally
24418 determined in favor of the plaintiff, the remaining issues shall then be tried.
24419 [~~This act shall not be construed to be retroactive.~~]
24420 Section 636. Section **78B-2-115**, which is renumbered from Section 78-12-33 is
24421 renumbered and amended to read:
24422 **[~~78-12-33~~]. 78B-2-115. Actions by state or other governmental entity.**
24423 [~~The~~] Except for the provisions of Section 78B-2-116, the limitations in this [~~article~~]
24424 chapter apply to actions brought in the name of or for the benefit of the state or other

24425 governmental entity[~~,~~] the same as to actions by private parties[~~, except under Section~~
24426 ~~78-12-33.5~~].
24427 Section 637. Section **78B-2-116**, which is renumbered from Section 78-12-33.5 is
24428 renumbered and amended to read:
24429 **[~~78-12-33.5~~]. 78B-2-116. Statute of limitations -- Asbestos damages --**
24430 **Action by state or governmental entity.**
24431 (1) (a) [~~No~~] A statute of limitations or repose may not bar an action by the state or
24432 other governmental entity to recover damages from any manufacturer of any construction
24433 materials containing asbestos, when the action arises out of the manufacturer's providing the
24434 materials, directly or through other persons, to the state or other governmental entity or to a
24435 contractor on behalf of the state or other governmental entity.
24436 (b) Subsection (1)(a) provides for actions not yet barred, and also acts retroactively to
24437 permit actions under this section that are otherwise barred.
24438 (2) As used in this section, "asbestos" means asbestiform varieties of:
24439 (a) chrysotile (serpentine);
24440 (b) crocidolite (riebeckite);
24441 (c) amosite (cummingtonite-grunerite);
24442 (d) anthophyllite;
24443 (e) tremolite; or
24444 (f) actinolite.
24445 Section 638. Section **78B-2-117**, which is renumbered from Section 78-12-48 is
24446 renumbered and amended to read:
24447 **[~~78-12-48~~]. 78B-2-117. Statute of limitations -- Asbestos damages.**
24448 (1) (a) Notwithstanding any other provision of law, [~~no~~] a statute of limitation or
24449 repose may not bar an action to recover damages from any manufacturer of any construction
24450 materials containing asbestos and arising out of the manufacturer's providing of the materials,
24451 directly or through other persons, for use in construction of any building within the state until
24452 July 1, 1991, or until three years after the person or entity bringing the action discovers or with
24453 reasonable diligence could have discovered the injury or damages, whichever is later.
24454 (b) Subsection (1)(a) provides a statute of limitation for the specified actions, and also
24455 acts retroactively to permit, within time limits, the commencement of actions under this section

24456 that are otherwise barred.
24457 (2) As used in this section, "asbestos" means asbestiform varieties of:
24458 (a) chrysotile (serpentine);
24459 (b) crocidolite (riebeckite);
24460 (c) amosite (cummingtonite-grunerite);
24461 (d) anthophyllite;
24462 (e) tremolite; or
24463 (f) actinolite.
24464 Section 639. Section **78B-2-201**, which is renumbered from Section 78-12-2 is
24465 renumbered and amended to read:
24466 **Part 2. Real Property**
24467 **[~~78-12-2~~]. 78B-2-201. Actions by the state.**
24468 The state [~~will~~] may not [~~sue~~] bring an action against any person for or [~~in~~] with respect
24469 to any real property, [~~or the~~] its issues or profits [~~thereof, by reason of the~~], based upon the
24470 state's right or title [~~of the state~~] to the [~~same~~] real property, unless:
24471 (1) [~~such~~] the right or title [~~shall have~~] to the property accrued within seven years
24472 before any action or other proceeding [~~for the same shall be~~] is commenced; or
24473 (2) the state or those from whom it claims [~~shall have~~] received all of a portion of the
24474 rents and profits [~~of such~~] from the real property[~~, or some part thereof,~~] within the
24475 immediately preceding seven years.
24476 Section 640. Section **78B-2-202**, which is renumbered from Section 78-12-3 is
24477 renumbered and amended to read:
24478 **[~~78-12-3~~]. 78B-2-202. Actions by patentees or grantees from state.**
24479 [~~No action can be brought for or in respect to real property by any~~] A person [~~claiming~~
24480 ~~under~~] receiving letters patent or a grant of real property from [~~this state, unless the same might~~
24481 ~~have been commenced by the state as herein specified, in case such patent had not been issued~~
24482 ~~or grant~~] the state may not bring an action based on the patent or grant unless the state would
24483 have been able to bring an action had the patent or grant not been made.
24484 Section 641. Section **78B-2-203**, which is renumbered from Section 78-12-4 is
24485 renumbered and amended to read:
24486 **[~~78-12-4~~]. 78B-2-203. When letters patent or grants declared void.**

24487 When letters patent or grants of real property issued or made by the state are declared
24488 void by [~~the determination~~] a court of [~~a~~] competent [~~court~~] jurisdiction, an action for the
24489 recovery of the property [~~so conveyed may~~] shall be brought either by the state, or by any
24490 subsequent patentee or grantee of the property, his heirs or assigns, within seven years after
24491 such determination[~~, but not after that period~~].
24492 Section 642. Section **78B-2-204**, which is renumbered from Section 78-12-5 is
24493 renumbered and amended to read:
24494 **[~~78-12-5~~]. 78B-2-204. Seizure or possession within seven years necessary.**
24495 [~~No~~] An action for the recovery or possession of real property [~~or for the possession~~
24496 ~~thereof shall~~] may not be maintained, unless it appears [~~that~~] the plaintiff, his ancestor, grantor,
24497 or predecessor [~~was seized~~] owned or possessed [~~of~~] the property in question within seven
24498 years before the commencement of the action.
24499 Section 643. Section **78B-2-205**, which is renumbered from Section 78-12-5.1 is
24500 renumbered and amended to read:
24501 **[~~78-12-5.1~~]. 78B-2-205. Seizure or possession within seven years -- Proviso --**
24502 **Tax title.**
24503 [~~No~~] (1) An action for the recovery or possession of real property [~~or for the possession~~
24504 ~~thereof shall~~] may not be maintained, unless the plaintiff or his predecessor [~~was seized~~] owned
24505 or possessed [~~of such~~] the property within seven years [~~from~~] before the commencement of
24506 [~~such~~] the action[~~; provided, however, that with respect to actions~~].
24507 (2) Actions or defenses brought [~~or interposed for the recovery or~~] to recover, take
24508 possession of [~~or to~~], quiet title, or determine the ownership of real property against the holder
24509 of a tax title to [~~such~~] the property, [~~no such action or defense shall~~] may not be commenced
24510 [~~or interposed~~] more than four years after the date of the tax deed, conveyance, or transfer
24511 creating [~~such~~] the tax title unless the person commencing [~~or interposing such~~] the action or
24512 defense or his predecessor has actually occupied or been in possession of [~~such~~] the property
24513 within four years prior to the commencement [~~or interposition~~] of [~~such~~] the action or defense
24514 [~~or within one year from the effective date of this amendment~~].
24515 Section 644. Section **78B-2-206**, which is renumbered from Section 78-12-5.2 is
24516 renumbered and amended to read:
24517 **[~~78-12-5.2~~]. 78B-2-206. Holder of tax title -- Limitations of action or defense --**

24518 **Proviso.**
24519 [~~No~~] An action or defense [~~for the recovery or~~] to recover, take possession of [~~real~~
24520 ~~property or to~~], quiet title to, or determine the ownership [~~thereof shall~~] of real property may
24521 not be commenced [~~or interposed~~] against the holder of a tax title after the expiration of four
24522 years from the date of the sale, conveyance, or transfer of [~~such~~] the tax title to any county, or
24523 directly to any other [~~purchase thereof~~] purchaser at any public or private tax sale [~~and after the~~
24524 ~~expiration of one year from the date of this act. Provided, however, that this section shall~~].
24525 This section may not bar any action or defense by the owner of the legal title to [~~such~~] the
24526 property [~~where~~] which he or his predecessor [~~has~~] actually occupied or [~~been in actual~~
24527 ~~possession of such property~~] possessed within four years from the commencement [~~or~~
24528 ~~interposition~~] of [~~such~~] an action or defense. [~~And provided further, that this~~] This section
24529 [~~shall~~] may not bar any defense by a city or town[~~,~~] to an action by the holder of a tax title, to
24530 the effect that [~~such~~] the city or town holds a lien against [~~such~~] the property which is equal or
24531 superior to the claim of the holder of [~~such~~] the tax title.
24532 Section 645. Section **78B-2-207**, which is renumbered from Section 78-12-6 is
24533 renumbered and amended to read:
24534 **[~~78-12-6~~]. 78B-2-207. Actions or defenses founded upon title to real estate.**
24535 [~~No cause of~~] An action, [~~or~~] defense, or counterclaim to an action[~~, founded~~] based
24536 upon [~~the~~] title to [~~real~~] the property or entitlement to the rents or profits [~~out of the same, shall~~
24537 ~~be effectual, unless it appears that the person prosecuting the action, or interposing the defense~~
24538 ~~or counterclaim, or under whose title the action is prosecuted or defense or counterclaim is~~
24539 ~~made, or~~] from the property shall be brought:
24540 (1) not later than seven years after the act on which it is based; and
24541 (2) by the ancestor, predecessor, or grantor of [~~such~~] the person [~~was seized~~] who
24542 owned or possessed [~~of~~] the property [~~in question within~~] for seven years before the
24543 [~~committing of the act in respect to which such action is prosecuted or defense or counterclaim~~
24544 ~~made~~] act in Subsection (1) took place.
24545 Section 646. Section **78B-2-208**, which is renumbered from Section 78-12-7 is
24546 renumbered and amended to read:
24547 **[~~78-12-7~~]. 78B-2-208. Adverse possession -- Possession presumed in owner.**
24548 (1) In [~~every~~] an action for the recovery of real property, [~~or the possession thereof,~~] it

24549 is presumed that:
24550 (a) the person establishing [~~a~~] legal title to the property [~~shall be presumed to have~~
24551 ~~been possessed thereof within the time required by law; and the~~] has been in possession of the
24552 property; and
24553 (b) any occupation of the property [~~by any other person shall be deemed to have~~] has
24554 been under and in subordination to the legal title[~~, unless it appears~~].
24555 (2) Subsection (1) may be rebutted by a showing that the property has been held and
24556 possessed adversely to [~~such~~] the legal title for at least seven years before [~~the~~] commencement
24557 of the action.
24558 Section 647. Section **78B-2-209**, which is renumbered from Section 78-12-7.1 is
24559 renumbered and amended to read:
24560 **[~~78-12-7.1~~]. 78B-2-209. Adverse possession -- Presumption -- Proviso -- Tax title.**
24561 (1) In [~~every~~] an action for the recovery or possession of real property [~~or~~], to quiet title
24562 to or determine the property's owner [~~thereof~~], the person establishing a legal title to [~~such~~] the
24563 property [~~shall be~~] is presumed to have been [~~possessed thereof~~] in possession of the property
24564 within the time required by law[~~; and the~~]. The occupation of [~~such~~] the property by any other
24565 person [~~shall be deemed~~] is considered to have been under and in subordination to the legal
24566 title, unless it appears that [~~such~~] the property has been held and possessed adversely to [~~such~~]
24567 the legal title for seven years before the commencement of [~~such~~] the action. [~~Provided,~~
24568 ~~however, that if~~]
24569 (2) If in any action [~~any~~] a party [~~shall establish~~] establishes prima facie evidence [~~that~~
24570 ~~he is the owner~~] of ownership of any real property under a tax title held by him and his
24571 predecessors for four years prior to the commencement of [~~such action and one year after the~~
24572 ~~effective date of this amendment he shall be~~] the action, he is presumed to be the owner of
24573 [~~such~~] the property by adverse possession [~~unless~~]. This presumption may be rebutted if it
24574 appears that the owner of the legal title or his predecessor has actually occupied or been in
24575 possession of [~~such~~] the property under [~~such~~] the title or that [~~such~~] the tax title owner and his
24576 predecessors have failed to pay all the taxes levied or assessed upon [~~such~~] the property within
24577 [~~such~~] the four-year period.
24578 Section 648. Section **78B-2-210**, which is renumbered from Section 78-12-8 is
24579 renumbered and amended to read:

24580 **[~~78-12-8~~]. 78B-2-210. Adverse possession -- Under written instrument or**
24581 **judgment.**
24582 [~~Whenever it appears that the occupant, or those under whom he claims, entered into~~]
24583 (1) Property is considered to have been adversely held if a person in possession of the
24584 property [~~under claim of title, exclusive of other right, founding such claim upon a written~~
24585 ~~instrument as being a conveyance of the property in question, or upon the~~], either personally or
24586 through another:
24587 (a) possesses a written document purporting to convey title; or
24588 (b) possesses a decree or judgment from a court of [~~a~~] competent [~~court, and that there~~
24589 ~~has been a continued occupation and possession of the property included in such instrument,~~
24590 ~~decree or judgment, or of some part of the property under such claim, for seven years, the~~
24591 ~~property so included is deemed to have been held adversely, except that when the property so~~
24592 ~~included~~] jurisdiction conveying title; and
24593 (c) has occupied the property continuously for at least seven years.
24594 (2) If the property consists of a tract divided into lots, the possession of one lot is not
24595 [~~deemed~~] considered a possession of any other lot [~~of~~] in the same tract.
24596 Section 649. Section **78B-2-211**, which is renumbered from Section 78-12-9 is
24597 renumbered and amended to read:
24598 **[~~78-12-9~~]. 78B-2-211. What constitutes adverse possession under written**
24599 **instrument.**
24600 For the purpose of constituting an adverse possession by any person claiming a title
24601 [~~founded~~] based upon a written instrument or a judgment or decree, [~~land~~] the property is
24602 [~~deemed~~] considered to have been possessed and [~~occupied in the following cases~~] if:
24603 (1) [~~Where~~] it has been usually cultivated or improved[~~.~~];
24604 (2) [~~Where~~] it has been protected by a substantial [~~inclosure.~~] enclosure;
24605 (3) [~~Where,~~] although not [~~inclosed~~] enclosed, it has been used for the supply of fuel,
24606 [~~or of~~] fencing timber, for the purpose of husbandry, or for pasturage or for the ordinary use of
24607 the occupant[~~.~~]; or
24608 (4) [~~Where~~] where a known farm or single lot has been partly improved, the portion of
24609 [~~such~~] the farm or lot [~~that~~] which may have been left not cleared or not inclosed according to
24610 the usual course and custom of the adjoining county is [~~deemed~~] considered to have been

24611 occupied for the same length of time as the part improved and cultivated.
24612 Section 650. Section **78B-2-212**, which is renumbered from Section 78-12-10 is
24613 renumbered and amended to read:
24614 **[~~78-12-10~~]. 78B-2-212. Adverse possession -- Under claim not founded on**
24615 **written instrument or judgment.**
24616 Where it appears that there has been an actual continued occupation of land under claim
24617 of title, exclusive of any other right, but not founded upon a written instrument, judgment or
24618 decree, the land [~~so~~] actually occupied[~~,~~] and no other, is [~~deemed~~] considered to have been
24619 held adversely.
24620 Section 651. Section **78B-2-213**, which is renumbered from Section 78-12-11 is
24621 renumbered and amended to read:
24622 **[~~78-12-11~~]. 78B-2-213. What constitutes adverse possession not under written**
24623 **instrument.**
24624 [~~For the purpose of constituting an adverse possession~~] Land is considered to be
24625 possessed and occupied adversely by a person claiming title[~~,~~] not founded upon a written
24626 instrument, judgment, or decree[~~, land is deemed to have been possessed and occupied~~] in the
24627 following cases only, where:
24628 (1) [~~Where~~] it has been protected by a substantial [~~inclosure.~~] enclosure;
24629 (2) [~~Where~~] it has been usually cultivated or improved[~~.~~]; and
24630 (3) [~~Where~~] labor or money amounting to the sum of $5 per acre has been expended
24631 upon dams, canals, embankments, aqueducts, or otherwise for the purpose of irrigating [~~such~~
24632 ~~lands amounting to the sum of $5 per acre~~] the land.
24633 Section 652. Section **78B-2-214**, which is renumbered from Section 78-12-12 is
24634 renumbered and amended to read:
24635 **[~~78-12-12~~]. 78B-2-214. Adverse possession -- Continuous -- Seven years -- Taxes**
24636 **paid.**
24637 [~~In no case shall adverse possession be considered established under the provisions of~~
24638 ~~any section of this code, unless it shall be~~] Adverse possession may not be established unless it
24639 is shown that the land has been occupied and claimed continuously for [~~the period of~~] seven
24640 years [~~continuously~~], and that the party[~~, his~~] and the party's predecessors and grantors have
24641 paid all taxes which have been levied and assessed upon [~~such~~] the land according to law.

24642 Section 653. Section **78B-2-215**, which is renumbered from Section 78-12-12.1 is
24643 renumbered and amended to read:
24644 **[~~78-12-12.1~~]. 78B-2-215. Adverse possession -- Payment of taxes -- Proviso**
24645 **-- Tax title.**
24646 [~~In no case shall adverse possession be established under the provisions of this code,~~
24647 ~~unless it shall be shown that the land has been occupied and claimed for the period of seven~~
24648 ~~years continuously, and that the party, his predecessors and grantors have paid all the taxes~~
24649 ~~which have been levied and assessed upon such land according to law. Provided, however, that~~
24650 ~~payment by the holder of a tax title to real property or his predecessors,~~] Payment of all the
24651 taxes levied and assessed upon [~~such real property after the delinquent tax sale or transfer~~
24652 ~~under which he claims~~] the real property for a period of not less than four years [~~and for not~~
24653 ~~less than one year after the effective date of this amendment, shall be~~] by the holder of a tax
24654 title to the real property or his predecessors is sufficient to satisfy the requirements of this
24655 [~~section in regard to~~] chapter regarding the payment of taxes necessary to establish adverse
24656 possession.
24657 Section 654. Section **78B-2-216**, which is renumbered from Section 78-12-13 is
24658 renumbered and amended to read:
24659 **[~~78-12-13~~]. 78B-2-216. Adverse possession of public streets or ways.**
24660 [~~No~~] A person [~~shall be allowed to acquire any right or title in or to any lands held by~~
24661 ~~any~~] may not acquire by adverse possession any right in or title to any property held by a town,
24662 city, or county[~~, or the corporate authorities thereof,~~] and designated for public use as streets,
24663 lanes, avenues, alleys, parks or public squares, or [~~for~~] any other public purpose, [~~by adverse~~
24664 ~~possession thereof for any length of time whatsoever, unless it shall affirmatively appear that~~
24665 ~~such town or city or county or the corporate authorities thereof have~~] unless the town, city, or
24666 county has sold, or otherwise disposed of, and conveyed [~~such real estate~~] the property to a
24667 purchaser for [~~a~~] valuable consideration, and [~~that for~~] more than seven years subsequent to
24668 [~~such~~] that conveyance the purchaser[~~, his~~] or the purchaser's grantees or successors in interest,
24669 have been in the exclusive, continuous, and adverse possession of [~~such~~] the real estate[~~; in~~
24670 ~~which case an adverse title may be acquired~~].
24671 Section 655. Section **78B-2-217**, which is renumbered from Section 78-12-14 is
24672 renumbered and amended to read:

24673 **[~~78-12-14~~]. 78B-2-217. Adverse possession -- Possession of tenant considered**
24674 **possession of landlord.**
24675 When [~~the relation of~~] a landlord and tenant [~~has existed~~] relationship exists between
24676 [~~any~~] persons, the possession of the tenant is [~~deemed~~] considered the possession of the
24677 landlord until the expiration of seven years [~~from~~] after the termination of the tenancy, or,
24678 [~~where~~] if there has been no written lease, until [~~the expiration of~~] seven years from the time of
24679 the last payment of rent[~~, notwithstanding that such tenant may have acquired another title, or~~
24680 ~~may have claimed to hold adversely to his landlord; but such presumption cannot be made after~~
24681 ~~the periods herein limited~~].
24682 Section 656. Section **78B-2-218**, which is renumbered from Section 78-12-15 is
24683 renumbered and amended to read:
24684 **[~~78-12-15~~]. 78B-2-218. Adverse possession -- Possession not affected by descent**
24685 **cast.**
24686 The right of a person to the possession of real property is not impaired or affected by a
24687 descent cast in consequence of the death of a person in possession of [~~such~~] the property.
24688 Section 657. Section **78B-2-219**, which is renumbered from Section 78-12-16 is
24689 renumbered and amended to read:
24690 **[~~78-12-16~~]. 78B-2-219. Adverse possession -- Action to redeem mortgage of real**
24691 **property.**
24692 [~~No~~] An action to redeem a mortgage of real property, with or without an account of
24693 rents and profits, may not be brought by the mortgagor, or those claiming under him, against
24694 the mortgagee in possession, or those claiming under him, unless [~~he or they have continuously~~
24695 ~~maintained~~] an adverse possession of the mortgaged premises for seven years after breach of
24696 some condition of the mortgage has been continuously maintained by the mortgagor or those
24697 claiming under him.
24698 Section 658. Section **78B-2-220**, which is renumbered from Section 78-12-17 is
24699 renumbered and amended to read:
24700 **[~~78-12-17~~]. 78B-2-220. Redemption when more than one mortgagor.**
24701 If there is more than one [~~such~~] mortgagor, or more than one person claiming under a
24702 mortgagor, some of whom are not entitled to maintain [~~such~~] an action[~~,~~] under the provisions
24703 of this article, any one of them who is entitled to maintain [~~such~~] an action may redeem

24704 [~~therein~~] a divided or undivided part of the mortgaged premises as his interest may appear, and
24705 have an accounting for a part of the rents and profits[~~,~~] proportionate to his interest in the
24706 mortgaged premises, on payment of a part of the mortgage money, bearing the same proportion
24707 to the whole of [~~such~~] the money as the value of his divided or undivided interest in the
24708 premises bears to the whole of [~~such~~] the premises.

24709 Section 659. Section **78B-2-221**, which is renumbered from Section 78-12-18 is
24710 renumbered and amended to read:

24711 **[~~78-12-18~~]. 78B-2-221. Actions to recover estate sold by guardian.**

24712 [~~No~~] An action for the recovery of [~~any~~] an estate sold by a guardian [~~can~~] shall be
24713 [~~maintained~~] brought by the ward, or [~~by~~] any person claiming under [~~him, unless it is~~
24714 ~~commenced~~] the ward, within three years [~~next~~] after the termination of the guardianship.

24715 Section 660. Section **78B-2-222**, which is renumbered from Section 78-12-19 is
24716 renumbered and amended to read:

24717 **[~~78-12-19~~]. 78B-2-222. Actions to recover estate sold by executor or**
24718 **administrator.**

24719 [~~No~~] An action for the recovery of [~~any~~] an estate sold by an executor or administrator
24720 in the course of [~~any~~] a probate proceeding [~~can~~] shall be maintained by [~~any~~] an heir or other
24721 person claiming under the decedent[~~, unless it is commenced~~] within three years [~~next~~] after
24722 [~~such~~] the sale. An action to set aside the sale [~~may~~] shall be instituted and maintained [~~at any~~
24723 ~~time~~] within three years from the discovery of the fraud or other lawful grounds upon which the
24724 action is based.

24725 Section 661. Section **78B-2-223**, which is renumbered from Section 78-12-20 is
24726 renumbered and amended to read:

24727 **[~~78-12-20~~]. 78B-2-223. Minority or disability prevents running of period.**

24728 Sections [~~78-12-18 and 78-12-19~~] 78B-2-221 and 78B-2-222 shall not apply to minors
24729 or others under any legal disability to sue at the time when the right of action first accrues. [~~All~~
24730 ~~such persons may commence an action within the time prescribed in~~] Section [~~78-12-21~~]
24731 78B-2-224 shall apply in those circumstances.

24732 Section 662. Section **78B-2-224**, which is renumbered from Section 78-12-21 is
24733 renumbered and amended to read:

24734 **[~~78-12-21~~]. 78B-2-224. Disabilities -- Time tolled.**

24735 [~~If a person entitled to commence an action for the recovery of real property or for the~~
24736 ~~recovery of the possession of it, or to make any entry or defense, founded on the title to real~~
24737 ~~property or to rents or services out of the property, is at the time the title first descends or~~
24738 ~~accrues, either under the age of majority or~~]
24739 A statute of limitations may not be applied to a person's ability to bring an action during
24740 a period in which the person is:
24741 (1) a minor; or
24742 (2) mentally incompetent[~~, the time during which the disability continues is not a part~~
24743 ~~of the time in this article limited for the commencement of the actions or the making of the~~
24744 ~~entry or defense~~].
24745 Section 663. Section **78B-2-225**, which is renumbered from Section 78-12-21.5 is
24746 renumbered and amended to read:
24747 **[~~78-12-21.5~~]. 78B-2-225. Actions related to improvements in real property.**
24748 (1) As used in this section:
24749 (a) "Abandonment" means that there has been no design or construction activity on the
24750 improvement for a continuous period of one year.
24751 (b) "Action" means any claim for judicial, arbitral, or administrative relief for acts,
24752 errors, omissions, or breach of duty arising out of or related to the design, construction, or
24753 installation of an improvement, whether based in tort, contract, warranty, strict liability,
24754 indemnity, contribution, or other source of law.
24755 (c) "Completion of improvement" means the date of substantial completion of an
24756 improvement to real property as established by the earliest of:
24757 (i) a Certificate of Substantial Completion;
24758 (ii) a Certificate of Occupancy issued by a governing agency; or
24759 (iii) the date of first use or possession of the improvement.
24760 (d) "Improvement" means any building, structure, infrastructure, road, utility, or other
24761 similar man-made change, addition, modification, or alteration to real property.
24762 (e) "Person" means an individual, corporation, limited liability company, partnership,
24763 joint venture, association, proprietorship, or any other legal or governmental entity.
24764 (f) "Provider" means any person contributing to, providing, or performing studies,
24765 plans, specifications, drawings, designs, value engineering, cost or quantity estimates, surveys,

24766 staking, construction, and the review, observation, administration, management, supervision,
24767 inspections, and tests of construction for or in relation to an improvement.
24768 (2) The Legislature finds that:
24769 (a) exposing a provider to suits and liability for acts, errors, omissions, or breach of
24770 duty after the possibility of injury or damage has become highly remote and unexpectedly
24771 creates costs and hardships to the provider and the citizens of the state;
24772 (b) these costs and hardships include liability insurance costs, records storage costs,
24773 undue and unlimited liability risks during the life of both a provider and an improvement, and
24774 difficulties in defending against claims many years after completion of an improvement;
24775 (c) these costs and hardships constitute clear social and economic evils;
24776 (d) the possibility of injury and damage becomes highly remote and unexpected seven
24777 years following completion or abandonment; and
24778 (e) except as provided in Subsection (7), it is in the best interests of the citizens of the
24779 state to impose the periods of limitation and repose provided in this chapter upon all causes of
24780 action by or against a provider arising out of or related to the design, construction, or
24781 installation of an improvement.
24782 (3) (a) An action by or against a provider based in contract or warranty shall be
24783 commenced within six years of the date of completion of the improvement or abandonment of
24784 construction. Where an express contract or warranty establishes a different period of
24785 limitations, the action shall be initiated within that limitations period.
24786 (b) All other actions by or against a provider shall be commenced within two years
24787 from the earlier of the date of discovery of a cause of action or the date upon which a cause of
24788 action should have been discovered through reasonable diligence. If the cause of action is
24789 discovered or discoverable before completion of the improvement or abandonment of
24790 construction, the two-year period begins to run upon completion or abandonment.
24791 (4) Notwithstanding Subsection (3)(b), an action may not be commenced against a
24792 provider more than nine years after completion of the improvement or abandonment of
24793 construction. In the event the cause of action is discovered or discoverable in the eighth or
24794 ninth year of the nine-year period, the injured person shall have two additional years from that
24795 date to commence an action.
24796 (5) Subsection (4) does not apply to an action against a provider:

24797 (a) who has fraudulently concealed his act, error, omission, or breach of duty, or the
24798 injury, damage, or other loss caused by his act, error, omission, or breach of duty; or
24799 (b) for a willful or intentional act, error, omission, or breach of duty.
24800 (6) If a person otherwise entitled to bring an action did not commence the action within
24801 the periods prescribed by Subsections (3) and (4) solely because that person was a minor or
24802 mentally incompetent and without a legal guardian, that person shall have two years from the
24803 date the disability is removed to commence the action.
24804 (7) This section shall not apply to an action for the death of or bodily injury to an
24805 individual while engaged in the design, installation, or construction of an improvement.
24806 (8) The time limitation imposed by this section [~~shall~~] does not apply to any action
24807 against any person in actual possession or control of the improvement as owner, tenant, or
24808 otherwise, at the time any defective or unsafe condition of the improvement proximately causes
24809 the injury for which the action is brought.
24810 (9) This section does not extend the period of limitation or repose otherwise prescribed
24811 by law or a valid and enforceable contract.
24812 (10) This section does not create or modify any claim or cause of action.
24813 (11) This section applies to all causes of action that accrue after May 3, 2003,
24814 notwithstanding that the improvement was completed or abandoned before May 3, 2004.
24815 Section 664. Section **78B-2-226**, which is renumbered from Section 78-12-21.7 is
24816 renumbered and amended to read:
24817 **[~~78-12-21.7~~]. 78B-2-226. Boundary surveys.**
24818 An action against a surveyor for acts, errors, or omissions in the performance of a
24819 boundary survey filed pursuant to Section 17-23-17 shall be [~~commenced~~] brought within five
24820 years of the date of the filing.
24821 Section 665. Section **78B-2-301**, which is renumbered from Section 78-12-31 is
24822 renumbered and amended to read:
24823 **Part 3. Other than Real Property**
24824 **[~~78-12-31~~]. 78B-2-301. Within six months.**
24825 An action may be brought within six months against [~~an officer,~~] a tax collector or [~~an~~
24826 ~~officer de facto~~] the tax collector's designee:
24827 (1) to recover any goods, wares, merchandise [~~or~~], other property seized [~~by any such~~

24828 ~~officer~~] in his official capacity [~~as tax collector, or to recover~~], or the price or value of any
24829 [~~goods, wares, merchandise or other personal property so seized, or~~] of it;
24830 (2) for damages for the seizure, detention, sale of, or injury to, any goods, wares,
24831 merchandise, or other personal property seized[~~, or~~];
24832 (3) for damages done to any person or property in making [~~any such~~] a seizure;
24833 [~~(2)~~] (4) for money paid [~~to any such officer under protest, or seized by such officer in~~
24834 ~~his official capacity, as a collector of taxes,~~] or seized under protest and which, it is claimed,
24835 ought to be refunded.
24836 Section 666. Section **78B-2-302**, which is renumbered from Section 78-12-29 is
24837 renumbered and amended to read:
24838 **[~~78-12-29~~]. 78B-2-302. Within one year.**
24839 An action may be brought within one year:
24840 (1) for liability created by the statutes of a foreign state;
24841 (2) upon a statute for a penalty or forfeiture where the action is given to an individual,
24842 or to an individual and the state, except when the statute imposing it prescribes a different
24843 limitation;
24844 (3) upon a statute, or upon an undertaking in a criminal action, for a forfeiture or
24845 penalty to the state;
24846 (4) for libel, slander, false imprisonment, or seduction;
24847 (5) against a sheriff or other officer for the escape of a prisoner arrested or imprisoned
24848 upon either civil or criminal process;
24849 (6) against a municipal corporation for damages or injuries to property caused by a
24850 mob or riot;
24851 (7) on a claim for relief or a cause of action under the following sections of Title 25,
24852 Chapter 6, Uniform Fraudulent Transfer Act:
24853 (a) Subsection 25-6-5(1)(a), which in specific situations limits the time for action to
24854 four years, under Section 25-6-10; or
24855 (b) Subsection 25-6-6(2);
24856 (8) except as otherwise expressly provided by statute, against a county legislative body
24857 or a county executive to challenge a decision of the county legislative body or county
24858 executive, respectively; or

24859 (9) on a claim for relief or a cause of action under Title 63, Chapter 90b, Utah
24860 Religious Land Use Act.
24861 Section 667. Section **78B-2-303**, which is renumbered from Section 78-12-30 is
24862 renumbered and amended to read:
24863 **[~~78-12-30~~]. 78B-2-303. One year -- Actions on claims against county, city, or**
24864 **town.**
24865 Actions on claims against a county, city, or incorporated town, which have been
24866 rejected by the county executive, city commissioners, city council, or board of trustees[~~, as the~~
24867 ~~case may be, must~~] shall be [~~commenced~~] brought within one year after the first rejection
24868 [~~thereof by such board of county or city commissioners, city council, or board of trustees~~].
24869 Section 668. Section **78B-2-304**, which is renumbered from Section 78-12-28 is
24870 renumbered and amended to read:
24871 **[~~78-12-28~~]. 78B-2-304. Within two years.**
24872 An action may be brought within two years:
24873 (1) against a marshal, sheriff, constable, or other officer for liability incurred [~~by the~~
24874 ~~doing of an act in his official capacity, and by virtue of his office,~~] during the performance of
24875 the officer's official duties or by the omission of an official duty, including the nonpayment of
24876 money collected upon an execution;
24877 (2) for recovery of damages for a death caused by the wrongful act or neglect of
24878 another;
24879 (3) in causes of action against the state and its employees, for injury to the personal
24880 rights of another if not otherwise provided by state or federal law; or
24881 (4) in causes of action against a political subdivision of the state and its employees, for
24882 injury to the personal rights of another arising after May 1, 2000, if not otherwise provided by
24883 state or federal law.
24884 Section 669. Section **78B-2-305**, which is renumbered from Section 78-12-26 is
24885 renumbered and amended to read:
24886 **[~~78-12-26~~]. 78B-2-305. Within three years.**
24887 An action may be brought within three years:
24888 (1) for waste, [~~or~~] trespass upon, or injury to real property; except that when waste or
24889 trespass is committed by means of underground works upon any mining claim, the cause of

24890 action does not accrue until the discovery by the aggrieved party of the facts constituting [~~such~~]
24891 the waste or trespass;
24892 (2) for taking, detaining, or injuring personal property, including actions for specific
24893 recovery [~~thereof~~]; except that in [~~all~~] cases where the subject of the action is a domestic
24894 animal usually included in the term "livestock," which at the time of its loss has a recorded
24895 mark or brand, if the animal strayed or was stolen from the true owner without the owner's
24896 fault, the cause does not accrue until the owner has actual knowledge of [~~such~~] facts [~~as~~] that
24897 would put a reasonable [~~man~~] person upon inquiry as to the possession of the animal by the
24898 defendant;
24899 (3) for relief on the ground of fraud or mistake; except that the cause of action [~~in such~~
24900 ~~case~~] does not accrue until the discovery by the aggrieved party of the facts constituting the
24901 fraud or mistake;
24902 (4) for a liability created by the statutes of this state, other than for a penalty or
24903 forfeiture under the laws of this state, except where in special cases a different limitation is
24904 prescribed by the statutes of this state; or
24905 (5) to enforce liability imposed by Section [~~78-17-3~~] 78B-3-603, except that the cause
24906 of action does not accrue until the aggrieved party knows or reasonably should know of the
24907 harm suffered.
24908 Section 670. Section **78B-2-306**, which is renumbered from Section 78-12-27 is
24909 renumbered and amended to read:
24910 **[~~78-12-27~~]. 78B-2-306. Action against corporate stockholders or directors.**
24911 Actions against directors or stockholders of a corporation to recover a penalty or
24912 forfeiture imposed, or to enforce a liability created[~~, by law must~~] shall be brought within three
24913 years after the discovery[;] by the aggrieved party[;] of the facts upon which the penalty or
24914 forfeiture attached, or the liability accrued[~~, and in case of actions~~]. Actions against
24915 stockholders of a bank pursuant to levy of assessment to collect their statutory liability[~~, such~~
24916 ~~actions~~] must be brought within three years after the levy of the assessment.
24917 Section 671. Section **78B-2-307**, which is renumbered from Section 78-12-25 is
24918 renumbered and amended to read:
24919 **[~~78-12-25~~]. 78B-2-307. Within four years.**
24920 An action may be brought within four years:

24921 (1) after the last charge is made or the last payment is received:
24922 [~~(1)~~] (a) upon a contract, obligation, or liability not founded upon an instrument in
24923 writing; [~~also~~]
24924 (b) on an open store account for any goods, wares, [~~and~~] or merchandise[~~, and for any~~
24925 ~~article charged on a store account; also~~]; or
24926 (c) on an open account for work, labor or services rendered, or materials furnished[~~;~~
24927 ~~provided, that action in all of the foregoing cases may be commenced at any time within four~~
24928 ~~years after the last charge is made or the last payment is received;~~];
24929 (2) for a claim for relief or a cause of action under the following sections of Title 25,
24930 Chapter 6, Uniform Fraudulent Transfer Act:
24931 (a) Subsection 25-6-5(1)(a), which in specific situations limits the time for action to
24932 one year, under Section 25-6-10;
24933 (b) Subsection 25-6-5(1)(b); or
24934 (c) Subsection 25-6-6(1); and
24935 (3) for relief not otherwise provided for by law.
24936 Section 672. Section **78B-2-308**, which is renumbered from Section 78-12-25.1 is
24937 renumbered and amended to read:
24938 **[~~78-12-25.1~~]. 78B-2-308. Civil actions for sexual abuse of a child.**
24939 (1) As used in this section:
24940 (a) "Child" means a person under 18 years of age.
24941 (b) "Discovery" means when a person knows or reasonably should know that the injury
24942 or illness was caused by the intentional or negligent sexual abuse.
24943 (c) "Injury or illness" means either a physical injury or illness or a psychological injury
24944 or illness. A psychological injury or illness need not be accompanied by physical injury or
24945 illness.
24946 (d) "Molestation" means touching the anus, buttocks, or genitalia of any child, the
24947 breast of a female child younger than 14 years of age, or otherwise taking indecent liberties
24948 with a child, or causing a child to take indecent liberties with the perpetrator or another, with
24949 the intent to arouse or gratify the sexual desire of any person.
24950 (e) "Negligently" means a failure to act to prevent the child sexual abuse from further
24951 occurring or to report the child sexual abuse to law enforcement when the adult who could act

24952 knows or reasonably should know of the child sexual abuse and is the victim's parent,
24953 stepparent, adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister,
24954 uncle, aunt, first cousin, nephew, niece, grandparent, stepgrandparent, or any person cohabiting
24955 in the child's home.
24956 (f) "Person" means an individual who was intentionally or negligently sexually abused.
24957 It does not include individuals whose claims are derived through another individual who was
24958 sexually abused.
24959 (g) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or
24960 molestation directed towards a child.
24961 (2) A person shall file a civil action for intentional or negligent sexual abuse suffered
24962 as a child:
24963 (a) within four years after the person attains the age of 18 years; or
24964 (b) if a person discovers sexual abuse only after attaining the age of 18 years, that
24965 person may bring a civil action for such sexual abuse within four years after discovery of the
24966 sexual abuse, whichever period expires later.
24967 (3) The victim need not establish which act in a series of continuing sexual abuse
24968 incidents caused the injury complained of, but may compute the date of discovery from the date
24969 of discovery of the last act by the same perpetrator which is part of a common scheme or plan
24970 of sexual abuse.
24971 (4) The knowledge of a custodial parent or guardian [~~shall~~] may not be imputed to a
24972 person under the age of 18 years.
24973 (5) A civil action may be brought only against a living person who intentionally
24974 perpetrated the sexual abuse or negligently permitted the sexual abuse to occur.
24975 Section 673. Section **78B-2-309**, which is renumbered from Section 78-12-23 is
24976 renumbered and amended to read:
24977 **[~~78-12-23~~]. 78B-2-309. Within six years -- Mesne profits of real property --**
24978 **Instrument in writing.**
24979 An action may be brought within six years:
24980 (1) for the mesne profits of real property;
24981 (2) upon any contract, obligation, or liability founded upon an instrument in writing,
24982 except those mentioned in Section [~~78-12-22~~] 78B-2-311; and

24983 (3) to recover fire suppression costs or other damages caused by wildland fire.
24984 Section 674. Section **78B-2-310**, which is renumbered from Section 78-12-24 is
24985 renumbered and amended to read:
24986 **[~~78-12-24~~]. 78B-2-310. Actions against public officers -- Within six years.**
24987 An action by the state [~~or~~], any agency, or public corporation [~~thereof~~] against any
24988 public officer for malfeasance, misfeasance, or nonfeasance in office or against any surety upon
24989 his official bond may be brought within six years after [~~such~~] the officer ceases to hold his
24990 office[~~, but not thereafter~~].
24991 Section 675. Section **78B-2-311**, which is renumbered from Section 78-12-22 is
24992 renumbered and amended to read:
24993 **[~~78-12-22~~]. 78B-2-311. Eight years.**
24994 An action may be brought within eight years upon a judgment or decree of any court of
24995 the United States, or of any state or territory within the United States.
24996 Section 676. Section **78B-2-312**, which is renumbered from Section 78-12-32 is
24997 renumbered and amended to read:
24998 **[~~78-12-32~~]. 78B-2-312. Action on mutual account -- When considered accrued.**
24999 In an action brought to recover a balance due upon a mutual, open, and current account,
25000 where there have been reciprocal demands between the parties, the cause of action shall be
25001 [~~deemed~~] considered to have accrued from the time of the last item proved in the account on
25002 either side.
25003 Section 677. Section **78B-3-101** is enacted to read:
25004 **CHAPTER 3. ACTIONS AND VENUE**
25005 **Part 1. Actions - Right to Sue and Be Sued**
25006 **78B-3-101. Husband and wife -- Actions -- Defense -- Absent spouse.**
25007 (1) If a husband and wife are sued jointly, either or both may defend in each one's own
25008 right or for both parties.
25009 (2) Either party to a marriage may sue and be sued in the same manner as if the person
25010 is unmarried.
25011 (3) When a spouse has deserted the family, the remaining spouse may prosecute or
25012 defend in the absent spouse's name any action which the absent spouse might have prosecuted
25013 or defended. All powers and rights the absent spouse might have shall be extended to the

25014 remaining spouse.
25015 Section 678. Section **78B-3-102**, which is renumbered from Section 78-11-6 is
25016 renumbered and amended to read:
25017 **[~~78-11-6~~]. 78B-3-102. Injury or death of child -- Suit by parent or guardian.**
25018 (1) Except as provided in Title 34A, Chapter 2, Workers' Compensation Act, a parent
25019 or guardian may [~~maintain~~] bring an action for the death or injury of a minor child when the
25020 injury or death is caused by the wrongful act or neglect of another. [~~Any~~]
25021 (2) A civil action may be maintained against the person causing the injury or death or,
25022 if the person is employed by another person who is responsible for that person's conduct, also
25023 against the employer.
25024 (3) If a parent, stepparent, adoptive parent, or legal guardian is the alleged defendant in
25025 an action for the death or injury of a child, a guardian ad litem may be appointed for the injured
25026 child or a child other than the deceased child according to the procedures outlined in Section
25027 [~~78-7-9~~] 78A-2-227.
25028 Section 679. Section **78B-3-103**, which is renumbered from Section 78-11-8 is
25029 renumbered and amended to read:
25030 **[~~78-11-8~~]. 78B-3-103. Successive actions on same contract.**
25031 Successive actions may be maintained upon the same contract or transaction
25032 [~~whenever~~] if, after a former action, a new cause of action arises [~~therefrom~~] from it.
25033 Section 680. Section **78B-3-104** is enacted to read:
25034 **78B-3-104. Actions against officers -- Bond required -- Costs and attorney fees.**
25035 (1) A person may not file an action against a law enforcement officer acting within the
25036 scope of the officer's official duties unless the person has posted a bond in an amount
25037 determined by the court.
25038 (2) The bond shall cover all estimated costs and attorney fees the officer may be
25039 expected to incur in defending the action, in the event the officer prevails.
25040 (3) The prevailing party shall recover from the losing party all costs and attorney fees
25041 allowed by the court.
25042 (4) In the event the plaintiff prevails, the official bond of the officer shall be liable for
25043 the plaintiff's costs and attorney fees.
25044 Section 681. Section **78B-3-105**, which is renumbered from Section 78-11-6.5 is

25045 renumbered and amended to read:
25046 **[~~78-11-6.5~~]. 78B-3-105. Definition of heir.**
25047 As used in Sections [~~78-11-7, 78-11-8, and 78-11-12~~] 78B-3-106 and 78B-3-107,
25048 "heirs" means:
25049 (1) the following surviving persons:
25050 (a) the decedent's spouse;
25051 (b) the decedent's children as provided in Section 75-2-114;
25052 (c) the decedent's natural parents, or if the decedent was adopted, then his adoptive
25053 parents;
25054 (d) the decedent's stepchildren who:
25055 (i) are in their minority at the time of decedent's death; and
25056 (ii) are primarily financially dependent on the decedent.
25057 (2) "Heirs" means any blood relative as provided by the law of intestate succession if
25058 the decedent is not survived by a person under Subsections (1)(a), (b), or (c).
25059 Section 682. Section **78B-3-106**, which is renumbered from Section 78-11-7 is
25060 renumbered and amended to read:
25061 **[~~78-11-7~~]. 78B-3-106. Death of adult -- Suit by heir or personal representative.**
25062 (1) Except as provided in Title 34A, Chapter 2, Workers' Compensation Act, when the
25063 death of a person who is not a minor is caused by the wrongful act or neglect of another, his
25064 heirs, or his personal representatives for the benefit of his heirs, may maintain an action for
25065 damages against the person causing the death, or, if [~~such~~] the person is employed by another
25066 person who is responsible for his conduct, then [~~also~~] against [~~such~~] the other person.
25067 (2) If [~~such~~] the adult person has a guardian at the time of his death, only one action
25068 [~~can~~] may be maintained for the person's injury [~~to~~] or death [~~of such person, and such~~].
25069 (3) The action may be brought by either the personal representatives of [~~such~~] the adult
25070 deceased person, for the benefit of [~~his~~] the person's heirs, or by [~~such~~] the guardian for the
25071 benefit of the heirs, as [~~provided~~] defined in Section [~~78-11-6~~] 78B-3-105. [~~In every action~~
25072 ~~under this and Section 78-11-6 such damages may be given as under all the circumstances of~~
25073 ~~the case may be just.~~]
25074 Section 683. Section **78B-3-107**, which is renumbered from Section 78-11-12 is
25075 renumbered and amended to read:

25076 **[~~78-11-12~~]. 78B-3-107. Survival of action for injury to person or death upon**
25077 **death of wrongdoer or injured person -- Exception and restriction to out-of-pocket**
25078 **expenses.**
25079 (1) (a) [~~Causes~~] A cause of action arising out of personal injury to [~~the~~] a person, or
25080 death caused by the wrongful act or negligence of another [~~do~~], does not abate upon the death
25081 of the wrongdoer or the injured person. The injured person, or the personal representatives or
25082 heirs of the person who died [~~have~~], has a cause of action against the wrongdoer or the personal
25083 representatives of the wrongdoer for special and general damages, subject to Subsection (1)(b).
25084 (b) If, prior to judgment or settlement, the injured person dies as a result of a cause
25085 other than the injury received as a result of the wrongful act or negligence of the wrongdoer,
25086 the personal representatives or heirs of [~~that~~] the person have a cause of action against the
25087 wrongdoer or personal representatives of the wrongdoer only for special damages occurring
25088 prior to death [~~that result~~] which resulted from the injury caused by the wrongdoer, including
25089 income loss.
25090 (c) "Special damages" does not include pain and suffering, loss of enjoyment of life,
25091 and other not readily quantifiable damages frequently referred to as general damages.
25092 (2) Under Subsection (1) neither the injured person nor the personal representatives or
25093 heirs of the person who [~~died~~] dies may recover judgment except upon competent satisfactory
25094 evidence other than the testimony of [~~that~~] the injured person.
25095 (3) This section may not be construed to be retroactive.
25096 Section 684. Section **78B-3-108** is enacted to read:
25097 **78B-3-108. Shoplifting -- Merchant's rights -- Civil liability for shoplifting by**
25098 **adult or minor -- Criminal conviction not a prerequisite for civil liability -- Written notice**
25099 **required for penalty demand.**
25100 (1) As used in this section:
25101 (a) "Merchandise" has the same meaning as provided in Section 76-6-601.
25102 (b) "Merchant" has the same meaning as provided in Section 76-6-601.
25103 (c) "Minor" has the same meaning as provided in Section 76-6-601.
25104 (d) "Premises" has the same meaning as "retail mercantile establishment" found in
25105 Section 76-6-601.
25106 (e) "Wrongful taking of merchandise" has the same meaning as "retail theft" as

25107 described in Section 76-6-602.
25108 (2) A merchant may request an individual on his premises to place or keep in full view
25109 any merchandise the individual may have removed, or which the merchant has reason to
25110 believe the individual may have removed, from its place of display or elsewhere, whether for
25111 examination, purchase, or for any other reasonable purpose. The merchant may not be
25112 criminally or civilly liable for having made the request.
25113 (3) A merchant who has reason to believe that merchandise has been wrongfully taken
25114 by an individual and that the merchant can recover the merchandise by taking the individual
25115 into custody and detaining the individual may, for the purpose of attempting to recover the
25116 merchandise or for the purpose of informing a peace officer of the circumstances of the
25117 detention, take the individual into custody and detain the individual in a reasonable manner and
25118 for a reasonable length of time. Neither the merchant nor the merchant's employee may be
25119 criminally or civilly liable for false arrest, false imprisonment, slander, or unlawful detention or
25120 for any other type of claim or action unless the custody and detention are unreasonable under
25121 all the circumstances.
25122 (4) An adult who wrongfully takes merchandise is liable in a civil action, in addition to
25123 actual damages, for a penalty to the merchant in the amount of the retail price of the
25124 merchandise not to exceed $1,000, plus an additional penalty as determined by the court of not
25125 less than $100 nor more than $500, plus court costs and reasonable attorney fees.
25126 (5) A minor who wrongfully takes merchandise and the minor's parents or legal
25127 guardian are jointly and severally liable in a civil action to the merchant for:
25128 (a) actual damages;
25129 (b) a penalty to the merchant in the amount of the retail price of the merchandise not to
25130 exceed $500 plus an additional penalty as determined by the court of not less than $50 nor
25131 more than $500; and
25132 (c) court costs and reasonable attorney fees.
25133 (6) A parent or guardian is not liable for damages under this section if the parent or
25134 guardian made a reasonable effort to restrain the wrongful taking and reported it to the
25135 merchant involved or to the law enforcement agency having primary jurisdiction once the
25136 parent or guardian knew of the minor's unlawful act. A report is not required under this section
25137 if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of

25138 the merchant involved.
25139 (7) A conviction in a criminal action of shoplifting is not a condition precedent to a
25140 civil action authorized under Subsection (4) or (5).
25141 (8) (a) A merchant demanding payment of a penalty under Subsection (4) or (5) shall
25142 give written notice to the person or persons from whom the penalty is sought. The notice shall
25143 state:
25144 "IMPORTANT NOTICE: The payment of any penalty demanded of you does not
25145 prevent criminal prosecution under a related criminal provision."
25146 (b) This notice shall be boldly and conspicuously displayed, in at least the same size
25147 type as is used in the demand, and shall be sent with the demand for payment of the penalty
25148 described in Subsection (4) or (5).
25149 (9) The provision of Section 78B-8-201 requiring that compensatory or general
25150 damages be awarded in order to award punitive damages does not prohibit an award of a
25151 penalty under Subsection (4) or (5) whether or not restitution has been paid to the merchant
25152 either prior to or as part of a civil action.
25153 Section 685. Section **78B-3-109** is enacted to read:
25154 **78B-3-109. Right to life -- State policy -- Act or omission preventing abortion not**
25155 **actionable -- Failure or refusal to prevent birth not a defense.**
25156 (1) The Legislature finds and declares that it is the public policy of this state to
25157 encourage all persons to respect the right to life of all other persons, regardless of age,
25158 development, condition, or dependency, including all persons with a disability and all unborn
25159 persons.
25160 (2) A cause of action may not arise, and damages may not be awarded, on behalf of any
25161 person, based on the claim that but for the act or omission of another, a person would not have
25162 been permitted to have been born alive but would have been aborted.
25163 (3) The failure or refusal of any person to prevent the live birth of a person may not be
25164 a defense in any action, and may not be considered in awarding damages or child support, or
25165 imposing a penalty, in any action.
25166 Section 686. Section **78B-3-110**, which is renumbered from Section 78-11-27 is
25167 renumbered and amended to read:
25168 **[~~78-11-27~~]. 78B-3-110. Defense to civil action for damages resulting from**

25169 **commission of crime.**
25170 [~~(1) Any person who, with criminal intent, enters the property of another or commits a~~
25171 ~~crime against the person or property of another may not recover any damages to his person or~~
25172 ~~property except as required by a court order of restitution in a related criminal action, unless~~
25173 ~~that~~]
25174 (1) A person may not recover from the victim of a crime for personal injury or property
25175 damage if the person:
25176 (a) entered the property of the victim with criminal intent and the injury or damage
25177 occurred while the person was on the victim's property; or
25178 (b) committed a crime against the victim, during which the damage or injury occurred.
25179 (2) The provisions of Subsection (1) do not apply if the person can prove by clear and
25180 convincing evidence that:
25181 (a) his actions did not constitute a felony; and
25182 (b) his culpability was less than the person from whom recovery is sought.
25183 [~~(2) The provisions of Subsection (1) shall~~]
25184 (3) Subsections (1) and (2) apply to any next-of-kin [~~or~~], heirs, or personal
25185 representatives of the person if the person is disabled or killed.
25186 [~~(3)~~] (4) Subsections (1), (2), and [~~(2)~~] (3) do not apply if the person committing or
25187 attempting to commit the crime has clearly retreated from the criminal activity.
25188 [~~(4)~~] (5) "Clearly retreated" means that the person committing the criminal act has
25189 fully, clearly, and immediately ceased all hostile, threatening, violent, or criminal behavior or
25190 activity.
25191 Section 687. Section **78B-3-201**, which is renumbered from Section 78-27-22 is
25192 renumbered and amended to read:
25193 **Part 2. Nonresident Jurisdiction Act**
25194 **[~~78-27-22~~]. 78B-3-201. Title -- Purpose.**
25195 (1) This part is known as the "Nonresident Jurisdiction Act."
25196 (2) It is declared, as a matter of legislative [~~determination~~] policy, that the public
25197 interest demands the state provide its citizens with an effective means of redress against
25198 nonresident persons, who, through certain significant minimal contacts with this state, incur
25199 obligations to citizens entitled to the state's protection. This legislative action is [~~deemed~~]

25200 necessary because of technological progress which has substantially increased the flow of
25201 commerce between the several states resulting in increased interaction between persons of this
25202 state and persons of other states.
25203 (3) The provisions of this [~~act~~] part, to ensure maximum protection to citizens of this
25204 state, should be applied so as to assert jurisdiction over nonresident defendants to the fullest
25205 extent permitted by the due process clause of the Fourteenth Amendment to the United States
25206 Constitution.
25207 Section 688. Section **78B-3-202**, which is renumbered from Section 78-27-23 is
25208 renumbered and amended to read:
25209 **[~~78-27-23~~]. 78B-3-202. Definitions.**
25210 As used in this [~~act~~] part:
25211 (1) The words "any person" mean any individual, firm, company, association, or
25212 corporation.
25213 (2) The words "transaction of business within this state" mean activities of a
25214 nonresident person, his agents, or representatives in this state which affect persons or
25215 businesses within the state [~~of Utah~~].
25216 Section 689. Section **78B-3-203**, which is renumbered from Section 78-27-20 is
25217 renumbered and amended to read:
25218 **[~~78-27-20~~]. 78B-3-203. Sworn certificate of nonresident doing business here.**
25219 [~~Every~~] (1) Any nonresident person, other than insurance organizations, doing business
25220 in this state in one or more places[~~, either in his own name or a common trade name, and said~~
25221 ~~businesses are conducted under the supervision of a manager, superintendent, or agent,~~] shall
25222 file [~~or cause to be filed annually, on or before January 15th,~~] a sworn certificate with the
25223 Division of Corporations and Commercial Code[~~, a certificate under oath setting forth~~].
25224 (2) The certificate shall contain the name [~~of~~] and address of the manager,
25225 superintendent, or agent in this state upon whom service of process may be had in any action
25226 arising out of the conduct of [~~such~~] the business.
25227 Section 690. Section **78B-3-204**, which is renumbered from Section 78-27-21 is
25228 renumbered and amended to read:
25229 **[~~78-27-21~~]. 78B-3-204. Effect of failure to file certificate -- Service of process**
25230 **upon nonresident.**

25231 [~~Whenever any such~~] If a nonresident person doing business as provided in Section
25232 [~~78-27-20 shall fail~~] 78B-3-203 fails to file [~~such~~] a certificate, or [~~such~~] the manager,
25233 superintendent, or agent designated in [~~such~~] the certificate cannot be found within the state [~~of~~
25234 ~~Utah~~], service of process [~~upon such nonresident in any action arising out of the conduct of his~~
25235 ~~business~~] may be made by serving any person employed by or acting as an agent for [~~such~~] the
25236 nonresident.
25237 Section 691. Section **78B-3-205**, which is renumbered from Section 78-27-24 is
25238 renumbered and amended to read:
25239 **[~~78-27-24~~]. 78B-3-205. Acts submitting person to jurisdiction.**
25240 [~~Any person, notwithstanding~~] Notwithstanding Section 16-10a-1501, any person or
25241 personal representative of the person, whether or not a citizen or resident of this state, who, in
25242 person or through an agent, does any of the following enumerated acts[~~, submits himself, and if~~
25243 ~~an individual, his personal representative,~~] is subject to the jurisdiction of the courts of this
25244 state as to any claim arising out of or related to:
25245 (1) the transaction of any business within this state;
25246 (2) contracting to supply services or goods in this state;
25247 (3) the causing of any injury within this state whether tortious or by breach of warranty;
25248 (4) the ownership, use, or possession of any real estate situated in this state;
25249 (5) contracting to insure any person, property, or risk located within this state at the
25250 time of contracting;
25251 (6) with respect to actions of divorce, separate maintenance, or child support, having
25252 resided, in the marital relationship, within this state notwithstanding subsequent departure from
25253 the state; or the commission in this state of the act giving rise to the claim, so long as that act is
25254 not a mere omission, failure to act, or occurrence over which the defendant had no control; or
25255 (7) the commission of sexual intercourse within this state which gives rise to a
25256 paternity suit under Title [~~78~~] 78B, Chapter [~~45a~~] 15, Utah Uniform Parentage Act, to
25257 determine paternity for the purpose of establishing responsibility for child support.
25258 Section 692. Section **78B-3-206**, which is renumbered from Section 78-27-25 is
25259 renumbered and amended to read:
25260 **[~~78-27-25~~]. 78B-3-206. Service of process.**
25261 (1) Service of process on any party outside the state may be made pursuant to the

25262 applicable provisions of Rule 4 of the Utah Rules of Civil Procedure.
25263 (2) Service of summons and of a copy of the complaint, if any, may also be made upon
25264 any person located without this state by any individual over 21 years of age, not a party to the
25265 action, with the same force and effect as though the summons had been personally served
25266 within this state. No order of court is required. An affidavit of the server shall be filed with the
25267 court stating the time, manner and place of service. The court may consider the affidavit, or any
25268 other competent proofs, in determining whether proper service has been made.
25269 (3) Nothing contained in this [~~act~~] section shall be construed to limit or affect the right
25270 to serve process in any other manner provided by law.
25271 Section 693. Section **78B-3-207**, which is renumbered from Section 78-27-26 is
25272 renumbered and amended to read:
25273 **[~~78-27-26~~]. 78B-3-207. Only claims arising from enumerated acts may be**
25274 **asserted.**
25275 Only claims arising from acts enumerated [~~herein~~] in this part may be asserted against a
25276 defendant in an action in which jurisdiction over him is based upon this [~~act~~] part.
25277 Section 694. Section **78B-3-208**, which is renumbered from Section 78-27-27 is
25278 renumbered and amended to read:
25279 **[~~78-27-27~~]. 78B-3-208. Default judgments.**
25280 [~~No~~] (1) A default [~~shall~~] judgement may not be entered until the expiration of at least
25281 [~~thirty~~] 30 days after service.
25282 (2) A default judgment [~~rendered~~] entered on service may be set aside only on a
25283 showing which would be timely and sufficient to set aside a default judgment [~~rendered~~]
25284 entered on personal service within this state.
25285 Section 695. Section **78B-3-209**, which is renumbered from Section 78-27-28 is
25286 renumbered and amended to read:
25287 **[~~78-27-28~~]. 78B-3-209. When exercisable.**
25288 Subject to the applicable statute of limitations, jurisdiction established under this [~~act~~
25289 ~~shall~~] part may be exercised regardless of when the claim arose.
25290 Section 696. Section **78B-3-301**, which is renumbered from Section 78-13-1 is
25291 renumbered and amended to read:
25292 **Part 3. Place of Trial -- Venue**

25293 **[~~78-13-1~~]. 78B-3-301. Actions involving real property.**
25294 (1) Actions for the following causes [~~must~~] involving real property shall be tried in the
25295 county in which the subject of the action, or some part [~~thereof~~], is situated[~~, subject to the~~
25296 ~~power of the court to change the place of trial as provided in this code~~]:
25297 (a) for the recovery of real property, or of an estate or interest [~~therein, or~~] in the
25298 property;
25299 (b) for the determination, in any form, of [~~such~~] the right or interest[~~, and~~] in the
25300 property;
25301 (c) for injuries to real property;
25302 [~~(b)~~] (d) for the partition of real property; and
25303 [~~(c)~~] (e) for the foreclosure of all liens and mortgages on real property.
25304 (2) [~~Where~~] If the real property is situated partly in one county and partly in another,
25305 the plaintiff may select either of the counties, and the county [~~so~~] selected is the proper county
25306 for the trial of [~~such~~] the action.
25307 Section 697. Section **78B-3-302**, which is renumbered from Section 78-13-2 is
25308 renumbered and amended to read:
25309 **[~~78-13-2~~]. 78B-3-302. Actions to recover fines or penalties -- Against public**
25310 **officers.**
25311 (1) Actions [~~for the following causes~~] to recover fines or penalties shall be tried in the
25312 county where the cause, or some part [~~thereof,~~] of the cause, arose[~~, subject to the like power of~~
25313 ~~the court to change the place of trial:~~].
25314 [~~(1) For the recovery of~~] (2) If a fine, penalty, or forfeiture imposed by statute[~~, except~~
25315 ~~that, when it~~] is imposed for an offense committed on a lake, river, or other stream of water
25316 situated in two or more counties, the action may be brought in any county[~~,~~] bordering on
25317 [~~such~~] the lake, river, or stream opposite to the place where the offense was committed.
25318 [~~(2)~~] (3) Except as otherwise [~~specifically~~] provided[~~,~~] by law, an action against a
25319 public officer[~~, or person especially appointed to execute his duties, for an act done by him in~~
25320 ~~virtue of his office, or against a person who by his command or in his aid does anything~~
25321 ~~touching the duties of such officer~~] or the public officer's designee shall be tried in the county
25322 where the cause arose.
25323 Section 698. Section **78B-3-303**, which is renumbered from Section 78-13-3 is

25324 renumbered and amended to read:
25325 **[~~78-13-3~~]. 78B-3-303. Actions against a county.**
25326 (1) An action against a county may be commenced and tried in [~~such~~] the county[~~,~~
25327 ~~unless such~~].
25328 (2) If the action is brought by [~~a~~] another county, [~~in which case it~~] the action may be
25329 commenced and tried in any county not a party [~~thereto~~] to the action.
25330 Section 699. Section **78B-3-304**, which is renumbered from Section 78-13-4 is
25331 renumbered and amended to read:
25332 **[~~78-13-4~~]. 78B-3-304. Actions on written contracts.**
25333 [~~When the defendant has signed a contract in the state to perform an obligation, an~~] An
25334 action on [~~the~~] a contract signed in this state to perform an obligation may be commenced and
25335 tried in the following venues:
25336 (1) If the action is to enforce an interest in real property securing a consumer's
25337 obligation, the action may be brought only in the county where the real property is located or
25338 where the defendant resides.
25339 (2) An action to enforce an interest other than under Subsection (1) may be brought in
25340 the county where [~~such~~] the obligation is to be performed, the contract was signed, or in which
25341 the defendant resides.
25342 Section 700. Section **78B-3-305**, which is renumbered from Section 78-13-5 is
25343 renumbered and amended to read:
25344 **[~~78-13-5~~]. 78B-3-305. Transitory actions -- Residence of corporations.**
25345 (1) All transitory causes of action arising [~~without this~~] outside the state, except those
25346 mentioned in Section [~~78-13-6~~] 78B-3-306, shall, if action is brought [~~thereon~~] in this state, be
25347 brought and tried in the county where any defendant [~~in such action~~] resides[~~; and if~~].
25348 (2) If any such defendant is a corporation, the action may be brought and tried in any
25349 county in which [~~such~~] the corporation has an office or place of business [~~shall be deemed the~~
25350 ~~county in which such corporation resides, within the meaning of this section~~].
25351 Section 701. Section **78B-3-306**, which is renumbered from Section 78-13-6 is
25352 renumbered and amended to read:
25353 **[~~78-13-6~~]. 78B-3-306. Arising without this state in favor of resident.**
25354 All transitory causes of action arising [~~without this~~] outside the state in favor of

25355 residents of this state shall[~~, if action is brought thereon in this state,~~] be brought and tried in
25356 the county where the plaintiff resides, or in the county where the principal defendant resides[~~;~~
25357 ~~or if~~]. If the principal defendant is a corporation, [~~then~~] the action shall be brought in the
25358 county where the plaintiff resides or in the county where [~~such~~] the corporation has an office or
25359 place of business[~~, subject, however, to a change of venue as provided by law~~].
25360 Section 702. Section **78B-3-307**, which is renumbered from Section 78-13-7 is
25361 renumbered and amended to read:
25362 **[~~78-13-7~~]. 78B-3-307. All other actions.**
25363 (1) In all other cases [~~the~~] an action [~~must~~] shall be tried in the county in which:
25364 (a) the cause of action arises[~~,~~]; or [~~in the county in which~~]
25365 (b) any defendant resides at the commencement of the action[~~; provided, that if any~~
25366 ~~such~~].
25367 (2) If the defendant is a corporation, any county in which [~~such~~] the corporation has its
25368 principal office or a place of business shall be [~~deemed~~] considered the county in which [~~such~~]
25369 the corporation resides [~~within the meaning of this section~~].
25370 (3) If none of the defendants resides in this state, [~~such~~] the action may be commenced
25371 and tried in any county [~~which~~] designated by the plaintiff [~~may designate~~] in [~~his~~] the
25372 complaint[~~; and if~~].
25373 (4) If the defendant is about to depart from the state, [~~such~~] the action may be tried in
25374 any county where any of the parties resides or service is had[~~, subject, however, to the power of~~
25375 ~~the court to change the place of trial as provided by law~~].
25376 Section 703. Section **78B-3-308**, which is renumbered from Section 78-13-8 is
25377 renumbered and amended to read:
25378 **[~~78-13-8~~]. 78B-3-308. Change of venue -- Conditions precedent.**
25379 If the county in which the action is commenced is not the proper county for the trial
25380 [~~thereof~~], the action may nevertheless be tried [~~therein~~] in the county in which it is filed, unless
25381 the defendant, at the time [~~he answers or otherwise appears~~] the answer is filed or an
25382 appearance is made, files a written motion[~~, in writing, that~~] requesting the trial be [~~had in~~]
25383 moved to the proper county.
25384 Section 704. Section **78B-3-309**, which is renumbered from Section 78-13-9 is
25385 renumbered and amended to read:

25386 **[~~78-13-9~~]. 78B-3-309. Grounds.**
25387 The court may, on motion, change the place of trial in the following cases:
25388 (1) when the county designated in the complaint is not the proper county;
25389 (2) when there is reason to believe that an impartial trial cannot be had in the county,
25390 city, or precinct designated in the complaint;
25391 (3) when the convenience of witnesses and the ends of justice would be promoted by
25392 the change;
25393 (4) when all the parties to an action, by stipulation or by consent in open court entered
25394 in the minutes, agree that the place of trial may be changed to another county.
25395 Section 705. Section **78B-3-310**, which is renumbered from Section 78-13-10 is
25396 renumbered and amended to read:
25397 **[~~78-13-10~~]. 78B-3-310. Court to which transfer is to be made.**
25398 [~~If any~~] An action or proceeding which is [~~commenced or is pending in a court and~~]
25399 transferred by order of the court [~~orders the place of trial to be changed, it must~~] shall be
25400 transferred [~~for trial~~] to a court agreed upon by the parties [~~may agree upon by stipulation in~~
25401 ~~writing or made in open court and entered in the minutes, or if they~~]. If the parties do not [~~so~~]
25402 agree, [~~then~~] the action shall be transferred to the nearest court where [~~like~~] the objection or
25403 [~~cause~~] reason for [~~making the order~~] transfer does not exist.
25404 Section 706. Section **78B-3-311**, which is renumbered from Section 78-13-11 is
25405 renumbered and amended to read:
25406 **[~~78-13-11~~]. 78B-3-311. Duty of clerk -- Fees and costs -- Effect on jurisdiction.**
25407 (1) When an order is made transferring an action or proceeding for trial, the court
25408 [~~must~~] shall transmit [~~the~~] all pleadings and papers [~~therein~~] regarding the transferred action to
25409 the court to which it is transferred. [~~The~~]
25410 (2) All costs and fees [~~therefor~~] for the transfer and filing the papers anew [~~must~~] shall
25411 be paid by the party at whose instance the order was made[~~; provided, that when such~~].
25412 (3) Notwithstanding Subsection (2), if the order is made [~~for the reason that~~] because
25413 the [~~cause~~] action was commenced in the wrong county, the costs of transfer and filing the
25414 papers anew shall be paid by the plaintiff in the action within ten days after the [~~making of~~
25415 ~~such~~] issuance of the order, or [~~said cause~~] the action shall be dismissed for [~~want~~] lack of
25416 jurisdiction.

25417 (4) The court to which an action or proceeding is transferred shall have and exercise
25418 the same jurisdiction as if [~~it~~] the action had been originally commenced [~~therein~~] there.
25419 Section 707. Section **78B-3-401**, which is renumbered from Section 78-14-1 is
25420 renumbered and amended to read:
25421 **Part 4. Utah Health Care Malpractice Act**
25422 **[~~78-14-1~~]. 78B-3-401. Title.**
25423 This [~~act~~] part shall be known and may be cited as the "Utah Health Care Malpractice
25424 Act."
25425 Section 708. Section **78B-3-402**, which is renumbered from Section 78-14-2 is
25426 renumbered and amended to read:
25427 **[~~78-14-2~~]. 78B-3-402. Legislative findings and declarations -- Purpose of act.**
25428 (1) The Legislature finds and declares that the number of suits and claims for damages
25429 and the amount of judgments and settlements arising from health care has increased greatly in
25430 recent years. Because of these increases the insurance industry has substantially increased the
25431 cost of medical malpractice insurance. The effect of increased insurance premiums and
25432 increased claims is increased health care cost, both through the health care providers passing
25433 the cost of premiums to the patient and through the provider's practicing defensive medicine
25434 because he views a patient as a potential adversary in a lawsuit. Further, certain health care
25435 providers are discouraged from continuing to provide services because of the high cost and
25436 possible unavailability of malpractice insurance.
25437 (2) In view of these recent trends and with the intention of alleviating the adverse
25438 effects which these trends are producing in the public's health care system, it is necessary to
25439 protect the public interest by enacting measures designed to encourage private insurance
25440 companies to continue to provide health-related malpractice insurance while at the same time
25441 establishing a mechanism to ensure the availability of insurance in the event that it becomes
25442 unavailable from private companies.
25443 (3) In enacting this act, it is the purpose of the Legislature to provide a reasonable time
25444 in which actions may be commenced against health care providers while limiting that time to a
25445 specific period for which professional liability insurance premiums can be reasonably and
25446 accurately calculated; and to provide other procedural changes to expedite early evaluation and
25447 settlement of claims.

25448 Section 709. Section **78B-3-403**, which is renumbered from Section 78-14-3 is
25449 renumbered and amended to read:
25450 **[~~78-14-3~~]. 78B-3-403. Definitions.**
25451 As used in this [~~chapter~~] part:
25452 (1) "Audiologist" means a person licensed to practice audiology under Title 58,
25453 Chapter 41, Speech-language Pathology and Audiology Licensing Act.
25454 (2) "Certified social worker" means a person licensed to practice as a certified social
25455 worker under Section 58-60-205.
25456 (3) "Chiropractic physician" means a person licensed to practice chiropractic under
25457 Title 58, Chapter 73, Chiropractic Physician Practice Act.
25458 (4) "Clinical social worker" means a person licensed to practice as a clinical social
25459 worker under Section 58-60-205.
25460 (5) "Commissioner" means the commissioner of insurance as provided in Section
25461 31A-2-102.
25462 (6) "Dental hygienist" means a person licensed to practice dental hygiene as defined in
25463 Section 58-69-102.
25464 (7) "Dentist" means a person licensed to practice dentistry as defined in Section
25465 58-69-102.
25466 (8) "Division" means the Division of Occupational and Professional Licensing created
25467 in Section 58-1-103.
25468 (9) "Future damages" includes a judgment creditor's damages for future medical
25469 treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and
25470 suffering [~~of the judgment creditor~~].
25471 (10) "Health care" means any act or treatment performed or furnished, or which should
25472 have been performed or furnished, by any health care provider for, to, or on behalf of a patient
25473 during the patient's medical care, treatment, or confinement.
25474 (11) "Health care facility" means general acute hospitals, specialty hospitals, home
25475 health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers,
25476 ambulatory surgical facilities, small health care facilities, health care facilities owned or
25477 operated by health maintenance organizations, and end stage renal disease facilities.
25478 (12) "Health care provider" includes any person, partnership, association, corporation,

25479 or other facility or institution who causes to be rendered or who renders health care or
25480 professional services as a hospital, health care facility, physician, registered nurse, licensed
25481 practical nurse, nurse-midwife, licensed Direct-entry midwife, dentist, dental hygienist,
25482 optometrist, clinical laboratory technologist, pharmacist, physical therapist, podiatric
25483 physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician,
25484 osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical social
25485 worker, certified social worker, social service worker, marriage and family counselor,
25486 practitioner of obstetrics, or others rendering similar care and services relating to or arising out
25487 of the health needs of persons or groups of persons and officers, employees, or agents of any of
25488 the above acting in the course and scope of their employment.
25489 (13) "Hospital" means a public or private institution licensed under Title 26, Chapter
25490 21, Health Care Facility Licensing and Inspection Act.
25491 (14) "Licensed Direct-entry midwife" means a person licensed under the Direct-entry
25492 Midwife Act to practice midwifery as defined in Section 58-77-102.
25493 (15) "Licensed practical nurse" means a person licensed to practice as a licensed
25494 practical nurse as provided in Section 58-31b-301.
25495 (16) "Malpractice action against a health care provider" means any action against a
25496 health care provider, whether in contract, tort, breach of warranty, wrongful death, or
25497 otherwise, based upon alleged personal injuries relating to or arising out of health care rendered
25498 or which should have been rendered by the health care provider.
25499 (17) "Marriage and family therapist" means a person licensed to practice as a marriage
25500 therapist or family therapist under Sections 58-60-305 and 58-60-405.
25501 (18) "Naturopathic physician" means a person licensed to practice naturopathy as
25502 defined in Section 58-71-102.
25503 (19) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife
25504 under Section 58-44a-301.
25505 (20) "Optometrist" means a person licensed to practice optometry under Title 58,
25506 Chapter 16a, Utah Optometry Practice Act.
25507 (21) "Osteopathic physician" means a person licensed to practice osteopathy under
25508 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.
25509 (22) "Patient" means a person who is under the care of a health care provider, under a

25510 contract, express or implied.
25511 (23) "Periodic payments" means the payment of money or delivery of other property to
25512 a judgment creditor at intervals ordered by the court.
25513 [~~(23)~~] (24) "Pharmacist" means a person licensed to practice pharmacy as provided in
25514 Section 58-17b-301.
25515 [~~(24)~~] (25) "Physical therapist" means a person licensed to practice physical therapy
25516 under Title 58, Chapter 24a, Physical Therapist Practice Act.
25517 [~~(25)~~] (26) "Physician" means a person licensed to practice medicine and surgery under
25518 Title 58, Chapter 67, Utah Medical Practice Act.
25519 [~~(26)~~] (27) "Podiatric physician" means a person licensed to practice podiatry under
25520 Title 58, Chapter 5a, Podiatric Physician Licensing Act.
25521 [~~(27)~~] (28) "Practitioner of obstetrics" means a person licensed to practice as a
25522 physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58,
25523 Chapter 68, Utah Osteopathic Medical Practice Act.
25524 [~~(28)~~] (29) "Psychologist" means a person licensed under Title 58, Chapter 61,
25525 Psychologist Licensing Act, to practice psychology as defined in Section 58-61-102.
25526 [~~(29)~~] (30) "Registered nurse" means a person licensed to practice professional nursing
25527 as provided in Section 58-31b-301.
25528 [~~(30)~~] (31) "Relative" means a patient's spouse, parent, grandparent, stepfather,
25529 stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The
25530 term includes relationships that are created as a result of adoption.
25531 [~~(31)~~] (32) "Representative" means the spouse, parent, guardian, trustee,
25532 attorney-in-fact, person designated to make decisions on behalf of a patient under a medical
25533 power of attorney, or other legal agent of the patient.
25534 [~~(32)~~] (33) "Social service worker" means a person licensed to practice as a social
25535 service worker under Section 58-60-205.
25536 [~~(33)~~] (34) "Speech-language pathologist" means a person licensed to practice
25537 speech-language pathology under Title 58, Chapter 41, Speech-language Pathology and
25538 Audiology Licensing Act.
25539 [~~(34)~~] (35) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act
25540 or omission proximately causing injury or damage to another.

25541 [~~(35)~~] (36) "Unanticipated outcome" means the outcome of a medical treatment or
25542 procedure that differs from an expected result.
25543 Section 710. Section **78B-3-404**, which is renumbered from Section 78-14-4 is
25544 renumbered and amended to read:
25545 **[~~78-14-4~~]. 78B-3-404. Statute of limitations -- Exceptions -- Application.**
25546 (1) [~~No~~] A malpractice action against a health care provider [~~may~~] shall be [~~brought~~
25547 ~~unless it is~~] commenced within two years after the plaintiff or patient discovers, or through the
25548 use of reasonable diligence should have discovered the injury, whichever first occurs, but not to
25549 exceed four years after the date of the alleged act, omission, neglect, or occurrence[~~, except~~
25550 ~~that:~~].
25551 (2) Notwithstanding Subsection (1):
25552 (a) in an action where the allegation against the health care provider is that a foreign
25553 object has been wrongfully left within a patient's body, the claim shall be barred unless
25554 commenced within one year after the plaintiff or patient discovers, or through the use of
25555 reasonable diligence should have discovered, the existence of the foreign object wrongfully left
25556 in the patient's body, whichever first occurs; [~~and~~] or
25557 (b) in an action where it is alleged that a patient has been prevented from discovering
25558 misconduct on the part of a health care provider because that health care provider has
25559 affirmatively acted to fraudulently conceal the alleged misconduct, the claim shall be barred
25560 unless commenced within one year after the plaintiff or patient discovers, or through the use of
25561 reasonable diligence, should have discovered the fraudulent concealment, whichever first
25562 occurs.
25563 [~~(2)~~] (3) The [~~provisions of~~] limitations in this section shall apply to all persons,
25564 regardless of minority or other legal disability under Section [~~78-12-36~~] 78B-2-108 or any
25565 other provision of the law[~~, and shall apply retroactively to all persons, partnerships,~~
25566 ~~associations and corporations and to all health care providers and to all malpractice actions~~
25567 ~~against health care providers based upon alleged personal injuries which occurred prior to the~~
25568 ~~effective date of this act; provided, however, that any action which under former law could~~
25569 ~~have been commenced after the effective date of this act may be commenced only within the~~
25570 ~~unelapsed portion of time allowed under former law; but any action which under former law~~
25571 ~~could have been commenced more than four years after the effective date of this act may be~~

25572 ~~commenced only within four years after the effective date of this act~~].
25573 Section 711. Section **78B-3-405**, which is renumbered from Section 78-14-4.5 is
25574 renumbered and amended to read:
25575 **[~~78-14-4.5~~]. 78B-3-405. Amount of award reduced by amounts of collateral**
25576 **sources available to plaintiff -- No reduction where subrogation right exists -- Collateral**
25577 **sources defined -- Procedure to preserve subrogation rights -- Evidence admissible --**
25578 **Exceptions.**
25579 (1) In all malpractice actions against health care providers as defined in Section
25580 [~~78-14-3~~] 78B-3-403 in which damages are awarded to compensate the plaintiff for losses
25581 sustained, the court shall reduce the amount of [~~such~~] the award by the total of all amounts paid
25582 to the plaintiff from all collateral sources which are available to him[~~; however, there shall be~~
25583 ~~no~~]. No reduction may be made for collateral sources for which a subrogation right exists as
25584 provided in this section nor shall there be a reduction for any collateral payment not included in
25585 the award of damages.
25586 (2) Upon a finding of liability and an awarding of damages by the trier of fact, the court
25587 shall receive evidence concerning the total amounts of collateral sources which have been paid
25588 to or for the benefit of the plaintiff or are otherwise available to him. The court shall also take
25589 testimony of any amount which has been paid, contributed, or forfeited by, or on behalf of the
25590 plaintiff or members of his immediate family to secure his right to any collateral source benefit
25591 which he is receiving as a result of his injury, and shall offset any reduction in the award by
25592 [~~such~~] those amounts. [~~No evidence shall~~] Evidence may not be received and [~~no~~] a reduction
25593 may not be made with respect to future collateral source benefits except as specified in
25594 Subsection [~~(4)~~] (5).
25595 [~~(2)~~] (3) For purposes of this section "collateral source" means payments made to or for
25596 the benefit of the plaintiff for:
25597 (a) medical expenses and disability payments payable under the United States Social
25598 Security Act, any federal, state, or local income disability act, or any other public program,
25599 except the federal programs which are required by law to seek subrogation;
25600 (b) any health, sickness, or income replacement insurance, automobile accident
25601 insurance that provides health benefits or income replacement coverage, and any other similar
25602 insurance benefits, except life insurance benefits available to the plaintiff, whether purchased

25603 by the plaintiff or provided by others;
25604 (c) any contract or agreement of any person, group, organization, partnership, or
25605 corporation to provide, pay for, or reimburse the costs of hospital, medical, dental, or other
25606 health care services, except benefits received as gifts, contributions, or assistance made
25607 gratuitously; and
25608 (d) any contractual or voluntary wage continuation plan provided by employers or any
25609 other system intended to provide wages during a period of disability.
25610 [~~(3)~~] (4) To preserve subrogation rights for amounts paid or received prior to
25611 settlement or judgment, a provider of collateral sources shall [~~serve~~], at least 30 days before
25612 settlement or trial of the action, serve a written notice upon each health care provider against
25613 whom the malpractice action has been asserted. The written notice shall state:
25614 (a) the name and address of the provider of collateral sources[~~,~~];
25615 (b) the amount of collateral sources paid[~~,~~];
25616 (c) the names and addresses of all persons who received payment[~~,~~]; and
25617 (d) the items and purposes for which payment has been made.
25618 [~~(4)~~] (5) Evidence is admissible of government programs that provide payments or
25619 benefits available in the future to or for the benefit of the plaintiff to the extent available
25620 irrespective of the recipient's ability to pay. Evidence of the likelihood or unlikelihood that
25621 [~~such~~] the programs, payments, or benefits will be available in the future is also admissible.
25622 The trier of fact may consider [~~such~~] the evidence in determining the amount of damages
25623 awarded to a plaintiff for future expenses.
25624 [~~(5)~~] (6) A provider of collateral sources is not entitled to recover [~~the amounts of such~~]
25625 any amount of benefits from a health care provider, the plaintiff, or any other person or entity
25626 as reimbursement for collateral source payments made prior to settlement or judgment,
25627 including any payments made under Title 26, Chapter 19, Medical Benefits Recovery Act,
25628 except to the extent that subrogation rights to amounts paid prior to settlement or judgment are
25629 preserved as provided in this section.
25630 (7) All policies of insurance providing benefits affected by this section are construed in
25631 accordance with this section.
25632 Section 712. Section **78B-3-406**, which is renumbered from Section 78-14-5 is
25633 renumbered and amended to read:

25634 **[~~78-14-5~~]. 78B-3-406. Failure to obtain informed consent -- Proof required of**
25635 **patient -- Defenses -- Consent to health care.**
25636 (1) When a person submits to health care rendered by a health care provider, it [~~shall~~
25637 ~~be~~] is presumed that [~~what~~] actions taken by the health care provider [~~did was~~] are either
25638 expressly or impliedly authorized to be done. For a patient to recover damages from a health
25639 care provider in an action based upon the provider's failure to obtain informed consent, the
25640 patient must prove the following:
25641 (a) that a provider-patient relationship existed between the patient and health care
25642 provider;
25643 (b) the health care provider rendered health care to the patient;
25644 (c) the patient suffered personal injuries arising out of the health care rendered;
25645 (d) the health care rendered carried with it a substantial and significant risk of causing
25646 the patient serious harm;
25647 (e) the patient was not informed of the substantial and significant risk;
25648 (f) a reasonable, prudent person in the patient's position would not have consented to
25649 the health care rendered after having been fully informed as to all facts relevant to the decision
25650 to give consent[~~. In determining what a reasonable, prudent person in the patient's position~~
25651 ~~would do under the circumstances, the finder of fact shall use the viewpoint of the patient~~
25652 ~~before health care was provided and before the occurrence of any personal injuries alleged to~~
25653 ~~have arisen from said health care~~]; and
25654 (g) the unauthorized part of the health care rendered was the proximate cause of
25655 personal injuries suffered by the patient.
25656 (2) In determining what a reasonable, prudent person in the patient's position would do
25657 under the circumstances, the finder of fact shall use the viewpoint of the patient before health
25658 care was provided and before the occurrence of any personal injuries alleged to have arisen
25659 from said health care.
25660 [~~(2)~~] (3) It shall be a defense to any malpractice action against a health care provider
25661 based upon alleged failure to obtain informed consent if:
25662 (a) the risk of the serious harm which the patient actually suffered was relatively
25663 minor;
25664 (b) the risk of serious harm to the patient from the health care provider was commonly

25665 known to the public;
25666 (c) the patient stated, prior to receiving the health care complained of, that he would
25667 accept the health care involved regardless of the risk; or that he did not want to be informed of
25668 the matters to which he would be entitled to be informed;
25669 (d) the health care provider, after considering all of the attendant facts and
25670 circumstances, used reasonable discretion as to the manner and extent to which risks were
25671 disclosed, if the health care provider reasonably believed that additional disclosures could be
25672 expected to have a substantial and adverse effect on the patient's condition; or
25673 (e) the patient or his representative executed a written consent which sets forth the
25674 nature and purpose of the intended health care and which contains a declaration that the patient
25675 accepts the risk of substantial and serious harm, if any, in hopes of obtaining desired beneficial
25676 results of health care and which acknowledges that health care providers involved have
25677 explained his condition and the proposed health care in a satisfactory manner and that all
25678 questions asked about the health care and its attendant risks have been answered in a manner
25679 satisfactory to the patient or his representative[~~; such~~].
25680 (4) The written consent shall be a defense to an action against a health care provider
25681 based upon failure to obtain informed consent unless the patient proves that the person giving
25682 the consent lacked capacity to consent or shows by clear and convincing [~~proof~~] evidence that
25683 the execution of the written consent was induced by the defendant's affirmative acts of
25684 fraudulent misrepresentation or fraudulent omission to state material facts.
25685 [~~(3) Nothing contained in this~~]
25686 (5) This act [~~shall~~] may not be construed to prevent any person 18 years of age or over
25687 from refusing to consent to health care for his own person upon personal or religious grounds.
25688 [~~(4)~~] (6) Except as provided in Section 76-7-304.5, the following persons are
25689 authorized and empowered to consent to any health care not prohibited by law:
25690 (a) any parent, whether an adult or a minor, for the parent's minor child;
25691 (b) any married person, for a spouse;
25692 (c) any person temporarily standing in loco parentis, whether formally serving or not,
25693 for the minor under that person's care and any guardian for the guardian's ward;
25694 (d) any person 18 years of age or over for that person's parent who is unable by reason
25695 of age, physical or mental condition, to provide such consent;

25696 (e) any patient 18 years of age or over;
25697 (f) any female regardless of age or marital status, when given in connection with her
25698 pregnancy or childbirth;
25699 (g) in the absence of a parent, any adult for the adult's minor brother or sister; and
25700 (h) in the absence of a parent, any grandparent for the grandparent's minor grandchild.
25701 [~~(5) No~~] (7) A person who in good faith consents or authorizes health care treatment
25702 or procedures for another as provided by this act [~~shall~~] may not be subject to civil liability.
25703 Section 713. Section **78B-3-407**, which is renumbered from Section 78-14-5.5 is
25704 renumbered and amended to read:
25705 **[~~78-14-5.5~~]. 78B-3-407. Limitation on actions against health care providers**
25706 **when parent or guardian refuses to consent to health care of child.**
25707 (1) A malpractice action against a health care provider may not be brought on the basis
25708 of the consequences resulting from the refusal of a child's parent or guardian to consent to the
25709 child's health care, if:
25710 (a) the health care is recommended by the health care provider;
25711 (b) the parent or guardian is provided with sufficient information to make an informed
25712 decision regarding the recommendation of the health care provider; and
25713 (c) the consent of the parent or guardian is required by law before the health care may
25714 be administered.
25715 (2) The sole purpose of this section is to prohibit a malpractice action against a health
25716 care provider under the circumstances set forth by this section. This section may not be
25717 construed to:
25718 (a) create a new cause of action;
25719 (b) expand an existing cause of action;
25720 (c) impose a new duty on a health care provider; or
25721 (d) expand an existing duty of a health care provider.
25722 Section 714. Section **78B-3-408**, which is renumbered from Section 78-14-6 is
25723 renumbered and amended to read:
25724 **[~~78-14-6~~]. 78B-3-408. Writing required as basis for liability for breach of**
25725 **guarantee, warranty, contract, or assurance of result.**
25726 [~~No liability shall~~] Liability may not be imposed upon any health care provider on the

25727 basis of an alleged breach of guarantee, warranty, contract, or assurance of result to be obtained
25728 from any health care rendered unless the guarantee, warranty, contract, or assurance is set forth
25729 in writing and signed by the health care provider or an authorized agent of the provider.
25730 Section 715. Section **78B-3-409**, which is renumbered from Section 78-14-7 is
25731 renumbered and amended to read:
25732 **[~~78-14-7~~]. 78B-3-409. Ad damnum clause prohibited in complaint.**
25733 [~~No~~] A dollar amount [~~shall~~] may not be specified in the prayer of a complaint filed in a
25734 malpractice action against a health care provider. The complaint shall merely pray for such
25735 damages as are reasonable in the [~~premises~~] circumstances.
25736 Section 716. Section **78B-3-410**, which is renumbered from Section 78-14-7.1 is
25737 renumbered and amended to read:
25738 **[~~78-14-7.1~~]. 78B-3-410. Limitation of award of noneconomic damages in**
25739 **malpractice actions.**
25740 (1) In a malpractice action against a health care provider, an injured plaintiff may
25741 recover noneconomic losses to compensate for pain, suffering, and inconvenience. The amount
25742 of damages awarded for noneconomic loss may not exceed:
25743 (a) for a cause of action arising before July 1, 2001, $250,000;
25744 (b) for a cause of action arising on or after July 1, 2001 and before July 1, 2002, the
25745 limitation is adjusted for inflation to $400,000; and
25746 (c) for a cause of action arising on or after July 1, 2002, the $400,000 limitation
25747 described in Subsection (1)(b) shall be adjusted for inflation as provided in Subsection (2).
25748 (2) (a) Beginning July 1, 2002 and each July 1 thereafter, the limit for damages under
25749 Subsection (1)(c) shall be adjusted for inflation by the state treasurer.
25750 (b) By July 15 of each year, the state treasurer shall:
25751 (i) certify the inflation-adjusted limit calculated under this Subsection (2); and
25752 (ii) inform the Administrative Office of the Courts of the certified limit.
25753 (c) The amount resulting from Subsection (2)(a) shall:
25754 (i) be rounded to the nearest $10,000; and
25755 (ii) apply to a cause of action arising on or after the date the annual adjustment is made.
25756 (3) As used in this section, "inflation" means the seasonally adjusted consumer price
25757 index for all urban consumers as published by the Bureau of Labor Statistics of the United

25758 States Department of Labor.
25759 (4) The limit under Subsection (1) does not apply to awards of punitive damages.
25760 Section 717. Section **78B-3-411**, which is renumbered from Section 78-14-7.5 is
25761 renumbered and amended to read:
25762 **[~~78-14-7.5~~]. 78B-3-411. Limitation on attorney's contingency fee in malpractice**
25763 **action.**
25764 (1) In any malpractice action against a health care provider as defined in Section
25765 [~~78-14-3~~] 78B-3-403, an attorney [~~shall~~] may not collect a contingent fee for representing a
25766 client seeking damages in connection with or arising out of personal injury or wrongful death
25767 caused by the negligence of another which exceeds 33-1/3% of the amount recovered.
25768 (2) This limitation applies regardless of whether the recovery is by settlement,
25769 arbitration, judgment, or whether appeal is involved.
25770 Section 718. Section **78B-3-412**, which is renumbered from Section 78-14-8 is
25771 renumbered and amended to read:
25772 **[~~78-14-8~~]. 78B-3-412. Notice of intent to commence action.**
25773 [~~No~~] (1) A malpractice action against a health care provider may not be initiated unless
25774 and until the plaintiff gives the prospective defendant or his executor or successor, at least
25775 [~~ninety~~] 90 days' prior notice of intent to commence an action. [~~Such~~]
25776 (2) The notice shall include:
25777 (a) a general statement of the nature of the claim[~~,~~];
25778 (b) the persons involved[~~,~~];
25779 (c) the date, time, and place of the occurrence[~~,~~];
25780 (d) the circumstances [~~thereof,~~] surrounding the claim;
25781 (e) specific allegations of misconduct on the part of the prospective defendant[~~,~~]; and
25782 (f) the nature of the alleged injuries and other damages sustained.
25783 (3) Notice may be in letter or affidavit form executed by the plaintiff or his attorney.
25784 Service shall be accomplished by persons authorized and in the manner prescribed by the Utah
25785 Rules of Civil Procedure for the service of the summons and complaint in a civil action or by
25786 certified mail, return receipt requested, in which case notice shall be [~~deemed to have been~~]
25787 considered served on the date of mailing. [~~Such notice~~]
25788 (4) Notice shall be served within the time allowed for commencing a malpractice

25789 action against a health care provider. If the notice is served less than ninety days prior to the
25790 expiration of the applicable time period, the time for commencing the malpractice action
25791 against the health care provider shall be extended to 120 days from the date of service of
25792 notice.
25793 (5) This section shall, for purposes of determining its retroactivity, not be construed as
25794 relating to the limitation on the time for commencing any action, and shall apply only to causes
25795 of action arising on or after April 1, 1976. This section shall not apply to third party actions,
25796 counterclaims or crossclaims against a health care provider.
25797 Section 719. Section **78B-3-413**, which is renumbered from Section 78-14-9 is
25798 renumbered and amended to read:
25799 **[~~78-14-9~~]. 78B-3-413. Professional liability insurance coverage for providers --**
25800 **Insurance commissioner may require joint underwriting authority.**
25801 [~~If the~~] (1) The commissioner [~~finds~~] may, after a public hearing, find that [~~in any part~~
25802 ~~of this state any~~] professional liability insurance coverage for health care providers is not
25803 readily available in the voluntary market in a specific part of this state, and that the public
25804 interest requires[~~, he~~] the action be taken.
25805 (2) The commissioner may [~~by regulation~~] promulgate rules and implement plans to
25806 provide insurance coverage through all insurers issuing professional liability policies and
25807 individual and group accident and sickness policies providing medical, surgical or hospital
25808 expense coverage on either a prepaid or an expense incurred basis, including personal injury
25809 protection and medical expense coverage issued incidental to liability insurance policies.
25810 Section 720. Section **78B-3-414**, which is renumbered from Section 78-14-9.5 is
25811 renumbered and amended to read:
25812 **[~~78-14-9.5~~]. 78B-3-414. Periodic payment of future damages in malpractice**
25813 **actions.**
25814 [~~(1) As used in this section:~~]
25815 [~~(a) "Future damages" means a judgment creditor's damages for future medical~~
25816 ~~treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and~~
25817 ~~suffering.~~]
25818 [~~(b) "Periodic payments" means the payment of money or delivery of other property to~~
25819 ~~the judgment creditor at such intervals as ordered by the court.~~]

25820 [~~(2)~~] (1) In any malpractice action against a health care provider, as defined in Section
25821 [~~78-14-3~~] 78B-3-403, the court shall, at the request of any party, order that future damages
25822 which equal or exceed $100,000, less amounts payable for [~~attorney's~~] attorney fees and other
25823 costs which are due at the time of judgment, shall be paid by periodic payments rather than by a
25824 lump sum payment.
25825 [~~(3)~~] (2) In rendering a judgment which orders the payment of future damages by
25826 periodic payments, the court shall order periodic payments to provide a fair correlation between
25827 the sustaining of losses and the payment of damages.
25828 (a) Lost future earnings shall be paid over the judgment creditor's work life expectancy.
25829 (b) The court shall also order, when appropriate, that periodic payments increase at a
25830 fixed rate, equal to the rate of inflation which the finder of fact used to determine the amount of
25831 future damages, or as measured by the most recent Consumer Price Index applicable to Utah
25832 for all goods and services.
25833 (c) The present cash value of all periodic payments shall equal the fact finder's award
25834 of future damages, less any amount paid for [~~attorney's~~] attorney fees and costs.
25835 (d) The present cash value of periodic payments shall be determined by discounting the
25836 total amount of periodic payments projected over the judgment creditor's life expectancy, by
25837 the rate of interest which the finder of fact used to reduce the amount of future damages to
25838 present value, or the rate of interest available at the time of trial on one year U.S. Government
25839 Treasury Bills.
25840 (3) Before periodic payments of future damages may be ordered, the court shall require
25841 a judgment debtor to post security which assures full payment of those damages. Security for
25842 payment of a judgment of periodic payments may be in one or more of the following forms:
25843 (a) a bond executed by a qualified insurer;
25844 (b) an annuity contract executed by a qualified insurer;
25845 (c) evidence of applicable and collectable liability insurance with one or more qualified
25846 insurers;
25847 (d) an agreement by one or more qualified insurers to guarantee payment of the
25848 judgment; or
25849 (e) any other form of security approved by the court.
25850 (4) Security which complies with this section may also serve as a supersedeas bond,

25851 where one is required.
25852 (5) A judgment which orders payment of future damages by periodic payments shall
25853 specify the recipient or recipients of the payments, the dollar amount of the payments, the
25854 interval between payments, and the number of payments or the period of time over which
25855 payments shall be made. Those payments may only be modified in the event of the death of the
25856 judgment creditor.
25857 (6) If the court finds that the judgment debtor, or the assignee of his obligation to make
25858 periodic payments, has failed to make periodic payments as ordered by the court, it shall, in
25859 addition to the required periodic payments, order the judgment debtor or his assignee to pay the
25860 judgment creditor all damages caused by the failure to make payments, including court costs
25861 and [~~attorney's~~] attorney fees.
25862 (7) The obligation to make periodic payments for all future damages, other than
25863 damages for loss of future earnings, shall cease upon the death of the judgment creditor.
25864 Damages awarded for loss of future earnings [~~shall~~] may not be reduced or payments
25865 terminated by reason of the death of the judgment creditor, but shall be paid to persons to
25866 whom the judgment creditor owed a duty of support, as provided by law, immediately prior to
25867 his death. In that case the court which rendered the original judgment may, upon petition of
25868 any party in interest, modify the judgment to award and apportion the unpaid future damages in
25869 accordance with this section.
25870 (8) If security is posted in accordance with Subsection (3), and approved by a final
25871 judgment entered under this section, the judgment is considered to be satisfied, and the
25872 judgment debtor on whose behalf the security is posted shall be discharged.
25873 Section 721. Section **78B-3-415**, which is renumbered from Section 78-14-10 is
25874 renumbered and amended to read:
25875 **[~~78-14-10~~]. 78B-3-415. Actions under Utah Governmental Immunity Act.**
25876 The provisions of this [~~act~~] part shall apply to malpractice actions against health care
25877 providers which are brought under the Utah Governmental Immunity Act [~~insofar as they are~~]
25878 if applicable[~~; provided, however, that this act shall in no way~~]. This part may not affect the
25879 requirements for filing notices of claims, times for commencing actions and limitations on
25880 amounts recoverable under the Utah Governmental Immunity Act.
25881 Section 722. Section **78B-3-416**, which is renumbered from Section 78-14-12 is

25882 renumbered and amended to read:
25883 **[~~78-14-12~~]. 78B-3-416. Division to provide panel -- Exemption -- Procedures --**
25884 **Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to**
25885 **set license fees.**
25886 (1) (a) The division shall provide a hearing panel in alleged medical liability cases
25887 against health care providers as defined in Section [~~78-14-3~~] 78B-3-403, except dentists.
25888 (b) (i) The division shall establish procedures for prelitigation consideration of medical
25889 liability claims for damages arising out of the provision of or alleged failure to provide health
25890 care.
25891 (ii) The division may establish rules necessary to administer the process and
25892 procedures related to prelitigation hearings and the conduct of prelitigation hearings in
25893 accordance with Sections [~~78-14-12~~] 78B-3-416 through [~~78-14-16~~] 78B-3-420.
25894 (c) The proceedings are informal, nonbinding, and are not subject to Title 63, Chapter
25895 46b, Administrative Procedures Act, but are compulsory as a condition precedent to
25896 commencing litigation.
25897 (d) Proceedings conducted under authority of this section are confidential, privileged,
25898 and immune from civil process.
25899 (2) (a) The party initiating a medical liability action shall file a request for prelitigation
25900 panel review with the division within 60 days after the service of a statutory notice of intent to
25901 commence action under Section [~~78-14-8~~] 78B-3-412.
25902 (b) The request shall include a copy of the notice of intent to commence action. The
25903 request shall be mailed to all health care providers named in the notice and request.
25904 (3) (a) The filing of a request for prelitigation panel review under this section tolls the
25905 applicable statute of limitations until the earlier of 60 days following the division's issuance of
25906 an opinion by the prelitigation panel, or 60 days following the termination of jurisdiction by the
25907 division as provided in this subsection. The division shall send any opinion issued by the panel
25908 to all parties by regular mail.
25909 (b) (i) The division shall complete a prelitigation hearing under this section within 180
25910 days after the filing of the request for prelitigation panel review, or within any longer period as
25911 agreed upon in writing by all parties to the review.
25912 (ii) If the prelitigation hearing has not been completed within the time limits

25913 established in Subsection (3)(b)(i), the division has no further jurisdiction over the matter
25914 subject to review and the claimant is considered to have complied with all conditions precedent
25915 required under this section prior to the commencement of litigation.
25916 (c) (i) The claimant and any respondent may agree by written stipulation that no useful
25917 purpose would be served by convening a prelitigation panel under this section.
25918 (ii) When the stipulation is filed with the division, the division shall within ten days
25919 after receipt enter an order divesting itself of jurisdiction over the claim, as it concerns the
25920 stipulating respondent, and stating that the claimant has complied with all conditions precedent
25921 to the commencement of litigation regarding the claim.
25922 (4) The division shall provide for and appoint an appropriate panel or panels to hear
25923 complaints of medical liability and damages, made by or on behalf of any patient who is an
25924 alleged victim of medical liability. The panels are composed of:
25925 (a) one member who is a resident lawyer currently licensed and in good standing to
25926 practice law in this state and who shall serve as chairman of the panel, who is appointed by the
25927 division from among qualified individuals who have registered with the division indicating a
25928 willingness to serve as panel members, and a willingness to comply with the rules of
25929 professional conduct governing lawyers in the state of Utah, and who has completed division
25930 training regarding conduct of panel hearings;
25931 (b) (i) one member who is a licensed health care provider listed under Section
25932 [~~78-14-3~~] 78B-3-403, who is practicing and knowledgeable in the same specialty as the
25933 proposed defendant, and who is appointed by the division in accordance with Subsection (5); or
25934 (ii) in claims against only hospitals or their employees, one member who is an
25935 individual currently serving in a hospital administration position directly related to hospital
25936 operations or conduct that includes responsibility for the area of practice that is the subject of
25937 the liability claim, and who is appointed by the division; and
25938 (c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care
25939 provider, and who is a responsible citizen of the state, selected and appointed by the division
25940 from among individuals who have completed division training with respect to panel hearings.
25941 (5) (a) Each person listed as a health care provider in Section [~~78-14-3~~] 78B-3-403 and
25942 practicing under a license issued by the state, is obligated as a condition of holding that license
25943 to participate as a member of a medical liability prelitigation panel at reasonable times, places,

25944 and intervals, upon issuance, with advance notice given in a reasonable time frame, by the
25945 division of an Order to Participate as a Medical Liability Prelitigation Panel Member.
25946 (b) A licensee may be excused from appearance and participation as a panel member
25947 upon the division finding participation by the licensee will create an unreasonable burden or
25948 hardship upon the licensee.
25949 (c) A licensee whom the division finds failed to appear and participate as a panel
25950 member when so ordered, without adequate explanation or justification and without being
25951 excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.
25952 (d) A licensee whom the division finds intentionally or repeatedly failed to appear and
25953 participate as a panel member when so ordered, without adequate explanation or justification
25954 and without being excused for cause by the division, may be assessed an administrative fine not
25955 to exceed $5,000, and is guilty of unprofessional conduct.
25956 (e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the
25957 Physicians Education Fund created in Section 58-67a-1.
25958 (6) Each person selected as a panel member shall certify, under oath, that he has no
25959 bias or conflict of interest with respect to any matter under consideration.
25960 (7) Members of the prelitigation hearing panels shall receive per diem compensation
25961 and travel expenses for attending panel hearings as established by rules of the division.
25962 (8) (a) In addition to the actual cost of administering the licensure of health care
25963 providers, the division may set license fees of health care providers within the limits
25964 established by law equal to their proportionate costs of administering prelitigation panels.
25965 (b) The claimant bears none of the costs of administering the prelitigation panel except
25966 under Section [~~78-14-16~~] 78B-3-420.
25967 Section 723. Section **78B-3-417**, which is renumbered from Section 78-14-13 is
25968 renumbered and amended to read:
25969 **[~~78-14-13~~]. 78B-3-417. Proceedings -- Authority of panel -- Rights of parties to**
25970 **proceedings.**
25971 (1) No record of the proceedings is required and all evidence, documents, and exhibits
25972 are returned to the parties or witnesses who provided the evidence, documents, and exhibits at
25973 the end of the proceedings upon the request of the parties or witnesses who provided the
25974 evidence.

25975 (2) The division may issue subpoenas for medical records directly related to the claim
25976 of medical liability in accordance with division rule and in compliance with the following:
25977 (a) the subpoena shall be prepared by the requesting party in proper form for issuance
25978 by the division; and
25979 (b) the subpoena shall be accompanied by:
25980 (i) an affidavit prepared by the person requesting the subpoena attesting to the fact the
25981 medical record subject to subpoena is believed to be directly related to the medical liability
25982 claim to which the subpoena is related; or
25983 (ii) by a written release for the medical records to be provided to the person requesting
25984 the subpoena, signed by the individual who is the subject of the medical record or by that
25985 individual's guardian or conservator.
25986 (3) Per diem reimbursement to panel members and expenses incurred by the panel in
25987 the conduct of prelitigation panel hearings shall be paid by the division. Expenses related to
25988 subpoenas are paid by the requesting party, including witness fees and mileage.
25989 (4) The proceedings are informal and formal rules of evidence are not applicable.
25990 There is no discovery or perpetuation of testimony in the proceedings, except upon special
25991 order of the panel, and for good cause shown demonstrating extraordinary circumstances.
25992 (5) (a) A party is entitled to attend, personally or with counsel, and participate in the
25993 proceedings, except upon special order of the panel and unanimous agreement of the parties.
25994 The proceedings are confidential and closed to the public.
25995 (b) No party has the right to cross-examine, rebut, or demand that customary
25996 formalities of civil trials and court proceedings be followed. The panel may, however, request
25997 special or supplemental participation of some or all parties in particular respects.
25998 (c) Communications between the panel and the parties, except the testimony of the
25999 parties on the merits of the dispute, are disclosed to all other parties.
26000 (6) The division shall appoint a panel to consider the claim and set the matter for panel
26001 review as soon as practicable after receipt of a request.
26002 (7) Parties may be represented by counsel in proceedings before a panel.
26003 Section 724. Section **78B-3-418**, which is renumbered from Section 78-14-14 is
26004 renumbered and amended to read:
26005 **[~~78-14-14~~]. 78B-3-418. Decision and recommendations of panel -- No judicial or**

26006 **other review.**
26007 The panel shall render its opinion in writing not later than 30 days after the end of the
26008 proceedings. The panel shall determine on the basis of the evidence whether each claim
26009 against each health care provider has merit or has no merit and, if meritorious, whether the
26010 conduct complained of resulted in harm to the claimant.
26011 There is no judicial or other review or appeal of the panel's decision or
26012 recommendations.
26013 Section 725. Section **78B-3-419**, which is renumbered from Section 78-14-15 is
26014 renumbered and amended to read:
26015 **[~~78-14-15~~]. 78B-3-419. Evidence of proceedings not admissible in subsequent**
26016 **action -- Panelist may not be compelled to testify -- Immunity of panelist from civil**
26017 **liability -- Information regarding professional conduct.**
26018 (1) Evidence of the proceedings conducted by the medical review panel and its results,
26019 opinions, findings, and determinations are not admissible as evidence in an action subsequently
26020 brought by the claimant in a court of competent jurisdiction.
26021 (2) No panelist may be compelled to testify in a civil action subsequently filed with
26022 regard to the subject matter of the panel's review. A panelist has immunity from civil liability
26023 arising from participation as a panelist and for all communications, findings, opinions, and
26024 conclusions made in the course and scope of duties prescribed by this section.
26025 (3) Nothing in this chapter may be interpreted to prohibit the division from considering
26026 any information contained in a statutory notice of intent to commence action, request for
26027 prelitigation panel review, or written findings of a panel with respect to the division's
26028 determining whether a licensee engaged in unprofessional or unlawful conduct.
26029 Section 726. Section **78B-3-420**, which is renumbered from Section 78-14-16 is
26030 renumbered and amended to read:
26031 **[~~78-14-16~~]. 78B-3-420. Proceedings considered a binding arbitration hearing**
26032 **upon written agreement of parties -- Compensation to members of panel.**
26033 Upon written agreement by all parties, the proceeding may be considered a binding
26034 arbitration hearing and proceed under Title [~~78~~] 78B, Chapter [~~31a,~~] 11, Utah Uniform
26035 Arbitration Act, except for the selection of the panel, which is done as set forth in Subsection
26036 [~~78-14-12~~] 78B-3-416(4). If the proceeding is considered an arbitration proceeding, the

26037 parties are equally responsible for compensation to the members of the panel for services
26038 rendered.
26039 Section 727. Section **78B-3-421**, which is renumbered from Section 78-14-17 is
26040 renumbered and amended to read:
26041 **[~~78-14-17~~]. 78B-3-421. Arbitration agreements.**
26042 (1) After May 2, 1999, for a binding arbitration agreement between a patient and a
26043 health care provider to be validly executed or, if the requirements of this Subsection (1) have
26044 not been previously met on at least one occasion, renewed:
26045 (a) the patient shall be given, in writing, the following information on:
26046 (i) the requirement that the patient must arbitrate a claim instead of having the claim
26047 heard by a judge or jury;
26048 (ii) the role of an arbitrator and the manner in which arbitrators are selected under the
26049 agreement;
26050 (iii) the patient's responsibility, if any, for arbitration-related costs under the agreement;
26051 (iv) the right of the patient to decline to enter into the agreement and still receive health
26052 care if Subsection (3) applies;
26053 (v) the automatic renewal of the agreement each year unless the agreement is canceled
26054 in writing before the renewal date;
26055 (vi) the right of the patient to have questions about the arbitration agreement answered;
26056 (vii) the right of the patient to rescind the agreement within ten days of signing the
26057 agreement; and
26058 (viii) the right of the patient to require mediation of the dispute prior to the arbitration
26059 of the dispute;
26060 (b) the agreement shall require that:
26061 (i) except as provided in Subsection (1)(b)(ii), a panel of three arbitrators shall be
26062 selected as follows:
26063 (A) one arbitrator collectively selected by all persons claiming damages;
26064 (B) one arbitrator selected by the health care provider; and
26065 (C) a third arbitrator:
26066 (I) jointly selected by all persons claiming damages and the health care provider; or
26067 (II) if both parties cannot agree on the selection of the third arbitrator, the other two

26068 arbitrators shall appoint the third arbitrator from a list of individuals approved as arbitrators by
26069 the state or federal courts of Utah; or
26070 (ii) if both parties agree, a single arbitrator may be selected;
26071 (iii) all parties waive the requirement of Section [~~78-14-12~~] 78B-3-416 to appear
26072 before a hearing panel in a malpractice action against a health care provider;
26073 (iv) the patient be given the right to rescind the agreement within ten days of signing
26074 the agreement;
26075 (v) the term of the agreement be for one year and that the agreement be automatically
26076 renewed each year unless the agreement is canceled in writing by the patient or health care
26077 provider before the renewal date;
26078 (vi) the patient has the right to retain legal counsel;
26079 (vii) the agreement only apply to:
26080 (A) an error or omission that occurred after the agreement was signed, provided that
26081 the agreement may allow a person who would be a proper party in court to participate in an
26082 arbitration proceeding;
26083 (B) the claim of:
26084 (I) a person who signed the agreement;
26085 (II) a person on whose behalf the agreement was signed under Subsection (6); and
26086 (III) the unborn child of the person described in this Subsection (1)(b)(vii)(B), for 12
26087 months from the date the agreement is signed; and
26088 (C) the claim of a person who is not a party to the contract if the sole basis for the
26089 claim is an injury sustained by a person described in Subsection (1)(b)(vii)(B); and
26090 (c) the patient shall be verbally encouraged to:
26091 (i) read the written information required by Subsection (1)(a) and the arbitration
26092 agreement; and
26093 (ii) ask any questions.
26094 (2) When a medical malpractice action is arbitrated, the action shall:
26095 (a) be subject to Chapter 31a, Utah Uniform Arbitration Act; and
26096 (b) include any one or more of the following when requested by the patient before an
26097 arbitration hearing is commenced:
26098 (i) mandatory mediation;

26099 (ii) retention of the jointly selected arbitrator for both the liability and damages stages
26100 of an arbitration proceeding if the arbitration is bifurcated; and
26101 (iii) the filing of the panel's award of damages as a judgement against the provider in
26102 the appropriate district court.
26103 (3) Notwithstanding Subsection (1), a patient may not be denied health care on the sole
26104 basis that the patient or a person described in Subsection (6) refused to enter into a binding
26105 arbitration agreement with a health care provider.
26106 (4) A written acknowledgment of having received a written explanation of a binding
26107 arbitration agreement signed by or on behalf of the patient shall be a defense to a claim that the
26108 patient did not receive a written explanation of the agreement as required by Subsection (1)
26109 unless the patient:
26110 (a) proves that the person who signed the agreement lacked the capacity to do so; or
26111 (b) shows by clear and convincing evidence that the execution of the agreement was
26112 induced by the health care provider's affirmative acts of fraudulent misrepresentation or
26113 fraudulent omission to state material facts.
26114 (5) The requirements of Subsection (1) do not apply to a claim governed by a binding
26115 arbitration agreement that was executed or renewed before May 3, 1999.
26116 (6) A legal guardian or a person described in Subsection [~~78-14-5(4)~~] 78B-3-406(6),
26117 except a person temporarily standing in loco parentis, may execute or rescind a binding
26118 arbitration agreement on behalf of a patient.
26119 (7) This section does not apply to any arbitration agreement that is subject to the
26120 Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq.
26121 Section 728. Section **78B-3-422**, which is renumbered from Section 78-14-18 is
26122 renumbered and amended to read:
26123 **[~~78-14-18~~]. 78B-3-422. Evidence of disclosures -- Civil proceedings --**
26124 **Unanticipated outcomes -- Medical care.**
26125 (1) As used in this section:
26126 (a) "Defendant" means the defendant in a malpractice action against a health care
26127 provider.
26128 (b) "Health care provider" includes an agent of a health care provider.
26129 (c) "Patient" includes any person associated with the patient.

26130 (2) In any civil action or arbitration proceeding relating to an unanticipated outcome of
26131 medical care, any unsworn statement, affirmation, gesture, or conduct made to the patient by
26132 the defendant shall be inadmissible as evidence of an admission against interest or of liability if
26133 it:
26134 (a) expresses:
26135 (i) apology, sympathy, commiseration, condolence, or compassion; or
26136 (ii) a general sense of benevolence; or
26137 (b) describes:
26138 (i) the sequence of events relating to the unanticipated outcome of medical care;
26139 (ii) the significance of events; or
26140 (iii) both.
26141 (3) Except as provided in Subsection (2), this section does not alter any other law or
26142 rule that applies to the admissibility of evidence in a medical malpractice action.
26143 Section 729. Section **78B-3-501**, which is renumbered from Section 78-14a-101 is
26144 renumbered and amended to read:
26145 **Part 5. Limitation of Therapist's Duty to Warn**
26146 **[~~78-14a-101~~]. 78B-3-501. Definitions.**
26147 As used in this [~~chapter~~] part, "therapist" means:
26148 (1) a psychiatrist licensed to practice medicine under Section 58-67-301, Utah Medical
26149 Practice Act or under Section 58-68-301, Utah Osteopathic Medical Practice Act;
26150 (2) a psychologist licensed to practice psychology under Section 58-61-301;
26151 (3) a marriage and family therapist licensed to practice marriage and family therapy
26152 under Section 58-60-304;
26153 (4) a social worker licensed to practice social work under Section 58-60-204;
26154 (5) a psychiatric and mental health nurse specialist licensed to practice advanced
26155 psychiatric nursing under Title 58, Chapter 31b; and
26156 (6) a professional counselor licensed to practice professional counseling under Title 58,
26157 Chapter 60, Part 4, Professional Counselor Licensing Act.
26158 Section 730. Section **78B-3-502**, which is renumbered from Section 78-14a-102 is
26159 renumbered and amended to read:
26160 **[~~78-14a-102~~]. 78B-3-502. Limitation of therapist's duty to warn.**

26161 (1) A therapist has no duty to warn or take precautions to provide protection from any
26162 violent behavior of his client or patient, except when that client or patient communicated to the
26163 therapist an actual threat of physical violence against a clearly identified or reasonably
26164 identifiable victim. That duty shall be discharged if the therapist makes reasonable efforts to
26165 communicate the threat to the victim, and notifies a law enforcement officer or agency of the
26166 threat.
26167 (2) [~~No~~] A cause of action [~~arises~~] may not be brought against a therapist for breach of
26168 trust or privilege, or for disclosure of confidential information, based on a therapist's
26169 communication of information to a third party in an effort to discharge his duty in accordance
26170 with Subsection (1).
26171 (3) This section does not limit or effect a therapist's duty to report child abuse or
26172 neglect in accordance with Section 62A-4a-403.
26173 Section 731. Section **78B-3-601**, which is renumbered from Section 78-17-1 is
26174 renumbered and amended to read:
26175 **Part 6. Compensation for Harm Caused by Nuclear Incidents**
26176 **[~~78-17-1~~]. 78B-3-601. Purpose.**
26177 (1) The purpose of this [~~chapter~~] part is to facilitate the compensation of injured parties
26178 from financial protection funds established pursuant to the Price Anderson Act, 42 U.S.C. Sec.
26179 2210.
26180 (2) Nothing in this [~~chapter~~] part may be construed to impose liability for harm from
26181 nuclear incidents for which financial protection is not afforded under the Price Anderson Act.
26182 Section 732. Section **78B-3-602**, which is renumbered from Section 78-17-2 is
26183 renumbered and amended to read:
26184 **[~~78-17-2~~]. 78B-3-602. Definitions.**
26185 As used in this [~~section~~] part:
26186 (1) "Harm" means:
26187 (a) personal injury, death, or illness, except an injury, death, or illness that is a basis for
26188 a claim under either a state or federal workmen's compensation act by an employee of a person
26189 liable pursuant to Section [~~78-17-3~~] 78B-3-603;
26190 (b) damage to, destruction of, or loss of the use of property other than property at the
26191 situs of and used in connection with the activity giving rise to a nuclear incident;

26192 (c) economic loss due to:
26193 (i) damage to or loss of the use of property; or
26194 (ii) environmental degradation; or
26195 (d) expenses reasonably incurred by the state, its political subdivisions, or the agencies
26196 of either in protecting the public health and safety and the environment from a nuclear incident
26197 or the imminent danger of a nuclear incident, including, but not limited to, precautionary
26198 evacuations, emergency response measures, and, after reasonable opportunity for performance
26199 of cleanup measures by persons liable pursuant to Section [~~78-17-3~~] 78B-3-603,
26200 decontamination or other clean-up measures. These expenses must be documented by the state,
26201 its political subdivisions, or agencies of either.
26202 (2) "Nuclear incident" means an incident which does not arise from an act of war and
26203 involves the release of nuclear material which results in personal injury, loss of use of property,
26204 or damage due to the radioactive, toxic, explosive, or other hazardous properties of the nuclear
26205 material.
26206 (3) "Nuclear material" means radioactive material used or handled in connection with:
26207 (a) a utilization facility or production facility licensed by the United States Nuclear
26208 Regulatory Commission in accordance with 42 U.S.C. Secs. 2133 or 2134;
26209 (b) a utilization or production facility constructed or operated under a contract for the
26210 benefit of the United States where there is a risk of a substantial nuclear incident as determined
26211 by the United States Department of Energy or the Nuclear Regulatory Commission; or
26212 (c) disposal, storage, and other activities undertaken pursuant to the Nuclear Waste
26213 Policy Act, 42 U.S.C. Secs. 10101 through 10225.
26214 (4) "Radioactive material" means:
26215 (a) source material as defined in 42 U.S.C. Sec. 2014 (z);
26216 (b) special nuclear material as defined in 42 U.S.C. Sec. 2014 (aa); or
26217 (c) by-product material as defined in 42 U.S.C. Sec. 2014 (e).
26218 Section 733. Section **78B-3-603**, which is renumbered from Section 78-17-3 is
26219 renumbered and amended to read:
26220 **[~~78-17-3~~]. 78B-3-603. Liability imposed and limitations -- Defenses --**
26221 **Limitations on damages.**
26222 (1) Except as provided in this section, any person who owns, holds under license,

26223 transports, ships, stores, or disposes of nuclear material is liable, without regard to the conduct
26224 of any other person, for harm from nuclear incidents arising in connection with or resulting
26225 from such ownership, transportation, shipping, storage, or disposal.
26226 (2) Except as provided in this section, any person who owns, designs, constructs,
26227 operates, or maintains facilities, structures, vehicles, or equipment used for handling,
26228 transportation, shipment, storage, or disposal of nuclear material is liable, without regard to the
26229 conduct of any other person, for harm from nuclear incidents arising in connection with or
26230 resulting from such ownership, design, construction, operation, and maintenance.
26231 (3) Liability established by this [~~chapter~~] part shall only be imposed if a court of
26232 competent jurisdiction finds that:
26233 (a) the nuclear incident which is the basis for the suit is covered by existing financial
26234 protection undertaken pursuant to 42 U.S.C. Sec. 2210; and
26235 (b) a person who is liable under this [~~chapter~~] part is a person indemnified as defined in
26236 42 U.S.C. Sec. 2014.
26237 (4) Immunity of the state, its political subdivisions, or the agencies of either from suit
26238 are only waived with respect to a suit arising from a nuclear incident:
26239 (a) in accordance with Title 63, Chapter 30d, Governmental Immunity Act of Utah; or
26240 (b) when brought by a person suffering harm.
26241 (5) The conduct of the person suffering harm is not a defense to liability, except that
26242 this section does not preclude any defense based on:
26243 (a) the claimant's knowing failure to mitigate damages related to any injury or damage
26244 to the claimant or the claimant's property; or
26245 (b) an incident involving nuclear material that is knowingly and wrongfully caused by
26246 the claimant.
26247 (6) [~~No~~] A person may not collect punitive or exemplary damages under this [~~chapter~~]
26248 part.
26249 Section 734. Section **78B-3-604**, which is renumbered from Section 78-17-4 is
26250 renumbered and amended to read:
26251 **[~~78-17-4~~]. 78B-3-604. Determination of causation -- Compensation allowed.**
26252 (1) Causation of radiological injury from a nuclear incident shall be determined by the
26253 trier of fact, taking into account epidemiological studies, statistical probabilities, and other

26254 pertinent medical and scientific evidence.
26255 (2) A claimant under this [~~chapter~~] part shall be entitled to full compensation of the
26256 claimant's radiological injuries if the trier of fact determines that it is more likely than not that
26257 [~~such~~] the claimant's injuries resulted from the nuclear incident.
26258 Section 735. Section **78B-3-701**, which is renumbered from Section 78-20-101 is
26259 renumbered and amended to read:
26260 **Part 7. Damages Regarding Injury to or Theft of Assistance Animal**
26261 **[~~78-20-101~~]. 78B-3-701. Definitions.**
26262 As used in this [~~chapter~~] part:
26263 (1) "Disability" has the same meaning as defined in Section 62A-5b-102.
26264 (2) "Search and rescue dog" means a dog:
26265 (a) with documented training to locate persons who are:
26266 (i) lost, missing, or injured; or
26267 (ii) trapped under debris as the result of a natural or man-made event; and
26268 (b) affiliated with an established search and rescue dog organization.
26269 (3) "Service animal" means:
26270 (a) a service animal, as defined in Section 62A-5b-102;
26271 (b) a psychiatric therapy animal, as defined in Section 62A-5b-102; or
26272 (c) a search and rescue dog.
26273 Section 736. Section **78B-3-702**, which is renumbered from Section 78-20-102 is
26274 renumbered and amended to read:
26275 **[~~78-20-102~~]. 78B-3-702. Damages recoverable for harm to or theft of**
26276 **service animal.**
26277 (1) A person with a disability who uses a service animal, or the owner of a service
26278 animal has a cause of action for economic and noneconomic damages against:
26279 (a) any person who steals or, without provocation, attacks the service animal; and
26280 (b) the owner or keeper of any animal that without provocation attacks a service animal
26281 due to the owner's or keeper's negligent failure to exercise sufficient control over the animal to
26282 prevent the attack.
26283 (2) The action authorized by this section maybe brought by a person with a disability
26284 who uses the service animal, or the owner of the service animal.

26285 (3) The measure of economic damages in an action brought under Subsection (1)
26286 regarding a service animal that is not returned or is killed or injured due to an unprovoked
26287 attack so that the service animal is unable to function again as a service animal includes:
26288 (a) the replacement value of an equally trained service animal, without any
26289 differentiation for the age or experience of the animal; and
26290 (b) costs and expenses incurred by the person with a disability or the owner, including:
26291 (i) costs of temporary replacement assistance services, whether provided by another
26292 service animal or by a person;
26293 (ii) reasonable costs incurred in efforts to recover a stolen service animal; and
26294 (iii) court and attorney costs incurred in bringing an action under this section.
26295 (4) If the unprovoked attack on a service animal results in injuries from which the
26296 animal recovers so it is able to again function as a service animal for the person with a
26297 disability, or if the theft of the service animal results in the recovery of the service animal and
26298 the animal is again able to function as a service animal for the person with a disability, the
26299 measure of economic damages is the costs and expenses incurred by the person with a
26300 disability or the owner as a result of the theft of or injury to the service animal, and includes:
26301 (a) veterinary medical expenses;
26302 (b) costs of temporary replacement assistance services, whether provided by another
26303 service animal or a person;
26304 (c) costs incurred in recovering the service animal, such as a reward; and
26305 (d) court and attorney costs incurred in bringing an action under this section.
26306 Section 737. Section **78B-3-703**, which is renumbered from Section 78-20-103 is
26307 renumbered and amended to read:
26308 **[~~78-20-103~~]. 78B-3-703. Limitation on cause of action.**
26309 A cause of action does not exist under this section if the person with a disability who
26310 uses the service animal or the person having custody or supervision of the service animal was
26311 committing a civil or criminal trespass at the time of the:
26312 (1) theft of, or the chasing or harassment of the service animal by a person who owns
26313 or exercises control over the property upon which the trespass is committed; or
26314 (2) attack upon, or the chasing or harassment of a service animal by an animal that is
26315 currently kept or maintained on the property where the trespass is committed.

26316 Section 738. Section **78B-4-101**, which is renumbered from Section 78-19-1 is
26317 renumbered and amended to read:
26318 **CHAPTER 4. LIMITATIONS ON LIABILITY**
26319 **Part 1. Liability Protection for Volunteers**
26320 **[~~78-19-1~~]. 78B-4-101. Definitions.**
26321 As used in this [~~chapter~~] part:
26322 (1) "Damage or injury" includes physical, nonphysical, economic, and noneconomic
26323 damage.
26324 (2) "Financially secure source of recovery" means that, at the time of the incident, a
26325 nonprofit organization:
26326 (a) has an insurance policy in effect that covers the activities of the volunteer and has
26327 an insurance limit of not less than the limits established under the Governmental Immunity Act
26328 of Utah in Section 63-30d-604; or
26329 (b) has established a qualified trust with a value not less than the combined limits for
26330 property damage and single occurrence liability established under the Governmental Immunity
26331 Act of Utah in Section 63-30d-604.
26332 (3) "Nonprofit organization" means any organization, other than a public entity,
26333 described in Section 501 (c) of the Internal Revenue Code of 1986 and exempt from tax under
26334 Section 501 (a) of that code.
26335 (4) "Public entity" has the same meaning as defined in Section 63-30b-1.
26336 (5) "Qualified trust" means a trust held for the purpose of compensating claims for
26337 damages or injury in a trust company licensed to do business in this state under the provisions
26338 of Title 7, Chapter 5, Trust Business.
26339 (6) "Reimbursements" means, with respect to each nonprofit organization:
26340 (a) compensation or honoraria totaling less than $300 per calendar year; and
26341 (b) payment of expenses actually incurred.
26342 (7) (a) "Volunteer" means an individual performing services for a nonprofit
26343 organization who does not receive anything of value from that nonprofit organization for those
26344 services except reimbursements.
26345 (b) "Volunteer" includes a volunteer serving as a director, officer, trustee, or direct
26346 service volunteer.

26347 (c) "Volunteer" does not include an individual performing services for a public entity
26348 to the extent the services are within the scope of Title 63, Chapter 30b, Immunity for Persons
26349 Performing Voluntary Services or Title 67, Chapter 20, Volunteer Government Workers Act.
26350 Section 739. Section **78B-4-102**, which is renumbered from Section 78-19-2 is
26351 renumbered and amended to read:
26352 **[~~78-19-2~~]. 78B-4-102. Liability protection for volunteers -- Exceptions.**
26353 (1) Except as provided in Subsection (2), no volunteer providing services for a
26354 nonprofit organization incurs any legal liability for any act or omission of the volunteer while
26355 providing services for the nonprofit organization and no volunteer incurs any personal financial
26356 liability for any tort claim or other action seeking damage for an injury arising from any act or
26357 omission of the volunteer while providing services for the nonprofit organization if:
26358 (a) the individual was acting in good faith and reasonably believed he was acting
26359 within the scope of his official functions and duties with the nonprofit organization; and
26360 (b) the damage or injury was not caused by an intentional or knowing act by the
26361 volunteer which constitutes illegal, willful, or wanton misconduct.
26362 (2) The protection against volunteer liability provided by this section does not apply:
26363 (a) to injuries resulting from a volunteer's operation of a motor vehicle, a vessel,
26364 aircraft or other vehicle for which a pilot or operator's license is required;
26365 (b) when a suit is brought by an authorized officer of a state or local government to
26366 enforce a federal, state, or local law; or
26367 (c) where the nonprofit organization for which the volunteer is working fails to provide
26368 a financially secure source of recovery for individuals who suffer injuries as a result of actions
26369 taken by the volunteer on behalf of the nonprofit organization.
26370 (3) Nothing in this section shall bar an action by a volunteer against an organization, its
26371 officers, or other persons who intentionally or knowingly misrepresent that a financially secure
26372 source of recovery does or will exist during a period when such a source does not or will not in
26373 fact exist.
26374 (4) Nothing in this section shall be construed to place a duty upon a nonprofit
26375 organization to provide a financially secure source of recovery.
26376 (5) The granting of immunity from liability to a volunteer under this section [~~shall have~~
26377 ~~no~~] does not effect on the liability of the nonprofit organization providing the financially secure

26378 source of recovery.
26379 Section 740. Section **78B-4-103**, which is renumbered from Section 78-19-3 is
26380 renumbered and amended to read:
26381 **[~~78-19-3~~]. 78B-4-103. Liability protection for organizations.**
26382 A nonprofit organization is not liable for the acts or omissions of its volunteers in any
26383 circumstance where:
26384 (1) the acts of its volunteers are not as described in Subsection [~~78-19-2~~] 78B-4-102(1)
26385 unless the nonprofit organization had, or reasonably should have had, reasonable notice of the
26386 volunteer's unfitness to provide services to the nonprofit organization under circumstances that
26387 make the nonprofit organization's use of the volunteer reckless or wanton in light of that notice;
26388 or
26389 (2) a business employer would not be liable under the laws of this state if the act or
26390 omission were the act or omission of one of its employees.
26391 Section 741. Section **78B-4-201**, which is renumbered from Section 78-27b-101 is
26392 renumbered and amended to read:
26393 **Part 2. Limitations on Liability for Equine and Livestock Activities**
26394 **[~~78-27b-101~~]. 78B-4-201. Definitions.**
26395 As used in this [~~chapter~~] part:
26396 (1) "Equine" means any member of the equidae family.
26397 (2) "Equine activity" means:
26398 (a) equine shows, fairs, competitions, performances, racing, sales, or parades that
26399 involve any breeds of equines and any equine disciplines, including dressage, hunter and
26400 jumper horse shows, grand prix jumping, multiple-day events, combined training, rodeos,
26401 driving, pulling, cutting, polo, steeple chasing, hunting, endurance trail riding, and western
26402 games;
26403 (b) boarding or training equines;
26404 (c) teaching persons equestrian skills;
26405 (d) riding, inspecting, or evaluating an equine owned by another person regardless of
26406 whether the owner receives monetary or other valuable consideration;
26407 (e) riding, inspecting, or evaluating an equine by a prospective purchaser; or
26408 (f) other equine activities of any type including rides, trips, hunts, or informal or

26409 spontaneous activities sponsored by an equine activity sponsor.
26410 (3) "Equine activity sponsor" means an individual, group, governmental entity, club,
26411 partnership, or corporation, whether operating for profit or as a nonprofit entity, which
26412 sponsors, organizes, or provides facilities for an equine activity, including:
26413 (a) pony clubs, hunt clubs, riding clubs, 4-H programs, therapeutic riding programs,
26414 and public and private schools and postsecondary educational institutions that sponsor equine
26415 activities; and
26416 (b) operators, instructors, and promoters of equine facilities, stables, clubhouses,
26417 ponyride strings, fairs, and arenas.
26418 (4) "Equine professional" means a person compensated for an equine activity by:
26419 (a) instructing a participant;
26420 (b) renting to a participant an equine to ride, drive, or be a passenger upon the equine;
26421 or
26422 (c) renting equine equipment or tack to a participant.
26423 (5) "Inherent risk" with regard to equine or livestock activities means those dangers or
26424 conditions which are an integral part of equine or livestock activities, which may include:
26425 (a) the propensity of the animal to behave in ways that may result in injury, harm, or
26426 death to persons on or around them;
26427 (b) the unpredictability of the animal's reaction to outside stimulation such as sounds,
26428 sudden movement, and unfamiliar objects, persons, or other animals;
26429 (c) collisions with other animals or objects; or
26430 (d) the potential of a participant to act in a negligent manner that may contribute to
26431 injury to the participant or others, such as failing to maintain control over the animal or not
26432 acting within his or her ability.
26433 (6) "Livestock" means all domesticated animals used in the production of food, fiber,
26434 or livestock activities.
26435 (7) "Livestock activity" means:
26436 (a) livestock shows, fairs, competitions, performances, packing events, or parades or
26437 rodeos that involve any or all breeds of livestock;
26438 (b) using livestock to pull carts or to carry packs or other items;
26439 (c) using livestock to pull travois-type carriers during rescue or emergency situations;

26440 (d) livestock training or teaching activities or both;
26441 (e) taking livestock on public relations trips or visits to schools or nursing homes;
26442 (f) boarding livestock;
26443 (g) riding, inspecting, or evaluating any livestock belonging to another, whether or not
26444 the owner has received some monetary consideration or other thing of value for the use of the
26445 livestock or is permitting a prospective purchaser of the livestock to ride, inspect, or evaluate
26446 the livestock;
26447 (h) using livestock in wool production;
26448 (i) rides, trips, or other livestock activities of any type however informal or impromptu
26449 that are sponsored by a livestock activity sponsor; and
26450 (j) trimming the feet of any livestock.
26451 (8) "Livestock activity sponsor" means an individual, group, governmental entity, club,
26452 partnership, or corporation, whether operating for profit or as a nonprofit entity, which
26453 sponsors, organizes, or provides facilities for a livestock activity, including:
26454 (a) livestock clubs, 4-H programs, therapeutic riding programs, and public and private
26455 schools and postsecondary educational institutions that sponsor livestock activities; and
26456 (b) operators, instructors, and promoters of livestock facilities, stables, clubhouses,
26457 fairs, and arenas.
26458 (9) "Livestock professional" means a person compensated for a livestock activity by:
26459 (a) instructing a participant;
26460 (b) renting to a participant any livestock for the purpose of riding, driving, or being a
26461 passenger upon the livestock; or
26462 (c) renting livestock equipment or tack to a participant.
26463 (10) "Participant" means any person, whether amateur or professional, who directly
26464 engages in an equine activity or livestock activity, regardless of whether a fee has been paid to
26465 participate.
26466 (11) (a) "Person engaged in an equine or livestock activity" means a person who rides,
26467 trains, leads, drives, or works with an equine or livestock, respectively.
26468 (b) Subsection (11)(a) does not include a spectator at an equine or livestock activity or
26469 a participant at an equine or livestock activity who does not ride, train, lead, or drive an equine
26470 or any livestock.

26471 Section 742. Section **78B-4-202**, which is renumbered from Section 78-27b-102 is
26472 renumbered and amended to read:
26473 **[~~78-27b-102~~]. 78B-4-202. Equine and livestock activity liability limitations.**
26474 (1) It shall be presumed that participants in equine or livestock activities are aware of
26475 and understand that there are inherent risks associated with these activities.
26476 (2) An equine activity sponsor, equine professional, livestock activity sponsor, or
26477 livestock professional is not liable for an injury to or the death of a participant due to the
26478 inherent risks associated with these activities, unless the sponsor or professional:
26479 (a) (i) provided the equipment or tack;
26480 (ii) the equipment or tack caused the injury; and
26481 (iii) the equipment failure was due to the sponsor's or professional's negligence;
26482 (b) failed to make reasonable efforts to determine whether the equine or livestock
26483 could behave in a manner consistent with the activity with the participant;
26484 (c) owns, leases, rents, or is in legal possession and control of land or facilities upon
26485 which the participant sustained injuries because of a dangerous condition which was known to
26486 or should have been known to the sponsor or professional and for which warning signs have
26487 not been conspicuously posted;
26488 (d) (i) commits an act or omission that constitutes negligence, gross negligence, or
26489 willful or wanton disregard for the safety of the participant; and
26490 (ii) that act or omission causes the injury; or
26491 (e) intentionally injures or causes the injury to the participant.
26492 (3) This chapter does not prevent or limit the liability of an equine activity sponsor, an
26493 equine professional, a livestock activity sponsor, or a livestock professional who is:
26494 (a) a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in an
26495 action to recover for damages incurred in the course of providing professional treatment of an
26496 equine;
26497 (b) liable under Title 4, Chapter 25, Estrays and Trespassing Animals; or
26498 (c) liable under Title [~~78~~] 78B, Chapter [~~15,~~] 7, Utah Product Liability Act.
26499 Section 743. Section **78B-4-203**, which is renumbered from Section 78-27b-103 is
26500 renumbered and amended to read:
26501 **[~~78-27b-103~~]. 78B-4-203. Signs to be posted listing inherent risks and**

26502 **liability limitations.**
26503 (1) An equine or livestock activity sponsor shall provide notice to participants of the
26504 equine or livestock activity that there are inherent risks of participating and that the sponsor is
26505 not liable for certain of those risks.
26506 (2) Notice shall be provided by:
26507 (a) posting a sign in a prominent location within the area being used for the activity; or
26508 (b) providing a document or release for the participant, or the participant's legal
26509 guardian if the participant is a minor, to sign.
26510 (3) The notice provided by the sign or document shall be sufficient if it includes the
26511 definition of inherent risk in Section [~~78-27b-101~~] 78B-4-201 and states that the sponsor is not
26512 liable for those inherent risks.
26513 (4) Notwithstanding Subsection (1), signs are not required to be posted for parades and
26514 activities that fall within Subsections [~~78-27b-101~~] 78B-4-201(2)(f) and (7)(c), (e), (g), (h), and
26515 (j).
26516 Section 744. Section **78B-4-301**, which is renumbered from Section 78-27d-101 is
26517 renumbered and amended to read:
26518 **Part 3. Commonsense Consumption Act**
26519 **[~~78-27d-101~~]. 78B-4-301. Title.**
26520 This [~~chapter~~] part is known as the "Commonsense Consumption Act."
26521 Section 745. Section **78B-4-302**, which is renumbered from Section 78-27d-102 is
26522 renumbered and amended to read:
26523 **[~~78-27d-102~~]. 78B-4-302. Definitions.**
26524 As used in this [~~chapter~~] part:
26525 (1) "Claim" means any assertion by or on behalf of a natural person, as well as any
26526 derivative claim arising from it, and asserted by or on behalf of any other person.
26527 (2) "Food":
26528 (a) means any raw, cooked, or processed edible substance, beverage, or ingredient used
26529 or intended for use or for sale in whole or in part for human consumption;
26530 (b) does not include:
26531 (i) tobacco products;
26532 (ii) alcohol products;

26533 (iii) vitamins or dietary supplements;
26534 (iv) illegal drugs; or
26535 (v) prescription or over-the-counter drugs.
26536 (3) "Knowing and willful violation" means that the conduct constituting the violation
26537 was:
26538 (a) committed with the intent to deceive or injure consumers or with actual knowledge
26539 that the conduct was injurious to consumers; and
26540 (b) not required by regulation, order, rule, ordinance, or any statute administered by a
26541 federal, state, or local government agency.
26542 (4) "Condition resulting from long term consumption of food" means the cumulative
26543 effect of consumption of food, which includes weight gain, obesity, or other generally known
26544 health conditions allegedly caused by or likely to result from the consumption of food.
26545 Section 746. Section **78B-4-303**, which is renumbered from Section 78-27d-103 is
26546 renumbered and amended to read:
26547 **[~~78-27d-103~~]. 78B-4-303. Prevention of unfounded lawsuits -- Exemption.**
26548 (1) Except as provided in Subsection (2), a manufacturer, packer, distributor, carrier,
26549 holder, seller, marketer, advertiser of a food, or an association of one or more such entities,
26550 may not be subject to civil liability arising under any state statute, rule, public policy, court or
26551 administrative decision, municipal ordinance, or other action having the effect of law, for any
26552 claim of obesity or weight gain resulting from the consumption of food.
26553 (2) Subsection (1) may not apply where the claim of obesity or weight gain is based on:
26554 (a) a material violation of an adulteration or misbranding requirement prescribed by
26555 state or federal statute, rule, regulation, or ordinance and the claimed injury was proximately
26556 caused by the violation; or
26557 (b) any other material violation of federal or state law applicable to the manufacturing,
26558 marketing, distribution, advertising, labeling, or sale of food, provided that the violation is
26559 knowing and willful, and the claimed injury was proximately caused by the violation.
26560 Section 747. Section **78B-4-304**, which is renumbered from Section 78-27d-104 is
26561 renumbered and amended to read:
26562 **[~~78-27d-104~~]. 78B-4-304. Pleading requirements.**
26563 (1) In any action commenced under the provisions of Subsection [~~78-27d-103~~]

26564 78B-4-303(2), the complaint or petition shall state with particularity the following:
26565 (a) the statute, rule, regulation, ordinance, or other law that was allegedly violated;
26566 (b) the facts that are alleged to constitute a material violation of the statute, rule,
26567 regulation, ordinance, or other law; and
26568 (c) the facts alleged to demonstrate that the violation proximately caused actual injury
26569 to the plaintiff.
26570 (2) The complaint or petition shall also state with particularity facts sufficient to
26571 support a reasonable inference that the violation was with intent to deceive or injure consumers
26572 or with the actual knowledge that the violation was injurious to consumers.
26573 Section 748. Section **78B-4-305**, which is renumbered from Section 78-27d-105 is
26574 renumbered and amended to read:
26575 **[~~78-27d-105~~]. 78B-4-305. Stay pending motion to dismiss.**
26576 (1) In any action commenced under the provisions of Subsection [~~78-27d-103~~]
26577 78B-4-303(2), all discovery and other proceedings shall be stayed during the pendency of any
26578 motion to dismiss unless the court finds upon the motion of any party that particularized
26579 discovery is necessary to preserve evidence or to prevent undue prejudice to a party.
26580 (2) During the pendency of any stay of discovery pursuant to this section, unless
26581 otherwise ordered by the court, any party to the action with actual notice of the allegations
26582 contained in the complaint shall treat all documents, data compilations, and tangible objects
26583 that are in the custody or control of the party and are relevant to the allegations, as if they were
26584 the subject of a continuing request for production from an opposing party under Rule 34,
26585 URCP.
26586 Section 749. Section **78B-4-306**, which is renumbered from Section 78-27d-106 is
26587 renumbered and amended to read:
26588 **[~~78-27d-106~~]. 78B-4-306. Applicability.**
26589 The provisions of this chapter apply to all covered claims pending on May 3, 2004, and
26590 all claims filed after that date, regardless of when the claim arose.
26591 Section 750. Section **78B-4-401**, which is renumbered from Section 78-27-51 is
26592 renumbered and amended to read:
26593 **Part 4. Inherent Risks of Skiing**
26594 **[~~78-27-51~~]. 78B-4-401. Public policy.**

26595 The Legislature finds that the sport of skiing is practiced by a large number of residents
26596 of Utah and attracts a large number of nonresidents, significantly contributing to the economy
26597 of this state. It further finds that few insurance carriers are willing to provide liability insurance
26598 protection to ski area operators and that the premiums charged by those carriers have risen
26599 sharply in recent years due to confusion as to whether a skier assumes the risks inherent in the
26600 sport of skiing. It is the purpose of this act, therefore, to clarify the law in relation to skiing
26601 injuries and the risks inherent in that sport, to establish as a matter of law that certain risks are
26602 inherent in that sport, and to provide that, as a matter of public policy, no person engaged in
26603 that sport shall recover from a ski operator for injuries resulting from those inherent risks.
26604 Section 751. Section **78B-4-402**, which is renumbered from Section 78-27-52 is
26605 renumbered and amended to read:
26606 **[~~78-27-52~~]. 78B-4-402. Definitions.**
26607 As used in this [~~act~~] part:
26608 (1) "Inherent risks of skiing" means those dangers or conditions which are an integral
26609 part of the sport of recreational, competitive, or professional skiing, including, but not limited
26610 to:
26611 (a) changing weather conditions;
26612 (b) snow or ice conditions as they exist or may change, such as hard pack, powder,
26613 packed powder, wind pack, corn, crust, slush, cut-up snow, or machine-made snow;
26614 (c) surface or subsurface conditions such as bare spots, forest growth, rocks, stumps,
26615 streambeds, cliffs, trees, and other natural objects;
26616 (d) variations or steepness in terrain, whether natural or as a result of slope design,
26617 snowmaking or grooming operations, and other terrain modifications such as terrain parks, and
26618 terrain features such as jumps, rails, fun boxes, and all other constructed and natural features
26619 such as half pipes, quarter pipes, or freestyle-bump terrain;
26620 (e) impact with lift towers and other structures and their components such as signs,
26621 posts, fences or enclosures, hydrants, or water pipes;
26622 (f) collisions with other skiers;
26623 (g) participation in, or practicing or training for, competitions or special events; and
26624 (h) the failure of a skier to ski within the skier's own ability.
26625 (2) "Injury" means any personal injury or property damage or loss.

26626 (3) "Skier" means any person present in a ski area for the purpose of engaging in the
26627 sport of skiing, nordic, freestyle, or other types of ski jumping, using skis, sled, tube,
26628 snowboard, or any other device.
26629 (4) "Ski area" means any area designated by a ski area operator to be used for skiing,
26630 nordic, freestyle, or other type of ski jumping, and snowboarding.
26631 (5) "Ski area operator" means those persons, and their agents, officers, employees or
26632 representatives, who operate a ski area.
26633 Section 752. Section **78B-4-403**, which is renumbered from Section 78-27-53 is
26634 renumbered and amended to read:
26635 **[~~78-27-53~~]. 78B-4-403. Bar against claim or recovery from operator for injury**
26636 **from risks inherent in sport.**
26637 Notwithstanding anything in Sections [~~78-27-37~~] 78B-5-817 through [~~78-27-43~~]
26638 78B-5-823 to the contrary, no skier may make any claim against, or recover from, any ski area
26639 operator for injury resulting from any of the inherent risks of skiing.
26640 Section 753. Section **78B-4-404**, which is renumbered from Section 78-27-54 is
26641 renumbered and amended to read:
26642 **[~~78-27-54~~]. 78B-4-404. Trail boards listing inherent risks and limitations on**
26643 **liability.**
26644 Ski area operators shall post trail boards at one or more prominent locations within each
26645 ski area which shall include a list of the inherent risks of skiing, and the limitations on liability
26646 of ski area operators, as defined in this [~~act~~] part.
26647 Section 754. Section **78B-4-501**, which is renumbered from Section 78-11-22 is
26648 renumbered and amended to read:
26649 **Part 5. Miscellaneous Provisions**
26650 **[~~78-11-22~~]. 78B-4-501. Good Samaritan Act.**
26651 (1) A person who renders emergency care at or near the scene of, or during an
26652 emergency, gratuitously and in good faith, is not liable for any civil damages or penalties as a
26653 result of any act or omission by the person rendering the emergency care, unless the person is
26654 grossly negligent or caused the emergency. As used in this section, "emergency" means an
26655 unexpected occurrence involving injury, threat of injury, or illness to a person or the public,
26656 including motor vehicle accidents, disasters, actual or threatened discharges, removal, or

26657 disposal of hazardous materials, and other accidents or events of a similar nature. "Emergency
26658 care" includes actual assistance or advice offered to avoid, mitigate, or attempt to mitigate the
26659 effects of an emergency.
26660 (2) A person who gratuitously, and in good faith, assists governmental agencies or
26661 political subdivisions in the activities described in Subsections (2)(a) through (c) is not liable
26662 for any civil damages or penalties as a result of any act or omission unless the person rendering
26663 assistance is grossly negligent in:
26664 (a) implementing measures to control the causes of epidemic and communicable
26665 diseases and other conditions significantly affecting the public health, or necessary to protect
26666 the public health as set out in Title 26A, Chapter 1, Local Health Departments;
26667 (b) investigating and controlling suspected bioterrorism and disease as set out in Title
26668 26, Chapter 23b, Detection of Public Health Emergencies Act; and
26669 (c) responding to a national, state, or local emergency, a public health emergency as
26670 defined in Section 26-23b-102, or a declaration by the President of the United States or other
26671 federal official requesting public health-related activities.
26672 (3) The immunity in Subsection (2) is in addition to any immunity or protection in state
26673 or federal law that may apply.
26674 Section 755. Section **78B-4-502**, which is renumbered from Section 78-11-22.1 is
26675 renumbered and amended to read:
26676 **[~~78-11-22.1~~]. 78B-4-502. Donation of food -- Liability limits.**
26677 (1) A person or entity who donates apparently wholesome food to a nonprofit
26678 organization for distribution to the needy is not subject to civil or criminal liability regarding
26679 the condition of the food unless an injury or death results from an act or omission of the donor
26680 that constitutes gross negligence, recklessness, or intentional misconduct.
26681 (2) A nonprofit organization that distributes either directly or indirectly apparently
26682 wholesome food to persons in need at no charge and substantially complies with applicable
26683 local, county, state, and federal laws and regulations regarding the storage and handling of food
26684 for public distribution is not subject to civil or criminal liability regarding the condition of the
26685 food unless an injury or death results from an act or omission of the organization that
26686 constitutes gross negligence, recklessness, or intentional misconduct.
26687 Section 756. Section **78B-4-503**, which is renumbered from Section 78-27-59 is

26688 renumbered and amended to read:
26689 **[~~78-27-59~~]. 78B-4-503. Immunity for transient shelters.**
26690 (1) As used in this section, "transient shelter" means any person which provides shelter,
26691 food, clothing, or other products or services without consideration to indigent persons.
26692 (2) Except as provided in Subsection (3), all transient shelters, owners, operators, and
26693 employees of transient shelters, and persons who contribute products or services to transient
26694 shelters, are immune from suit for damages or injuries arising out of or related to the damaged
26695 or injured person's use of the products or services provided by the transient shelter.
26696 (3) This section does not prohibit an action against a person for damages or injury
26697 intentionally caused by that person or resulting from his gross negligence.
26698 Section 757. Section **78B-4-504**, which is renumbered from Section 78-11-22.2 is
26699 renumbered and amended to read:
26700 **[~~78-11-22.2~~]. 78B-4-504. Donation of nonschedule drugs or devices --**
26701 **Liability limitation.**
26702 (1) As used in this section:
26703 (a) "Administer" is as defined in Section 58-17b-102.
26704 (b) "Dispense" is as defined in Section 58-17b-102.
26705 (c) "Distribute" is as defined in Section 58-17b-102.
26706 (d) "Drug outlet" means:
26707 (i) a pharmacy or pharmaceutical facility as defined in Section 58-17b-102; or
26708 (ii) a person with the authority to engage in the dispensing, delivering, manufacturing,
26709 or wholesaling of prescription drugs or devices outside of the state under the law of the
26710 jurisdiction in which the person operates.
26711 (e) "Health care provider" means:
26712 (i) a person who is a health care provider, as defined in Section [~~78-14-3~~] 78B-3-403,
26713 with the authority under Title 58, Occupations and Professions, to prescribe, dispense, or
26714 administer prescription drugs or devices; or
26715 (ii) a person outside of the state with the authority to prescribe, dispense, or administer
26716 prescription drugs or devices under the law of the jurisdiction in which the person practices.
26717 (f) "Nonschedule drug or device" means:
26718 (i) a prescription drug or device, as defined in Section 58-17b-102, except that it does

26719 not include controlled substances, as defined in Section 58-37-2; or
26720 (ii) a nonprescription drug, as defined in Section 58-17b-102.
26721 (g) "Prescription drug or device" is as defined in Section 58-17b-102.
26722 (2) A drug outlet is not subject to civil liability for an injury or death resulting from the
26723 defective condition of a nonschedule drug or device that the drug outlet distributes at no
26724 charge, in good faith, and for a charitable purpose to a drug outlet or health care provider for
26725 ultimate use by a needy person, provided that:
26726 (a) the drug outlet complies with applicable state and federal laws regarding the
26727 storage, handling, and distribution of the nonschedule drug or device; and
26728 (b) the injury or death is not the result of any act or omission of the drug outlet that
26729 constitutes gross negligence, recklessness, or intentional misconduct.
26730 (3) A health care provider is not subject to civil liability for an injury or death resulting
26731 from the defective condition of a nonschedule drug or device that the health care provider
26732 distributes to a drug outlet or health care provider for ultimate use by a needy person or directly
26733 administers, dispenses, or distributes to a needy person, provided that:
26734 (a) the health care provider complies with applicable state and federal laws regarding
26735 the storage, handling, distribution, dispensing, and administration of the nonschedule drug or
26736 device;
26737 (b) the injury or death is not the result of any act or omission of the health care
26738 provider that constitutes gross negligence, recklessness, or intentional misconduct; and
26739 (c) in the event that the health care provider directly administers, distributes, or
26740 dispenses the nonschedule drug or device to the needy person, the health care provider has
26741 retained a consent form signed by the needy person that explains the provisions of this section
26742 which extend liability protection for charitable donations of nonschedule drugs and devices.
26743 (4) Nothing in this section may be construed as:
26744 (a) permitting a person who is not authorized under Title 58, Occupations and
26745 Professions, to operate as a drug outlet or practice as a health care provider within the state; or
26746 (b) extending liability protection to any person who acts outside of the scope of
26747 authority granted to that person under the laws of this state or the jurisdiction in which the
26748 person operates or practices.
26749 Section 758. Section **78B-4-505**, which is renumbered from Section 78-11-28 is

26750 renumbered and amended to read:
26751 **[~~78-11-28~~]. 78B-4-505. Liability of reprocessor of single-use medical devices.**
26752 (1) For purposes of this section:
26753 (a) "Critical single-use medical device" means a medical device that:
26754 (i) is marked as a single-use device by the original manufacturer; and
26755 (ii) is intended to directly contact normally sterile tissue or body spaces during use, or
26756 is physically connected to a device intended to contact normally sterile tissue or body spaces
26757 during use.
26758 (b) "Original manufacturer" means any person or entity who designs, manufactures,
26759 fabricates, assembles, or processes a critical single-use medical device which is new and has
26760 not been used in a previous medical procedure.
26761 (c) "Reprocessor" includes a person or entity who performs the functions of contract
26762 sterilization, installation, relabeling, remanufacturing, repacking, or specification development
26763 of a reprocessed critical single-use medical device.
26764 (d) "Reconditioned or reprocessed critical single-use medical device" means a critical
26765 single use medical device that:
26766 (i) has previously been used on a patient and has been subject to additional processing
26767 and manufacturing for the purpose of additional use on a different patient;
26768 (ii) includes a device that meets the definition under Subsection (1)(a), but has been
26769 labeled by the reprocessor as "recycled," "refurbished," or "reused"; and
26770 (iii) does not include a disposable or critical single-use medical device that has been
26771 opened but not used on an individual.
26772 (2) A reprocessor who reconditions or reprocesses a critical single-use medical device
26773 assumes the liability:
26774 (a) of the original manufacturer of the critical single-use medical device; and
26775 (b) for the safety and effectiveness of the reconditioned or reprocessed critical
26776 single-use medical device.
26777 Section 759. Section **78B-4-506**, which is renumbered from Section 78-27-60 is
26778 renumbered and amended to read:
26779 **[~~78-27-60~~]. 78B-4-506. Limited immunity for architects and engineers**
26780 **inspecting earthquake damage.**

26781 (1) A professional engineer licensed under Title 58, Chapter 22, Professional Engineers
26782 and Land Surveyors Licensing Act, or an architect licensed under Title 58, Chapter 3a,
26783 Architects Licensing Act, who provides structural inspection services at the scene of a declared
26784 national, state, or local emergency caused by a major earthquake is not liable for any personal
26785 injury, wrongful death, or property damage caused by the good faith inspection for structural
26786 integrity or nonstructural elements affecting health and safety of a structure used for human
26787 habitation or owned by a public entity if the inspection is performed:
26788 (a) voluntarily, without compensation or the expectation of compensation;
26789 (b) at the request of a public official or city or county building inspector acting in an
26790 official capacity; and
26791 (c) within 30 days of the earthquake.
26792 (2) The immunity provided for in Subsection (1) does not apply to gross negligence or
26793 willful misconduct.
26794 Section 760. Section **78B-4-507**, which is renumbered from Section 78-27-61 is
26795 renumbered and amended to read:
26796 **[~~78-27-61~~]. 78B-4-507. Amusement park rides -- Park responsibilities -- Rider**
26797 **responsibilities.**
26798 (1) As used in this section:
26799 (a) (i) "Amusement park" means any permanent indoor or outdoor facility or park
26800 where amusement rides are available for use by the general public.
26801 (ii) "Amusement park" does not include a ski resort, a traveling show, carnival, or fair.
26802 (b) "Amusement ride" means a device or attraction at an amusement park which carries
26803 or conveys passengers along, around, or over a fixed or restricted route or course or allows the
26804 passenger to steer or guide it within an established area for the purpose of giving its passengers
26805 amusement, pleasure, thrills, or excitement. "Amusement ride" includes:
26806 (i) any water-based recreational attraction, including all water slides, wave pools, and
26807 water parks; and
26808 (ii) typical rides, including roller coasters, whips, ferris wheels, and merry-go-rounds.
26809 (c) "Intoxicated" means a person is under the influence of alcohol, a controlled
26810 substance, or any substance having the property of releasing toxic vapors, to a degree that the
26811 person may endanger himself or another, in a public place or in a private place where he

26812 unreasonably disturbs other persons.
26813 (d) "Operator" means any person, firm, or corporation that owns, leases, manages, or
26814 operates an amusement park or amusement ride and all employees and agents of the
26815 amusement park.
26816 (e) "Rider" means any person who is:
26817 (i) waiting in the immediate vicinity of an amusement ride in order to get on the ride;
26818 (ii) in the process of leaving the ride but remains in its immediate vicinity; or
26819 (iii) a passenger or participant on an amusement ride.
26820 (2) An amusement park shall inform riders in writing, where appropriate, of the nature
26821 of the ride, including factors which would assist riders in determining whether they should
26822 participate in the ride activity and the rules concerning conduct on each ride. Information
26823 concerning the rules of conduct may be given verbally at the beginning of each ride segment or
26824 posted in writing conspicuously at the entrance to each ride.
26825 (3) Riders are responsible for obeying the posted rules and verbal instructions of the
26826 amusement ride operator.
26827 (4) A rider may not:
26828 (a) board or dismount from an amusement ride except at a designated area;
26829 (b) board an amusement ride if he has a physical condition that may be aggravated by
26830 participation on the ride;
26831 (c) disconnect, disable, or attempt to disconnect or disable, any safety device, seat belt,
26832 harness, or other restraining device before, during, or after movement of the amusement ride
26833 has started except at the express instruction of the operator;
26834 (d) throw or expel any object from an amusement ride;
26835 (e) act in any manner contrary to posted or oral rules while boarding, riding, or
26836 dismounting from an amusement ride; or
26837 (f) engage in any reckless act or activity which may injure himself or others.
26838 (5) A rider may not board or attempt to board any amusement ride if he is intoxicated.
26839 (a) An operator of an amusement park ride may prevent a rider who is perceptibly or
26840 apparently intoxicated from boarding an amusement ride.
26841 (b) An operator who prevents a rider from boarding an amusement ride under this
26842 section, is not criminally or civilly liable if the operator reasonably believes that the rider is

26843 intoxicated.
26844 (6) An amusement park shall post signs and notices in conspicuous locations
26845 throughout the park informing riders of the importance of reporting all injuries sustained on
26846 amusement park premises. The signs shall contain the location where any injuries may be
26847 reported.
26848 (7) A rider, or the parent or guardian of a minor rider on the minor's behalf, may report
26849 in writing to the amusement facility or its designated agent any injuries sustained on an
26850 amusement ride before leaving the amusement facility premises, unless the rider, or parent or
26851 guardian of a minor rider, is unable to file a report because of the severity of the injuries to the
26852 rider. The report shall be filed as soon as reasonably possible and include:
26853 (a) the name, address, and phone number of the injured person;
26854 (b) if the injured person is a minor, the name, address, and phone number of the parent
26855 or guardian filing the report;
26856 (c) a brief description of the incident causing the injury, including the location, date,
26857 and time of the injury;
26858 (d) a description of the injury, including the cause, if known; and
26859 (e) the name, address, and phone number of any known witnesses to the incident.
26860 (8) The actions of any rider of sufficient age and knowledge to assume the inherent
26861 risks of an amusement ride who violates the provisions of Subsection (3), (4), or (5) may be
26862 considered by the court in a civil action brought by a rider against the amusement park operator
26863 for injuries sustained while at the amusement park for the purpose of allocating fault between
26864 the parties.
26865 Section 761. Section **78B-4-508**, which is renumbered from Section 78-27-62 is
26866 renumbered and amended to read:
26867 **[~~78-27-62~~]. 78B-4-508. Limitation on liability of hockey facilities.**
26868 (1) As used in this section, "hockey facility" means a facility where hockey is
26869 customarily played or practiced and the general public is charged an admission fee to attend.
26870 (2) The owner or operator of a hockey facility is not liable for any injury to the person
26871 or property of any person as a result of that person being hit by a hockey puck or stick unless:
26872 (a) the person is situated completely behind a board, glass, or similar barrier and the
26873 board, glass, or barrier is defective; or

26874 (b) the injury is caused by negligent or willful and wanton conduct in connection with
26875 the game of hockey by the owner or operator or any hockey player, coach, or manager
26876 employed by the owner or operator.
26877 Section 762. Section **78B-4-509**, which is renumbered from Section 78-27-63 is
26878 renumbered and amended to read:
26879 **[~~78-27-63~~]. 78B-4-509. Inherent risks of certain recreational activities -- Claim**
26880 **barred against county or municipality -- No effect on duty or liability of person**
26881 **participating in recreational activity or other person.**
26882 (1) As used in this section:
26883 (a) "Inherent risks" means those dangers, conditions, and potentials for personal injury
26884 or property damage that are an integral and natural part of participating in a recreational
26885 activity.
26886 (b) "Municipality" has the meaning as defined in Section 10-1-104.
26887 (c) "Person" includes an individual, regardless of age, maturity, ability, capability, or
26888 experience, and a corporation, partnership, limited liability company, or any other form of
26889 business enterprise.
26890 (d) "Recreational activity" includes a rodeo, an equestrian activity, skateboarding,
26891 skydiving, para gliding, hang gliding, roller skating, ice skating, fishing, hiking, walking,
26892 running, jogging, bike riding, or in-line skating on property:
26893 (i) owned, leased, or rented by, or otherwise made available to:
26894 (A) with respect to a claim against a county, the county; and
26895 (B) with respect to a claim against a municipality, the municipality; and
26896 (ii) intended for the specific use in question.
26897 (2) Notwithstanding anything in Sections [~~78-27-37, 78-27-38, 78-27-39, 78-27-40,~~
26898 ~~78-27-41, 78-27-42, and 78-27-43~~] 78B-5-817 through 78B-5-823 to the contrary, no person
26899 may make a claim against or recover from any of the following entities for personal injury or
26900 property damage resulting from any of the inherent risks of participating in a recreational
26901 activity:
26902 (a) a county, municipality, local district under Title 17B, Limited Purpose Local
26903 Government Entities - Local Districts, special service district under Title 17A, Chapter 2, Part
26904 13, Utah Special Service District Act, or dependent district under Title 17A, Chapter 3,

26905 Dependent Districts; or
26906 (b) the owner of property that is leased, rented, or otherwise made available to a
26907 county, municipality, local district, special service district, or dependent district for the purpose
26908 of providing or operating a recreational activity.
26909 (3) (a) Nothing in this section may be construed to relieve a person participating in a
26910 recreational activity from an obligation that the person would have in the absence of this
26911 section to exercise due care or from the legal consequences of a failure to exercise due care.
26912 (b) Nothing in this section may be construed to relieve any other person from an
26913 obligation that the person would have in the absence of this section to exercise due care or
26914 from the legal consequences of a failure to exercise due care.
26915 Section 763. Section **78B-4-510**, which is renumbered from Section 78-27-65 is
26916 renumbered and amended to read:
26917 **[~~78-27-65~~]. 78B-4-510. Affirmative defense for liquified petroleum gas**
26918 **industry.**
26919 (1) In any action for damages for personal injury, death, or property damage in which a
26920 seller, supplier, installer, handler, or transporter of liquified petroleum gas is named as a
26921 defendant, it shall be an affirmative defense to liability that:
26922 (a) the equipment or appliance which caused the damage was altered or modified
26923 without the consent or knowledge of the seller, supplier, installer, handler, or transporter; or
26924 (b) the equipment or appliance was used in a manner or for a purpose other than that
26925 for which it was intended.
26926 (2) There is a rebuttable presumption that a seller, supplier, installer, handler, or
26927 transporter of liquified petroleum gas and the necessary equipment and appliances, licensed in
26928 accordance with Title 53, Chapter 7, Part 3, Liquified Petroleum Gas Act, has followed all
26929 applicable standards and procedures established by the Liquified Petroleum Gas Board.
26930 Section 764. Section **78B-4-511**, which is renumbered from Section 78-27-64 is
26931 renumbered and amended to read:
26932 **[~~78-27-64~~]. 78B-4-511. Regulation of firearms reserved to state -- Lawsuits**
26933 **prohibited.**
26934 (1) As prescribed by Section 76-10-500, all authority to regulate firearms is reserved to
26935 the state through the Legislature.

26936 (2) A person who lawfully designs, manufactures, markets, advertises, transports, or
26937 sells firearms or ammunition to the public may not be sued by the state or any of its political
26938 subdivisions for the subsequent use, whether lawfully or unlawfully, of the firearm or
26939 ammunition, unless the suit is based on the breach of a contract or warranty for a firearm or
26940 ammunition purchased by the state or political subdivision.
26941 Section 765. Section **78B-5-101**, which is renumbered from Section 78-21-1 is
26942 renumbered and amended to read:
26943 **CHAPTER 5. PROCEDURE AND EVIDENCE**
26944 **Part 1. Issues and Trial**
26945 **[~~78-21-1~~]. 78B-5-101. Right to jury trial.**
26946 In actions for the recovery of specific real or personal property, with or without
26947 damages, or for money claimed [~~as~~] due upon contract or as damages for breach of contract, or
26948 for injuries, an issue of fact may be tried by a jury, unless a jury trial is waived or a reference is
26949 ordered.
26950 Section 766. Section **78B-5-102**, which is renumbered from Section 78-21-2 is
26951 renumbered and amended to read:
26952 **[~~78-21-2~~]. 78B-5-102. Jury to decide questions of fact.**
26953 All questions of fact, where the trial is by jury, other than those mentioned in Section
26954 [~~78-21-3~~] 78B-5-103, are to be decided by the jury, and all evidence [~~thereon~~] is to be
26955 addressed to them, except when otherwise provided.
26956 Section 767. Section **78B-5-103**, which is renumbered from Section 78-21-3 is
26957 renumbered and amended to read:
26958 **[~~78-21-3~~]. 78B-5-103. Court to decide questions of law.**
26959 All questions of law, including the admissibility of evidence, the facts preliminary to
26960 [~~such~~] admission, the construction of statutes and other writings, [~~and~~] the application of the
26961 rules of evidence [~~are to be decided by the court~~], and all discussions of law are to be addressed
26962 to [~~it~~] and decided by the court. Whenever the knowledge of the court is by law made evidence
26963 of a fact, the court [~~is to declare such~~] shall explain the knowledge to the jury, who are [~~bound~~]
26964 to accept it.
26965 Section 768. Section **78B-5-201**, which is renumbered from Section 78-22-1.5 is
26966 renumbered and amended to read:

26967 **Part 2. Judgments**

26968 **[~~78-22-1.5~~]. 78B-5-201. Definitions -- Judgment recorded in Registry of**
26969 **Judgments.**

26970 (1) For purposes of this [~~section~~] part, "Registry of Judgments" means the index where
26971 a judgment [~~shall be~~] is filed and searchable by the name of the judgment debtor through
26972 electronic means or by tangible document.

26973 (2) On or after July 1, 1997, a judgment entered in a district court does not create a lien
26974 upon or affect the title to real property unless the judgment is filed in the Registry of Judgments
26975 of the office of the clerk of the district court of the county in which the property is located.

26976 (3) (a) On or after July 1, 2002, except as provided in Subsection (3)(b), a judgment
26977 entered in a district court does not create a lien upon or affect the title to real property unless
26978 the judgment or an abstract of judgment is recorded in the office of the county recorder in
26979 which the real property of the judgment debtor is located.

26980 (b) State agencies are exempt from the recording requirement of Subsection (3)(a).

26981 (4) In addition to the requirements of Subsections (2) and (3)(a), any judgment that is
26982 filed in the Registry of Judgments on or after September 1, 1998, or any judgment or abstract of
26983 judgment that is recorded in the office of a county recorder after July 1, 2002, shall include:

26984 (a) the information identifying the judgment debtor on the judgment or abstract of
26985 judgment; or

26986 (b) a copy of the separate information statement of the judgment creditor that contains:

26987 (i) the correct name and last-known address of each judgment debtor and the address at
26988 which each judgment debtor received service of process;

26989 (ii) the name and address of the judgment creditor;

26990 (iii) the amount of the judgment as filed in the Registry of Judgments;

26991 (iv) if known, the judgment debtor's social security number, date of birth, and driver's
26992 license number if a natural person; and

26993 (v) whether or not a stay of enforcement has been ordered by the court and the date the
26994 stay expires.

26995 (5) For the information required in Subsection (4), the judgment creditor shall:

26996 (a) provide the information on the separate information statement if known or available
26997 to the judgment creditor from its records, its attorney's records, or the court records in the

26998 action in which the judgement was entered; or
26999 (b) state on the separate information statement that the information is unknown or
27000 unavailable.
27001 (6) (a) Any judgment that requires payment of money and is entered in a district court
27002 on or after September 1, 1998, or any judgment or abstract of judgment recorded in the office
27003 of a county recorder after July 1, 2002, that does not include the debtor identifying information
27004 as required in Subsection (4) is not a lien until a separate information statement of the
27005 judgment creditor is recorded in the office of a county recorder in compliance with Subsections
27006 (4) and (5).
27007 (b) The separate information statement of the judgment creditor referred to in
27008 Subsection (6)(a) shall include:
27009 (i) the name of any judgment creditor, debtor, assignor, or assignee;
27010 (ii) the date of recording; and
27011 (iii) the entry number of the original judgment or abstract of judgment.
27012 (7) A judgment that requires payment of money recorded on or after September 1,
27013 1998, but prior to July 1, 2002, has as its priority the date of entry, except as to parties with
27014 actual or constructive knowledge of the judgment.
27015 (8) A judgment or notice of judgment wrongfully filed against real property is subject
27016 to Title 38, Chapter 9, Wrongful Liens.
27017 Section 769. Section **78B-5-202**, which is renumbered from Section 78-22-1 is
27018 renumbered and amended to read:
27019 **[~~78-22-1~~]. 78B-5-202. Duration of judgment -- Judgment as a lien upon real**
27020 **property -- Abstract of judgment -- Small claims judgment not a lien -- Appeal of**
27021 **judgment -- Child support orders.**
27022 (1) Judgments shall continue for eight years from the date of entry in a court unless
27023 previously satisfied or unless enforcement of the judgment is stayed in accordance with law.
27024 (2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of
27025 judgment by a district court creates a lien upon the real property of the judgment debtor, not
27026 exempt from execution, owned or acquired during the existence of the judgment, located in the
27027 county in which the judgment is entered.
27028 (3) An abstract of judgment issued by the court in which the judgment is entered may

27029 be filed in any court of this state and shall have the same force and effect as a judgment entered
27030 in that court.
27031 (4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in the small
27032 claims division of any court [~~shall~~] may not qualify as a lien upon real property unless
27033 abstracted to the civil division of the district court and recorded in accordance with Subsection
27034 (3).
27035 (5) (a) If any judgment is appealed, upon deposit[~~,~~] with the court where the notice of
27036 appeal is filed[~~,~~] of cash or other security in a form and amount considered sufficient by the
27037 court that rendered the judgment to secure the full amount of the judgment, together with
27038 ongoing interest and any other anticipated damages or costs, including [~~attorney's~~] attorney fees
27039 and costs on appeal, the lien created by the judgment shall be terminated as provided in
27040 Subsection (5)(b).
27041 (b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court
27042 shall enter an order terminating the lien created by the judgment and granting the judgment
27043 creditor a perfected lien in the deposited security as of the date of the original judgment.
27044 (6) (a) A child support order or a sum certain judgment for past due support may be
27045 enforced:
27046 (i) within four years after the date the youngest child reaches majority; or
27047 (ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.
27048 (b) The longer period of duration shall apply in every order.
27049 (c) A sum certain judgment may be renewed to extend the duration.
27050 (7) (a) After July 1, 2002, a judgment entered by a district court or a justice court in the
27051 state becomes a lien upon real property if:
27052 (i) the judgment or an abstract of the judgment containing the information identifying
27053 the judgment debtor as described in Subsection [~~78-22-1.5~~] 78B-5-201(4) is recorded in the
27054 office of the county recorder; or
27055 (ii) the judgment or an abstract of the judgment and a separate information statement of
27056 the judgment creditor as described in Subsection [~~78-22-1.5~~] 78B-5-201(5) is recorded in the
27057 office of the county recorder.
27058 (b) The judgment shall run from the date of entry by the district court or justice court.
27059 (c) The real property subject to the lien includes all the real property of the judgment

27060 debtor:
27061 (i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and
27062 (ii) owned or acquired at any time by the judgment debtor during the time the judgment
27063 is effective.
27064 (d) State agencies are exempt from the recording requirement of Subsection (7)(a).
27065 (8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the
27066 judgment debtor in the judgment index in the office of the county recorder as required in
27067 Section 17-21-6.
27068 (b) A judgment containing a legal description shall also be abstracted in the appropriate
27069 tract index in the office of the county recorder.
27070 Section 770. Section **78B-5-203**, which is renumbered from Section 78-22-1.1 is
27071 renumbered and amended to read:
27072 **[~~78-22-1.1~~]. 78B-5-203. Judgment against party dying after verdict or decision.**
27073 [~~A judgment rendered where~~] If a party dies after a verdict or decision upon any issue of
27074 fact, and before judgment, the judgment is not a lien on the real property of the deceased party,
27075 but is payable in the course of the administration of [~~his~~] the party's estate.
27076 Section 771. Section **78B-5-204**, which is renumbered from Section 78-22-2 is
27077 renumbered and amended to read:
27078 **[~~78-22-2~~]. 78B-5-204. Judgment against sheriff -- When conclusive against**
27079 **sureties on indemnity bond.**
27080 If an action is brought against a sheriff for an act done by virtue of his office and he
27081 gives written notice [~~thereof~~] to the sureties on any bond of indemnity received by him, the
27082 judgment recovered [~~therein~~] is conclusive evidence of his right to recover against such
27083 sureties[~~; and the~~]. The court[~~, or judge in vacation,~~] may, on motion, and upon [~~notice of~~] five
27084 days notice, order judgment to be entered against them for the amount [~~so~~] recovered, including
27085 costs.
27086 Section 772. Section **78B-5-205**, which is renumbered from Section 78-22-3 is
27087 renumbered and amended to read:
27088 **[~~78-22-3~~]. 78B-5-205. Judgment by confession authorized.**
27089 A judgment by confession may be entered without action, either for money due or to
27090 become due or to secure any person against contingent liability on behalf of the defendant, or

27091 both, in the manner prescribed by law. [~~Such~~] The judgment may be entered in any court
27092 having jurisdiction for like amounts.
27093 Section 773. Section **78B-5-206**, which is renumbered from Section 78-22-4 is
27094 renumbered and amended to read:
27095 **[~~78-22-4~~]. 78B-5-206. Mileage allowance for judgment debtor required to**
27096 **appear.**
27097 [~~Every~~] A judgment debtor legally required to appear before a district court or a master
27098 to answer concerning [~~his, her, or its~~] the debtor's property is entitled, on a sufficient showing
27099 of need, to mileage of 15 cents per mile for each mile actually and necessarily traveled in going
27100 only, to be paid by the judgment creditor at whose instance the judgment debtor was required to
27101 appear[~~, but the~~]. The judgment creditor is not required to make any payment for such mileage
27102 until the judgment debtor has actually appeared before the court or master.
27103 Section 774. Section **78B-5-301**, which is renumbered from Section 78-22a-1 is
27104 renumbered and amended to read:
27105 **Part 3. Utah Foreign Judgment Act**
27106 **[~~78-22a-1~~]. 78B-5-301. Title.**
27107 This [~~chapter shall be known and may be cited~~] part is known as the "Utah Foreign
27108 Judgment Act."
27109 Section 775. Section **78B-5-302**, which is renumbered from Section 78-22a-2 is
27110 renumbered and amended to read:
27111 **[~~78-22a-2~~]. 78B-5-302. Definition -- Filing and status of foreign judgments.**
27112 (1) As used in this [~~chapter~~] part, "foreign judgment" means any judgment, decree, or
27113 order of a court of the United States or of any other court whose acts are entitled to full faith
27114 and credit in this state.
27115 (2) A copy of a foreign judgment authenticated in accordance with an appropriate act
27116 of Congress or an appropriate act of Utah may be filed with the clerk of any district court in
27117 Utah. The clerk of the district court shall treat the foreign judgment in all respects as a
27118 judgment of a district court of Utah.
27119 (3) A foreign judgment filed under this [~~chapter~~] part has the same effect and is subject
27120 to the same procedures, defenses, enforcement, satisfaction, and proceedings for reopening,
27121 vacating, setting aside, or staying as a judgment of a district court of this state.

27122 Section 776. Section **78B-5-303**, which is renumbered from Section 78-22a-3 is
27123 renumbered and amended to read:
27124 **[~~78-22a-3~~]. 78B-5-303. Notice of filing.**
27125 (1) The judgment creditor or attorney for the creditor, at the time of filing a foreign
27126 judgment, shall file an affidavit with the clerk of the district court stating the last known
27127 post-office address of the judgment debtor and the judgment creditor.
27128 (2) Upon the filing of a foreign judgment and affidavit, the clerk of the district court
27129 shall notify the judgment debtor that the judgment has been filed. Notice shall be sent to the
27130 address stated in the affidavit. The clerk shall record the date the notice is mailed in the
27131 register of actions. The notice shall include the name and post-office address of the judgment
27132 creditor and the name and address of the judgment creditor's attorney, if any.
27133 (3) No execution or other process for the enforcement of a foreign judgment filed
27134 under this [~~chapter~~] part may issue until 30 days after the judgment is filed.
27135 Section 777. Section **78B-5-304**, which is renumbered from Section 78-22a-4 is
27136 renumbered and amended to read:
27137 **[~~78-22a-4~~]. 78B-5-304. Stay.**
27138 (1) If an appeal from a foreign judgment is pending, the time for appeal has not expired,
27139 or a stay of execution has been granted, the court, upon proof that the judgment debtor has
27140 furnished security for satisfaction of the judgment in the state in which the judgment was
27141 rendered shall stay enforcement of the judgment until the appeal is concluded, the time for
27142 appeal expires, or until the stay of execution expires or is vacated.
27143 (2) If the foreign judgment debtor, upon motion, shows the district court any ground
27144 upon which enforcement of a judgment of a district court of this state would be stayed, the
27145 court shall stay enforcement of the foreign judgment upon the posting of security in the kind
27146 and amount required to stay enforcement of a domestic judgment.
27147 Section 778. Section **78B-5-305**, which is renumbered from Section 78-22a-5 is
27148 renumbered and amended to read:
27149 **[~~78-22a-5~~]. 78B-5-305. Lien.**
27150 (1) A foreign judgment entered in a district court under this [~~chapter~~] part becomes a
27151 lien as provided in Section [~~78-22-1~~] 78B-5-202 if:
27152 (a) a stay of execution has not been granted;

27153 (b) the requirements of this chapter are satisfied; and
27154 (c) the judgment is recorded in the office of the county recorder where the property of
27155 the judgment debtor is located, as provided in Section [~~78-22-1~~] 78B-5-202.
27156 (2) The lien becomes effective at the time and date of recording and expires eight years
27157 after date of entry by the court in the foreign jurisdiction unless renewed in Utah as required by
27158 Utah law.
27159 Section 779. Section **78B-5-306**, which is renumbered from Section 78-22a-6 is
27160 renumbered and amended to read:
27161 **[~~78-22a-6~~]. 78B-5-306. Optional procedure.**
27162 This [~~chapter shall~~] part may not be construed to impair a judgment creditor's right to
27163 bring an action in this state to enforce [~~such~~] the creditor's judgment.
27164 Section 780. Section **78B-5-307**, which is renumbered from Section 78-22a-8 is
27165 renumbered and amended to read:
27166 **[~~78-22a-8~~]. 78B-5-307. Uniformity of interpretation.**
27167 This [~~chapter~~] part shall be construed to effectuate the general purpose to make uniform
27168 the law of those states which enact it.
27169 Section 781. Section **78B-5-401**, which is renumbered from Section 78-22b-101 is
27170 renumbered and amended to read:
27171 **Part 4. Uniform Foreign-Money Claims Act**
27172 **[~~78-22b-101~~]. 78B-5-401. Title.**
27173 This [~~chapter shall be~~] part is known as the "Uniform Foreign-Money Claims Act."
27174 Section 782. Section **78B-5-402**, which is renumbered from Section 78-22b-102 is
27175 renumbered and amended to read:
27176 **[~~78-22b-102~~]. 78B-5-402. Definitions.**
27177 As used in this [~~chapter~~] part:
27178 (1) "Action" means a judicial proceeding or arbitration in which a money payment may
27179 be awarded or enforced in respect of a foreign-money claim.
27180 (2) "Conversion date" means the banking day next before the date on which money is,
27181 in accordance with this [~~chapter~~] part:
27182 (a) paid to a judgment creditor;
27183 (b) paid to the designated official enforcing a judgment on behalf of the judgment

27184 creditor; or
27185 (c) used to effect a recoupment or set-off of claims in different moneys in an action.
27186 (3) "Distribution proceeding" means a judicial or nonjudicial proceeding for an
27187 accounting, an assignment for the benefit of creditors, a foreclosure, for the liquidation or
27188 rehabilitation of a corporation or other entity, for the distribution of an estate, trust, or other
27189 fund in or against which a foreign-money claim is asserted.
27190 (4) "Foreign money" means money other than money of the United States of America.
27191 (5) "Foreign-money claim" means a claim upon an obligation to pay, or a claim for
27192 recovery of a loss, expressed in or measured by a foreign money.
27193 (6) "Money" means a medium of exchange for the payment of obligations or a store of
27194 value authorized or adopted by a government or by intergovernmental agreement.
27195 (7) "Money of the claim" means the money determined as proper by Section
27196 [~~78-22b-105~~] 78B-5-405.
27197 (8) "Party" means an individual, a corporation, government or governmental
27198 subdivision or agency, business trust, partnership or association of two or more persons having
27199 a joint or common interest or any other legal or commercial entity asserting or defending
27200 against a foreign-money claim.
27201 (9) "Rate of exchange" means the rate at which the money of one country may be
27202 converted into money of another country in a free financial market convenient to or reasonably
27203 usable by the party obliged to pay or to state a rate of conversion. If separate exchange rates
27204 apply to different kinds of transactions or events, the term means the rate applicable to the
27205 particular transaction or event giving rise to the foreign-money claim.
27206 (10) (a) "Spot rate" means the rate of exchange at which foreign money is sold by a
27207 bank or other dealer in foreign exchange for settlement by immediate payment, by charge to an
27208 account, or by an agreed delayed settlement not exceeding two days.
27209 (b) "Bank-offered spot rate" means the rate of exchange at which a bank will issue its
27210 draft in the foreign money or will cause credit to become available in the foreign money on a
27211 next-day basis.
27212 (11) "State" means a state, territory, or possession of the United States, the District of
27213 Columbia, the Commonwealth of Puerto Rico, or the United States Virgin Islands.
27214 Section 783. Section **78B-5-403**, which is renumbered from Section 78-22b-103 is

27215 renumbered and amended to read:
27216 **[~~78-22b-103~~]. 78B-5-403. Scope.**
27217 (1) This [~~chapter~~] part applies only to a foreign-money claim in an action or
27218 distribution proceeding.
27219 (2) This [~~chapter~~] part applies to foreign-money issues notwithstanding the law
27220 applicable under the conflict of laws rules of this state to other issues in the action or
27221 distribution proceeding.
27222 Section 784. Section **78B-5-404**, which is renumbered from Section 78-22b-104 is
27223 renumbered and amended to read:
27224 **[~~78-22b-104~~]. 78B-5-404. Variation by agreement.**
27225 (1) The effect of provisions of this [~~chapter~~] part may be varied by agreement of the
27226 parties made at any time before or after commencement of an action, distribution proceeding,
27227 or the entry of judgment.
27228 (2) The parties may agree upon the money to be used in a transaction giving rise to a
27229 foreign-money claim and may use different moneys for different aspects of the transaction.
27230 Stating the price in a foreign money or for a particular transaction does not require, of itself, the
27231 use of that money for other aspects of the transaction.
27232 Section 785. Section **78B-5-405**, which is renumbered from Section 78-22b-105 is
27233 renumbered and amended to read:
27234 **[~~78-22b-105~~]. 78B-5-405. Determining the money of the claim.**
27235 (1) Except as provided by Subsection (2), the proper money of the claim is, as in each
27236 case may be appropriate, the money:
27237 (a) regularly used between the parties as a matter of usage or course of dealing;
27238 (b) used at the time of a transaction in international trade, by trade usage or common
27239 practice, for valuing or settling transactions in the particular commodity or service involved; or
27240 (c) in which the loss was ultimately felt or will be incurred by a party.
27241 (2) The money in which the parties have contracted that a payment be made is the
27242 proper money of the claim for that payment.
27243 Section 786. Section **78B-5-406**, which is renumbered from Section 78-22b-106 is
27244 renumbered and amended to read:
27245 **[~~78-22b-106~~]. 78B-5-406. Determining the amount of the money of certain**

27246 **contract claims.**
27247 (1) If an amount contracted to be paid in a foreign money is measured by a specified
27248 amount of a different money, the amount to be paid is determined on the conversion date.
27249 (2) If an amount contracted to be paid in a foreign money is to be measured by a
27250 different money at the exchange rate prevailing on a date prior to default, that exchange rate
27251 applies only for payments made a reasonable time after default, not to exceed 30 days.
27252 Thereafter, conversion is made at the bank-offered spot rate on the conversion date.
27253 (3) (a) A monetary claim is neither usurious nor unconscionable because the agreement
27254 on which it is based provides that the amount of the debtor's obligation to be paid in the
27255 debtor's money [~~must~~] shall, when received by the creditor, equal a specified amount of the
27256 foreign money of the country of the creditor.
27257 (b) If because of unexcused delay in payment of a judgment or award the amount
27258 received by the creditor does not equal the amount of the foreign money specified in the
27259 agreement, the court or arbitrator, as the case may be, has jurisdiction to and [~~shall~~] may amend
27260 the judgment or award accordingly.
27261 Section 787. Section **78B-5-407**, which is renumbered from Section 78-22b-107 is
27262 renumbered and amended to read:
27263 **[~~78-22b-107~~]. 78B-5-407. Asserting and defending a foreign-money claim.**
27264 (1) A claimant may assert a claim in a specified foreign money. If a foreign money is
27265 not asserted, the claimant makes a claim for a judgment in United States dollars.
27266 (2) An opposing party may allege and prove the claim is in whole or in part for a
27267 different money than that asserted by the claimant.
27268 (3) Any party may assert a defense, set-off, recoupment, or counterclaim in any money
27269 without regard to the money of other claims.
27270 (4) The determination of the proper money of the claim is a question of law.
27271 Section 788. Section **78B-5-408**, which is renumbered from Section 78-22b-108 is
27272 renumbered and amended to read:
27273 **[~~78-22b-108~~]. 78B-5-408. Judgments and awards on foreign-money claims**
27274 **-- Time of money conversion -- Form of judgment.**
27275 (1) Except as provided in Subsection (3), a judgment or arbitration award on a
27276 foreign-money claim must be stated in an amount of the money of the claim.

27277 (2) The judgment or award is payable in that foreign money or at the option of the
27278 debtor in the amount of United States dollars which will purchase that foreign money on the
27279 conversion date at a bank-offered spot rate.
27280 (3) Assessed costs must be entered in United States dollars.
27281 (4) Each payment in United States dollars must be accepted and credited on the
27282 judgment or award in the amount of the foreign money that could be purchased by the dollars at
27283 a bank-offered spot rate of exchange at or near the close of business on the conversion date for
27284 that payment.
27285 (5) Judgments or awards made in an action on both:
27286 (a) a defense, set-off, recoupment, or counterclaim; and
27287 (b) the adverse party's claim, must be netted by converting the money of the smaller
27288 into the money of the larger, and by subtracting the smaller from the larger, and must specify
27289 the rates of exchange used.
27290 (6) A judgment substantially in the following form complies with Subsection (1):
27291 IT IS ADJUDGED AND ORDERED that Defendant (insert name) pay to Plaintiff
27292 (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the
27293 rate of (insert rate - see Section [~~78-22b-110~~] 78B-5-410) percent a year or, at the option of the
27294 judgment debtor, the number of United States dollars as will purchase the (insert name of
27295 foreign money) with interest due, at a bank-offered spot rate at or near the close of business on
27296 the banking day next before the day of payment, together with assessed costs of (insert amount)
27297 United States dollars.
27298 (7) If a contract claim is of the type covered by Subsection [~~78-22b-106~~] 78B-5-406(1)
27299 or (2), the judgment or award shall be entered for the amount of the money stated to measure
27300 the obligation to be paid in the money specified for payment or, at the option of the debtor, the
27301 number of United States dollars as will purchase the computed amount of the money of
27302 payment on the conversion date at a bank-offered spot rate.
27303 (8) A judgment shall be filed in the judgment docket and indexed in foreign money in
27304 the same manner, and shall have the same effect as a lien as other judgments. It may be
27305 discharged by payment.
27306 Section 789. Section **78B-5-409**, which is renumbered from Section 78-22b-109 is
27307 renumbered and amended to read:

27308 **[~~78-22b-109~~]. 78B-5-409. Conversions of foreign money in a distribution**
27309 **proceeding.**
27310 The rate of exchange prevailing at or near the closing of business on the day the
27311 proceeding is initiated shall govern all exchanges of foreign money in a distribution
27312 proceeding. A foreign-money claimant in a distribution proceeding must assert its claim in the
27313 named foreign money and show the amount of United States dollars resulting from a
27314 conversion as of the date the proceeding was initiated.
27315 Section 790. Section **78B-5-410**, which is renumbered from Section 78-22b-110 is
27316 renumbered and amended to read:
27317 **[~~78-22b-110~~]. 78B-5-410. Prejudgment and judgment interest.**
27318 (1) With respect to a foreign-money claim, recovery of prejudgment interest and the
27319 rate of interest to be applied in the action or distribution proceeding are matters of the
27320 substantive law governing the right to recovery under the conflict of laws rules of this state.
27321 (2) Notwithstanding Subsection (1), an increase or decrease in the amount of
27322 prejudgment interest otherwise payable may be made in a foreign-money judgment to the
27323 extent required by the law of this state governing a failure to make or accept an offer of
27324 settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or
27325 expense.
27326 (3) A judgment on a foreign-money claim bears interest at the same rate applicable to
27327 other judgments of this state.
27328 Section 791. Section **78B-5-411**, which is renumbered from Section 78-22b-111 is
27329 renumbered and amended to read:
27330 **[~~78-22b-111~~]. 78B-5-411. Enforcement of foreign judgments.**
27331 (1) Subject to Subsections (2) and (3), if an action is brought to enforce a judgment of
27332 another jurisdiction expressed in a foreign money and the judgment is recognized in this state
27333 as enforceable, the enforcing judgment [~~must~~] shall be entered as provided in Section
27334 [~~78-22b-108~~] 78B-5-408 whether or not the foreign judgment confers an option to pay in an
27335 equivalent amount of United States dollars. A satisfaction or partial payment made upon the
27336 foreign judgment, on proof thereof, [~~must~~] shall be credited against the amount of foreign
27337 money specified in the judgment, notwithstanding the entry of judgment in this state.
27338 (2) Notwithstanding Subsection (1), a foreign judgment may be filed in the judgment

27339 docket in accordance with any statute of this state providing a procedure for its recognition and
27340 enforcement.
27341 (3) A judgment entered on a foreign-money claim only in United States dollars in
27342 another state [~~must~~] shall be enforced in this state in United States dollars only.
27343 Section 792. Section **78B-5-412**, which is renumbered from Section 78-22b-112 is
27344 renumbered and amended to read:
27345 **[~~78-22b-112~~]. 78B-5-412. Temporarily determining the United States**
27346 **dollar value of foreign-money claims for limited purposes.**
27347 (1) For the limited purpose of facilitating the enforcement of provisional remedies in
27348 an action:
27349 (a) the value in United States dollars of assets to be seized or restrained pursuant to a
27350 writ of attachment, garnishment, execution, or other legal process;
27351 (b) the amount of United States dollars at issue for assessing costs; or
27352 (c) the amount of United States dollars involved for a surety bond or other
27353 court-required undertaking shall be ascertained as provided in Subsections (2) and (3).
27354 (2) The party seeking the process, costs, bond, or other undertaking [~~must~~] shall
27355 compute the dollar amount of the foreign money claimed from a bank-offered spot rate of
27356 exchange prevailing at or near the close of business on the banking day next preceding the
27357 filing of a request or application for the issuance of process or for the determination of costs, or
27358 an application for a bond or other court-required undertaking.
27359 (3) The party seeking the process, costs, bond, or other undertaking shall file with each
27360 request or application an affidavit or certificate executed in good faith by its counsel or a bank
27361 officer, stating the market quotation used, how obtained, and setting forth the calculation.
27362 Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting
27363 as if the judgment was in the amount of United States dollars stated in the affidavit or
27364 certificate.
27365 (4) Computations under this section are for the limited purposes of [~~the~~] this section
27366 and do not affect computation of the United States dollar equivalent of the money of the
27367 judgment for payment purposes.
27368 Section 793. Section **78B-5-413**, which is renumbered from Section 78-22b-113 is
27369 renumbered and amended to read:

27370 **[~~78-22b-113~~]. 78B-5-413. Effect of currency revalorizations.**
27371 (1) If, after an obligation is expressed or a loss is incurred in a foreign money, the
27372 country issuing or adopting that money substitutes a new money in place of that money, the
27373 obligation or the loss is treated as if expressed or incurred in the new money at the rate of
27374 conversion the issuing country establishes for the payment of like obligations or losses
27375 denominated in the former money.
27376 (2) If substitution under Subsection (1) occurs after a judgment or award is entered on a
27377 foreign-money claim, the court or arbitrator [~~as the case may be~~] shall have jurisdiction to, and
27378 shall, amend the judgment or award by a like conversion of the former money.
27379 Section 794. Section **78B-5-414**, which is renumbered from Section 78-22b-114 is
27380 renumbered and amended to read:
27381 **[~~78-22b-114~~]. 78B-5-414. Supplementary general principles of law.**
27382 Unless displaced by particular provisions of this [~~chapter~~] part, the principles of law
27383 and equity, including the law merchant, and the law relative to capacity to contract, principal
27384 and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other
27385 validating or invalidating causes supplement its provisions.
27386 Section 795. Section **78B-5-415**, which is renumbered from Section 78-22b-115 is
27387 renumbered and amended to read:
27388 **[~~78-22b-115~~]. 78B-5-415. Uniformity of application and construction.**
27389 This [~~chapter~~] part shall be applied and construed to effectuate its general purpose to
27390 make uniform the law with respect to the subject of this [~~chapter~~] part among states enacting it.
27391 Section 796. Section **78B-5-416**, which is renumbered from Section 78-22b-116 is
27392 renumbered and amended to read:
27393 **[~~78-22b-116~~]. 78B-5-416. Application.**
27394 This [~~chapter~~] part applies to actions and distribution proceedings commenced after
27395 April 23, 1990.
27396 Section 797. Section **78B-5-501**, which is renumbered from Section 78-23-1 is
27397 renumbered and amended to read:
27398 **Part 5. Utah Exemptions Act**
27399 **[~~78-23-1~~]. 78B-5-501. Title.**
27400 This [~~chapter shall be known and may be cited~~] part is known as the "Utah Exemptions

27401 Act."
27402 Section 798. Section **78B-5-502**, which is renumbered from Section 78-23-2 is
27403 renumbered and amended to read:
27404 **[~~78-23-2~~]. 78B-5-502. Definitions.**
27405 As used in this [~~chapter~~] part:
27406 (1) "Debt" means a legally enforceable monetary obligation or liability of an individual,
27407 whether arising out of contract, tort, or otherwise.
27408 (2) "Dependent" means the spouse of an individual, and the grandchild or the natural or
27409 adoptive child of an individual who derives support primarily from that individual.
27410 (3) "Exempt" means protected, and "exemption" means protection from subjection to a
27411 judicial process to collect an unsecured debt.
27412 (4) "Judicial lien" means a lien on property obtained by judgment or other legal process
27413 instituted for the purpose of collecting an unsecured debt.
27414 (5) "Levy" means the seizure of property pursuant to any legal process issued for the
27415 purpose of collecting an unsecured debt.
27416 (6) "Lien" means a judicial, or statutory lien, in property securing payment of a debt or
27417 performance of an obligation.
27418 (7) "Liquid assets" means deposits, securities, notes, drafts, unpaid earnings not
27419 otherwise exempt, accrued vacation pay, refunds, prepayments, and other receivables.
27420 (8) "Security interest" means an interest in property created by contract to secure
27421 payment or performance of an obligation.
27422 (9) "Statutory lien" means a lien arising by force of a statute, but does not include a
27423 security interest or a judicial lien.
27424 (10) "Value" means fair market value of an individual's interest in property, exclusive
27425 of valid liens.
27426 Section 799. Section **78B-5-503**, which is renumbered from Section 78-23-3 is
27427 renumbered and amended to read:
27428 **[~~78-23-3~~]. 78B-5-503. Homestead exemption -- Definitions -- Excepted**
27429 **obligations -- Water rights and interests -- Conveyance -- Sale and disposition -- Property**
27430 **right for federal tax purposes.**
27431 (1) For purposes of this section:

27432 (a) "Household" means a group of persons related by blood or marriage living together
27433 in the same dwelling as an economic unit, sharing furnishings, facilities, accommodations, and
27434 expenses.
27435 (b) "Mobile home" is as defined in Section 57-16-3.
27436 (c) "Primary personal residence" means a dwelling or mobile home, and the land
27437 surrounding it, not exceeding one acre, as is reasonably necessary for the use of the dwelling or
27438 mobile home, in which the individual and the individual's household reside.
27439 (d) "Property" means:
27440 (i) a primary personal residence;
27441 (ii) real property; or
27442 (iii) an equitable interest in real property awarded to a person in a divorce decree by a
27443 court.
27444 (2) (a) An individual is entitled to a homestead exemption consisting of property in this
27445 state in an amount not exceeding:
27446 (i) $5,000 in value if the property consists in whole or in part of property which is not
27447 the primary personal residence of the individual; or
27448 (ii) $20,000 in value if the property claimed is the primary personal residence of the
27449 individual.
27450 (b) If the property claimed as exempt is jointly owned, each joint owner is entitled to a
27451 homestead exemption; however
27452 (i) for property exempt under Subsection (2)(a)(i), the maximum exemption may not
27453 exceed $10,000 per household; or
27454 (ii) for property exempt under Subsection (2)(a)(ii), the maximum exemption may not
27455 exceed $40,000 per household.
27456 (c) A person may claim a homestead exemption in either or both of the following:
27457 (i) one or more parcels of real property together with appurtenances and improvements;
27458 or
27459 (ii) a mobile home in which the claimant resides.
27460 (3) A homestead is exempt from judicial lien and from levy, execution, or forced sale
27461 except for:
27462 (a) statutory liens for property taxes and assessments on the property;

27463 (b) security interests in the property and judicial liens for debts created for the purchase
27464 price of the property;
27465 (c) judicial liens obtained on debts created by failure to provide support or maintenance
27466 for dependent children; and
27467 (d) consensual liens obtained on debts created by mutual contract.
27468 (4) (a) Except as provided in Subsection (4)(b), water rights and interests, either in the
27469 form of corporate stock or otherwise, owned by the homestead claimant are exempt from
27470 execution to the extent that those rights and interests are necessarily employed in supplying
27471 water to the homestead for domestic and irrigating purposes.
27472 (b) Those water rights and interests are not exempt from calls or assessments and sale
27473 by the corporations issuing the stock.
27474 (5) (a) When a homestead is conveyed by the owner of the property, the conveyance
27475 may not subject the property to any lien to which it would not be subject in the hands of the
27476 owner.
27477 (b) The proceeds of any sale, to the amount of the exemption existing at the time of
27478 sale, is exempt from levy, execution, or other process for one year after the receipt of the
27479 proceeds by the person entitled to the exemption.
27480 (6) The sale and disposition of one homestead does not prevent the selection or
27481 purchase of another.
27482 (7) For purposes of any claim or action for taxes brought by the United States Internal
27483 Revenue Service, a homestead exemption claimed on real property in this state is considered to
27484 be a property right.
27485 Section 800. Section **78B-5-504**, which is renumbered from Section 78-23-4 is
27486 renumbered and amended to read:
27487 **[~~78-23-4~~]. 78B-5-504. Declaration of homestead -- Filing -- Contents -- Failure**
27488 **to file -- Conveyance by married person -- No execution sale if bid less than exemption --**
27489 **Redemption rights of judgment creditor.**
27490 An individual may select and claim a homestead by complying with the following
27491 requirements:
27492 (1) Filing a signed and acknowledged declaration of homestead with the recorder of the
27493 county or counties in which the homestead claimant's property is located or serving a signed

27494 and acknowledged declaration of homestead upon the sheriff or other officer conducting an
27495 execution prior to the time stated in the notice of [~~such~~] execution.
27496 (2) The declaration of homestead shall contain:
27497 (a) a statement that the claimant is entitled to an exemption and if the claimant is
27498 married a statement that the claimant's spouse has not filed a declaration of homestead;
27499 (b) a description of the property subject to the homestead;
27500 (c) an estimate of the cash value of [~~such~~] the property; and
27501 (d) a statement specifying the amount of the homestead claimed and stating the name,
27502 age, and address of any spouse and dependents claimed to determine the value of the
27503 homestead.
27504 (3) If a declaration of homestead is not filed or served as provided in this section, title
27505 shall pass to the purchaser upon execution free and clear of all homestead rights.
27506 (4) If an individual is married, no conveyance of or security interest in, or contract to
27507 convey or create a security interest in property recorded as a homestead prior to the time of
27508 [~~such~~] the conveyance, security interest, or contract [~~shall be~~] is valid, unless both the husband
27509 and wife join in the execution of the conveyance, security interest, or contract.
27510 (5) Property that includes a homestead [~~shall~~] may not be sold at execution if there is
27511 no bid which exceeds the amount of the declared homestead exemption.
27512 (6) If property that includes a homestead is sold under execution, the sale [~~shall be~~] is
27513 subject to redemption by the judgment debtor as provided in Rule 69(f) of the Utah Rules of
27514 Civil Procedure. If there is a deficiency, the property [~~shall~~] may not be subject to another
27515 execution to cover the deficiency.
27516 Section 801. Section **78B-5-505**, which is renumbered from Section 78-23-5 is
27517 renumbered and amended to read:
27518 **[~~78-23-5~~]. 78B-5-505. Property exempt from execution.**
27519 (1) (a) An individual is entitled to exemption of the following property:
27520 (i) a burial plot for the individual and the individual's family;
27521 (ii) health aids reasonably necessary to enable the individual or a dependent to work or
27522 sustain health;
27523 (iii) benefits the individual or the individual's dependent have received or are entitled
27524 to receive from any source because of:

27525 (A) disability;
27526 (B) illness; or
27527 (C) unemployment;
27528 (iv) benefits paid or payable for medical, surgical, or hospital care to the extent they are
27529 used by an individual or the individual's dependent to pay for that care;
27530 (v) veterans benefits;
27531 (vi) money or property received, and rights to receive money or property for child
27532 support;
27533 (vii) money or property received, and rights to receive money or property for alimony
27534 or separate maintenance, to the extent reasonably necessary for the support of the individual
27535 and the individual's dependents;
27536 (viii) (A) one:
27537 (I) clothes washer and dryer;
27538 (II) refrigerator;
27539 (III) freezer;
27540 (IV) stove;
27541 (V) microwave oven; and
27542 (VI) sewing machine;
27543 (B) all carpets in use;
27544 (C) provisions sufficient for 12 months actually provided for individual or family use;
27545 (D) all wearing apparel of every individual and dependent, not including jewelry or
27546 furs; and
27547 (E) all beds and bedding for every individual or dependent;
27548 (ix) except for works of art held by the debtor as part of a trade or business, works of
27549 art:
27550 (A) depicting the debtor or the debtor and his resident family; or
27551 (B) produced by the debtor or the debtor and his resident family;
27552 (x) proceeds of insurance, a judgment, or a settlement, or other rights accruing as a
27553 result of bodily injury of the individual or of the wrongful death or bodily injury of another
27554 individual of whom the individual was or is a dependent to the extent that those proceeds are
27555 compensatory;

27556 (xi) the proceeds or benefits of any life insurance contracts or policies paid or payable
27557 to the debtor or any trust of which the debtor is a beneficiary upon the death of the spouse or
27558 children of the debtor, provided that the contract or policy has been owned by the debtor for a
27559 continuous unexpired period of one year;
27560 (xii) the proceeds or benefits of any life insurance contracts or policies paid or payable
27561 to the spouse or children of the debtor or any trust of which the spouse or children are
27562 beneficiaries upon the death of the debtor, provided that the contract or policy has been in
27563 existence for a continuous unexpired period of one year;
27564 (xiii) proceeds and avails of any unmatured life insurance contracts owned by the
27565 debtor or any revocable grantor trust created by the debtor, excluding any payments made on
27566 the contract during the one year immediately preceding a creditor's levy or execution;
27567 (xiv) except as provided in Subsection (1)(b), any money or other assets held for or
27568 payable to the individual as a participant or beneficiary from or an interest of the individual as a
27569 participant or beneficiary in a retirement plan or arrangement that is described in Section
27570 401(a), 401(h), 401(k), 403(a), 403(b), 408, 408A, 409, 414(d), or 414(e), Internal Revenue
27571 Code; and
27572 (xv) the interest of or any money or other assets payable to an alternate payee under a
27573 qualified domestic relations order as those terms are defined in Section 414(p), Internal
27574 Revenue Code.
27575 (b) The exemption granted by Subsection (1)(a)(xiv) does not apply to:
27576 (i) an alternate payee under a qualified domestic relations order, as those terms are
27577 defined in Section 414(p), Internal Revenue Code; or
27578 (ii) amounts contributed or benefits accrued by or on behalf of a debtor within one year
27579 before the debtor files for bankruptcy. This may not include amounts directly rolled over from
27580 other funds which are exempt from attachment under this section.
27581 (2) The exemptions in Subsections (1)(a)(xi), (xii), and (xiii) do not apply to proceeds
27582 and avails of any matured or unmatured life insurance contract assigned or pledged as collateral
27583 for repayment of a loan or other legal obligation.
27584 (3) Exemptions under this section do not limit items that may be claimed as exempt
27585 under Section [~~78-23-8~~] 78B-5-506.
27586 Section 802. Section **78B-5-506**, which is renumbered from Section 78-23-8 is

27587 renumbered and amended to read:

27588 **[~~78-23-8~~]. 78B-5-506. Value of exempt property -- Exemption of implements,**
27589 **professional books, tools, and motor vehicle.**

27590 (1) An individual is entitled to exemption of the following property up to an aggregate
27591 value of items in each subsection of $500:

27592 (a) sofas, chairs, and related furnishings reasonably necessary for one household;

27593 (b) dining and kitchen tables and chairs reasonably necessary for one household;

27594 (c) animals, books, and musical instruments, if reasonably held for the personal use of
27595 the individual or his dependents; and

27596 (d) heirlooms or other items of particular sentimental value to the individual.

27597 (2) An individual is entitled to an exemption, not exceeding $3,500 in aggregate value,
27598 of implements, professional books, or tools of his trade.

27599 (3) (a) As used in this Subsection (3), "motor vehicle" does not include any motor
27600 vehicle designed for or used primarily for recreational purposes, such as:

27601 (i) an off-highway vehicle as defined in Section 41-22-2, except a motorcycle the
27602 individual regularly uses for daily transportation; or

27603 (ii) a recreational vehicle as defined in Section 13-14-102, except a van the individual
27604 regularly uses for daily transportation.

27605 (b) An individual is entitled to an exemption, not exceeding $2,500 in value, of one
27606 motor vehicle.

27607 (4) This section does not affect property exempt under Section [~~78-23-5~~] 78B-5-505.

27608 Section 803. Section **78B-5-507**, which is renumbered from Section 78-23-9 is
27609 renumbered and amended to read:

27610 **[~~78-23-9~~]. 78B-5-507. Exemption of proceeds from property sold, taken by**
27611 **condemnation, lost, damaged, or destroyed -- Tracing exempt property and proceeds.**

27612 (1) (a) An individual who owned property described in this Subsection (1) is entitled to
27613 an exemption of proceeds that are traceable for one year after the compensation for the property
27614 is received if:

27615 (i) (A) the property, or a part of the property, could have been claimed exempt under
27616 Subsection [~~78-23-5~~] 78B-5-505(1)(a)(i) or (ii); or

27617 (B) the property is personal property subject to a value limitation under Subsection

27618 [~~78-23-8~~] 78B-5-506(1)(a), (b), or (c); and
27619 (ii) the property has been:
27620 (A) sold or taken by condemnation; or
27621 (B) lost, damaged, or destroyed; and
27622 (C) the owner has been compensated for the property.
27623 (b) The exemption of proceeds under this Subsection (1) does not entitle the individual
27624 to claim an aggregate exemption in excess of the value limitation otherwise allowable under
27625 Section [~~78-23-3~~] 78B-5-503 or [~~78-23-8~~] 78B-5-506.
27626 (2) Money or other property exempt under Subsection [~~78-23-5~~] 78B-5-505(1)(a)(iii),
27627 (iv), (v), (vi), (vii), (xiii), or (xiv) remains exempt after its receipt by, and while it is in the
27628 possession of, the individual or in any other form into which it is traceable.
27629 (3) Money or other property and proceeds exempt under this chapter are traceable
27630 under this section by application of:
27631 (a) the principle of:
27632 (i) first-in first-out; or
27633 (ii) last-in last-out; or
27634 (b) any other reasonable basis for tracing selected by the individual.
27635 Section 804. Section **78B-5-508**, which is renumbered from Section 78-23-10 is
27636 renumbered and amended to read:
27637 **[~~78-23-10~~]. 78B-5-508. Allowable claims against exempt property.**
27638 (1) Notwithstanding other provisions of this [~~chapter~~] part, but subject to the
27639 provisions of the Utah Uniform Consumer Credit Code:
27640 (a) A creditor may levy against exempt property of any kind, except unemployment
27641 benefits, to enforce a claim for:
27642 (i) alimony, support, or maintenance;
27643 (ii) unpaid earnings of up to one month's compensation or the full-time equivalent of
27644 one month's compensation for personal services of an employee; or
27645 (iii) state or local taxes.
27646 (b) The only deductions that can be withheld from unemployment benefits are those
27647 listed in Section 35A-4-103.
27648 (c) A creditor may levy against exempt property to enforce a claim for:

27649 (i) the purchase price of the property or a loan made for the purpose of enabling an
27650 individual to purchase the specific property used for that purpose;
27651 (ii) labor or materials furnished to make, repair, improve, preserve, store, or transport
27652 the specific property; and
27653 (iii) a special assessment imposed to defray costs of a public improvement benefiting
27654 the property.
27655 (2) This section does not affect the right to enforce any statutory lien or security
27656 interest in exempt property.
27657 Section 805. Section **78B-5-509**, which is renumbered from Section 78-23-11 is
27658 renumbered and amended to read:
27659 **[~~78-23-11~~]. 78B-5-509. Waiver of exemptions in favor of unsecured creditor**
27660 **unenforceable.**
27661 A waiver of exemptions executed in favor of an unsecured creditor before levy on an
27662 individual's property is unenforceable.
27663 Section 806. Section **78B-5-510**, which is renumbered from Section 78-23-12 is
27664 renumbered and amended to read:
27665 **[~~78-23-12~~]. 78B-5-510. Assertion of individual's rights by spouse, dependent, or**
27666 **other authorized person.**
27667 If an individual fails to select property entitled to be claimed as exempt or to object to a
27668 levy on the property or to assert any other right under this [~~chapter~~] part, the spouse or a
27669 dependent of the individual or any other authorized person may make the claim or objection or
27670 assert the rights provided by this [~~chapter~~] part.
27671 Section 807. Section **78B-5-511**, which is renumbered from Section 78-23-13 is
27672 renumbered and amended to read:
27673 **[~~78-23-13~~]. 78B-5-511. Injunctive relief, damages, or both allowed against**
27674 **creditor to prevent violation of chapter -- Costs and attorney fees.**
27675 An individual or the spouse or a dependent of the individual is entitled to injunctive
27676 relief, damages, or both, against a creditor or other person to prevent or redress a violation of
27677 this [~~chapter~~] part. A court may award costs and reasonable [~~attorney's~~] attorney fees to a party
27678 entitled to injunctive relief or damages.
27679 Section 808. Section **78B-5-512**, which is renumbered from Section 78-23-14 is

27680 renumbered and amended to read:
27681 **[~~78-23-14~~]. 78B-5-512. Property held by joint tenants or tenants in common.**
27682 If an individual and another own property in this state as joint tenants or tenants in
27683 common, a creditor of the individual, subject to the individual's right to claim an exemption
27684 under this [~~chapter~~] part, may obtain a levy on and sale of the interest of the individual in the
27685 property. A creditor who has obtained a levy, or a purchaser who has purchased the individual's
27686 interest at the sale, may have the property partitioned or the individual's interest severed.
27687 Section 809. Section **78B-5-513**, which is renumbered from Section 78-23-15 is
27688 renumbered and amended to read:
27689 **[~~78-23-15~~]. 78B-5-513. Exemption provisions applicable in bankruptcy**
27690 **proceedings.**
27691 No individual may exempt from the property of the estate in any bankruptcy proceeding
27692 the property specified in Subsection (d) of Section 522 of the Bankruptcy Reform Act (Public
27693 Law 95-598), except as [~~may otherwise be~~] expressly permitted under this [~~chapter~~] part.
27694 Section 810. Section **78B-5-601**, which is renumbered from Section 78-25-2 is
27695 renumbered and amended to read:
27696 **Part 6. Evidence**
27697 **[~~78-25-2~~]. 78B-5-601. Statutes as evidence.**
27698 (1) The recitals in a public statute are conclusive evidence of the fact recited for the
27699 purpose of carrying it into effect[~~, but no further~~].
27700 (2) The recitals in a private statute are conclusive evidence between parties who claim
27701 under its provisions[~~, but no further~~].
27702 Section 811. Section **78B-5-602**, which is renumbered from Section 78-25-3 is
27703 renumbered and amended to read:
27704 **[~~78-25-3~~]. 78B-5-602. Entries in official records as evidence.**
27705 Entries in public or other official books or records, made by a public officer in the
27706 performance of [~~his duty by a public officer of this state~~] the officer's official duties or by any
27707 other person in the performance of a duty specially enjoined by the law, are prima facie
27708 evidence of the facts stated [~~therein~~] in the entry.
27709 Section 812. Section **78B-5-603**, which is renumbered from Section 78-25-4 is
27710 renumbered and amended to read:

27711 **[~~78-25-4~~]. 78B-5-603. Entries in course of official duty as evidence.**
27712 An entry made by an officer or board of officers, or under the direction and in the
27713 presence of either, in the course of official duty is prima facie evidence of the facts stated in
27714 [~~such~~] the entry.
27715 Section 813. Section **78B-5-604**, which is renumbered from Section 78-25-5 is
27716 renumbered and amended to read:
27717 **[~~78-25-5~~]. 78B-5-604. Certificate of location or purchase of public lands of**
27718 **United States as evidence.**
27719 A certificate of purchase or of location of any lands in this state, issued or made in
27720 pursuance of any law of the United States, is prima facie evidence that the holder or assignee of
27721 [~~such~~] the certificate is the owner of the land described [~~therein; but this~~] in the certificate.
27722 This evidence may be overcome by proof that[~~, at the time of the location or time of filing a~~
27723 ~~preemption claim on which the certificate may have been issued,~~] the land was in the adverse
27724 possession of the adverse party, or those under whom [~~he~~] the party claims, or that the adverse
27725 party [~~is~~] was holding the land for mining purposes at the time the certificate is filed.
27726 Section 814. Section **78B-5-605**, which is renumbered from Section 78-25-6 is
27727 renumbered and amended to read:
27728 **[~~78-25-6~~]. 78B-5-605. Histories, scientific books, maps, and charts as evidence.**
27729 Historical works, books of science or art, and published maps or charts, when made or
27730 published by persons [~~indifferent between the parties~~] having no interest in a proceeding, are
27731 prima facie evidence of facts of general notoriety and interest.
27732 Section 815. Section **78B-5-606**, which is renumbered from Section 78-25-7 is
27733 renumbered and amended to read:
27734 **[~~78-25-7~~]. 78B-5-606. Certificate of acknowledgment as evidence of execution.**
27735 [~~Every private writing~~] Private writings, except last wills and testaments, may be
27736 acknowledged or proved, and certified in the manner provided for the acknowledgment or
27737 proof of conveyances of real property[~~, and the~~]. The certificate of [~~such~~] acknowledgment or
27738 proof is prima facie evidence of the execution of the writing in the same manner as [~~if it were~~]
27739 a conveyance of real property.
27740 Section 816. Section **78B-5-607**, which is renumbered from Section 78-25-8 is
27741 renumbered and amended to read:

27742 **[~~78-25-8~~]. 78B-5-607. When entries and writings of a decedent are prima facie**
27743 **evidence.**
27744 The entries and other writings of a decedent made at or near the time of the transaction,
27745 and when [~~he~~] the decedent was in a position to know the facts stated [~~therein~~] in the entry,
27746 may be read as prima facie evidence of the facts [~~therein stated~~] written about, in the following
27747 cases:
27748 (1) [~~When~~] the entry was made against the interest of the person making it[~~.~~];
27749 (2) [~~When~~] it was made in a professional capacity and in the ordinary course of
27750 professional conduct[~~.~~]; or
27751 (3) [~~When~~] it was made in the performance of a duty specially enjoined by law.
27752 Section 817. Section **78B-5-608**, which is renumbered from Section 78-25-9 is
27753 renumbered and amended to read:
27754 **[~~78-25-9~~]. 78B-5-608. Writings -- How proved.**
27755 [~~Any~~] A writing may be proved either:
27756 (1) by any one who saw the writing executed;
27757 (2) by evidence of the genuineness of the handwriting of the maker; or
27758 (3) by a subscribing witness.
27759 Section 818. Section **78B-5-609**, which is renumbered from Section 78-25-10 is
27760 renumbered and amended to read:
27761 **[~~78-25-10~~]. 78B-5-609. Proof of execution when subscribing witness denies or**
27762 **forgets.**
27763 If the subscribing witness denies or does not recollect the execution of the writing, its
27764 execution may still be proved by other evidence.
27765 Section 819. Section **78B-5-610**, which is renumbered from Section 78-25-11 is
27766 renumbered and amended to read:
27767 **[~~78-25-11~~]. 78B-5-610. When unnecessary.**
27768 [~~When, however,~~] If the evidence [~~is given~~] shows that the party against whom the
27769 writing is offered has at any time admitted its execution, no other evidence of the execution
27770 need be given[~~, when~~] if the instrument is one produced from the custody of the adverse party
27771 and has been acted upon by [~~him~~] the party as genuine.
27772 Section 820. Section **78B-5-611**, which is renumbered from Section 78-25-12 is

27773 renumbered and amended to read:
27774 **[~~78-25-12~~]. 78B-5-611. Proof of wills.**
27775 A last will and testament, except a nuncupative will, is invalid, unless it is in writing
27776 and executed in accordance with [~~such formalities as are required by law~~] Title 75, Chapter 2,
27777 Part 5, Wills. When[~~, therefore, such~~] a will is to be shown, the instrument itself [~~must~~] shall be
27778 produced, or secondary evidence of its contents given.
27779 Section 821. Section **78B-5-612**, which is renumbered from Section 78-25-13 is
27780 renumbered and amended to read:
27781 **[~~78-25-13~~]. 78B-5-612. Proof of instruments affecting real estate.**
27782 [~~Every~~] An instrument conveying or affecting real property, acknowledged, or proved
27783 and certified as provided by law, may, together with the certificate of acknowledgment or
27784 proof, be read in evidence in an action or proceeding, without further proof[~~; and the~~]. The
27785 record, or a certified copy of the record, of [~~such~~] the conveyance or instrument [~~thus~~]
27786 acknowledged or proved may be read in evidence, with the same effect as the original[~~, on~~
27787 ~~proof,~~]. The party offering the certified copy shall prove by affidavit or otherwise, that the
27788 original is not in the possession or under the control of the party [~~producing the record or the~~
27789 ~~certified copy~~].
27790 Section 822. Section **78B-5-613** is enacted to read:
27791 **78B-5-613. Proof of publication of document, notice, or order.**
27792 If a court or judge orders a document or notice published in a newspaper, evidence of
27793 the publication shall be made by affidavit of the publisher, the publisher's foreman, or principal
27794 clerk with a copy of the publication attached. The affidavit shall state the date and newspaper
27795 of publication.
27796 Section 823. Section **78B-5-614**, which is renumbered from Section 78-25-15 is
27797 renumbered and amended to read:
27798 **[~~78-25-15~~]. 78B-5-614. Filing of affidavit -- Original or certified copy as**
27799 **evidence.**
27800 If [~~such~~] an affidavit is made in an action or special proceeding pending in a court, it
27801 may be filed with the court or clerk [~~thereof~~] of the court. If not [~~so~~] made in an action or
27802 special proceeding pending in a court, it may be filed with the recorder of the county where the
27803 newspaper is published. [~~In either case the~~] The original affidavit, or a copy [~~thereof~~] certified

27804 by the judge of the court or officer having it in custody, is prima facie evidence of the facts
27805 stated [~~therein~~] in the affidavit.
27806 Section 824. Section **78B-5-615**, which is renumbered from Section 78-25-16 is
27807 renumbered and amended to read:
27808 **[~~78-25-16~~]. 78B-5-615. Parol evidence of contents of writings -- When**
27809 **admissible.**
27810 (1) [~~There can be no evidence of the~~] The contents of a writing[~~, other than~~] shall be
27811 proved by the original writing [~~itself, except in the following cases~~] unless:
27812 (a) [~~when~~] the original has been lost or destroyed, in which case proof of the loss or
27813 destruction [~~must first~~] shall be made first;
27814 (b) [~~when~~] the original is in the possession of the party against whom the evidence is
27815 offered and [~~he~~] the party fails to produce it after reasonable notice;
27816 (c) [~~when~~] the original is a record or other document in the custody of a public officer;
27817 (d) [~~when~~] the original has been recorded, and the record or a certified copy [~~thereof~~]
27818 of the record is made [~~evidence by this code or other statute~~] in accordance with the law
27819 governing the writing offered; or
27820 (e) [~~when~~] the original consists of numerous accounts or other documents which cannot
27821 be examined in court without great loss of time, and the evidence sought from them is only the
27822 general result of the whole.
27823 (2) [~~Provided, however, if~~] If any business, institution, member of a profession or
27824 calling, or any department or agency of government, in the regular course of business or
27825 activity has kept or recorded any memorandum, writing, entry, print, representation or
27826 combination [~~thereof~~], of any act, transaction, occurrence, or event, and in the regular course of
27827 business has caused any or all of the same to be recorded, copied, or reproduced by any
27828 photographic, photostatic, microfilm, microcard, miniature photographic, or other process
27829 which accurately reproduces or forms a durable medium for so reproducing the original, the
27830 original may be destroyed in the regular course of business unless its preservation is required
27831 by law[~~; and such~~]. The reproduction, when satisfactorily identified, is as admissible in
27832 evidence as the original itself in any judicial or administrative proceeding whether the original
27833 is in existence or not, an enlargement or facsimile of [~~such~~] the reproduction is likewise
27834 admissible in evidence if the original reproduction is in existence and available for inspection

27835 under direction of court. The introduction of a reproduced record, enlargement or facsimile,
27836 does not preclude admission of the original.
27837 (3) In the cases mentioned in Subsections (1)(c) and (d), a copy of the original, or of
27838 the record, [~~must~~] shall be produced[~~, in~~]. In those mentioned in Subsections (1)(a) and (b),
27839 either a copy or oral evidence of the contents [~~must~~] shall be given.
27840 Section 825. Section **78B-5-616**, which is renumbered from Section 78-25-16.5 is
27841 renumbered and amended to read:
27842 **[~~78-25-16.5~~]. 78B-5-616. Business record -- Admissibility -- Weight.**
27843 (1) As used in this section, "business" includes business, profession, occupation, and
27844 calling of every kind.
27845 (2) [~~In any court in this state, any~~] A writing or record, whether in the form of an entry
27846 in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or
27847 event, shall be admissible as evidence of that act, transaction, occurrence, or event, if made in
27848 the regular course of any business, and if it was the regular course of the business to make the
27849 memorandum or record at the time of the act, transaction, occurrence, or event or within a
27850 reasonable time [~~thereafter~~] after.
27851 (3) All circumstances, other than those set forth in Subsection (2), of the making of the
27852 writing or record, including lack of personal knowledge by the entrant or maker, may be shown
27853 to affect its weight, but those circumstances do not affect its admissibility.
27854 Section 826. Section **78B-5-617**, which is renumbered from Section 78-25-17 is
27855 renumbered and amended to read:
27856 **[~~78-25-17~~]. 78B-5-617. Writings bearing obvious alterations -- Explanation**
27857 **required.**
27858 (1) The party producing as genuine a writing which has been altered, or appears to have
27859 been altered after its execution in a part material to the question in dispute must account for the
27860 appearance of alteration. [~~He~~]
27861 (2) The party may show that the alteration:
27862 (a) was made by another without [~~his~~] the party's concurrence[~~, or was~~];
27863 (b) was made with the consent of the parties affected by it[~~, or~~];
27864 (c) was otherwise properly or innocently made[~~,~~]; or [~~that the alteration~~]
27865 (d) does not change the meaning or language of the instrument. [~~If he does this, he may~~

27866 ~~give the writing in evidence, but not otherwise.~~]
27867 (3) An altered writing that a party cannot adequately explain under Subsection (2) is
27868 not admissible.
27869 Section 827. Section **78B-5-618**, which is renumbered from Section 78-25-25 is
27870 renumbered and amended to read:
27871 **[~~78-25-25~~]. 78B-5-618. Patient access to medical records.**
27872 (1) Pursuant to 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually
27873 Identifiable Health Information, a patient or a patient's personal representative may inspect or
27874 receive a copy of the patient's records from a health care provider as defined in Section
27875 [~~78-14-3~~] 78B-3-403, when that health care provider is governed by the provisions of 45
27876 C.F.R., Parts 160 and 164.
27877 (2) When a health care provider as defined in Section [~~78-14-3~~] 78B-3-403 is not
27878 governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable
27879 Health Information, a patient or a patient's personal representative may inspect or receive a
27880 copy of the patient's records unless access to the records is restricted by law or judicial order.
27881 (3) A health care provider who provides a copy of a patient's records to the patient or
27882 the patient's personal representative may charge a reasonable fee to cover the health care
27883 provider's costs.
27884 Section 828. Section **78B-5-619**, which is renumbered from Section 78-25-26 is
27885 renumbered and amended to read:
27886 **[~~78-25-26~~]. 78B-5-619. Access to medical records of deceased patient.**
27887 For purposes of Section [~~78-25-25~~] 78B-5-618, and 45 C.F.R., Parts 160 and 164,
27888 Standards for Privacy of Individually Identifiable Health Information, a health care provider
27889 with medical records of a deceased person may recognize the deceased person's surviving
27890 spouse or an adult child as a personal representative.
27891 Section 829. Section **78B-5-701**, which is renumbered from Section 78-26-5 is
27892 renumbered and amended to read:
27893 **Part 7. Affidavits**
27894 **[~~78-26-5~~]. 78B-5-701. Taking of affidavits in this state.**
27895 An affidavit to be used before any court, judge, or officer of this state may be taken
27896 before any judge, the clerk of any court, any justice court judge, or any notary public in this

27897 state.
27898 Section 830. Section **78B-5-702**, which is renumbered from Section 78-26-6 is
27899 renumbered and amended to read:
27900 **[~~78-26-6~~]. 78B-5-702. Taking of affidavits in another state.**
27901 An affidavit taken in another state or territory of the United States, to be used in this
27902 state, may be taken before a commissioner appointed by the governor of this state to take
27903 affidavits and depositions in [~~such other~~] another state or territory, or before any notary public
27904 in another state or territory, or before any judge or clerk of a court of record having a seal.
27905 Section 831. Section **78B-5-703**, which is renumbered from Section 78-26-7 is
27906 renumbered and amended to read:
27907 **[~~78-26-7~~]. 78B-5-703. Taking of affidavits in foreign country.**
27908 An affidavit taken in a foreign country, to be used in this state, may be taken before an
27909 ambassador, minister, consul, vice consul or consular agent of the United States, or before any
27910 judge of a court of record having a seal, in [~~such~~] the foreign country.
27911 Section 832. Section **78B-5-704**, which is renumbered from Section 78-26-8 is
27912 renumbered and amended to read:
27913 **[~~78-26-8~~]. 78B-5-704. Certification of affidavits taken before foreign court or**
27914 **judge.**
27915 When an affidavit is taken before a judge or court in another state or territory, or in a
27916 foreign country, the genuineness of the signature of the judge, the existence of the court, and
27917 the fact that [~~such~~] the judge is a member [~~thereof~~] of the court, [~~must~~] shall be certified by the
27918 clerk of the court under the court's seal [~~thereof~~].
27919 Section 833. Section **78B-5-801**, which is renumbered from Section 78-26-4 is
27920 renumbered and amended to read:
27921 **Part 8. Miscellaneous**
27922 **[~~78-26-4~~]. 78B-5-801. Public and private statutes defined.**
27923 Statutes are public and private. A private statute is one which concerns only certain
27924 designated individuals, and affects only their private rights. All other statutes are public, in
27925 which are included statutes creating or affecting corporations.
27926 Section 834. Section **78B-5-802**, which is renumbered from Section 78-27-1 is
27927 renumbered and amended to read:

27928 **[~~78-27-1~~]. 78B-5-802. Tender -- Offer in writing sufficient -- Objection -- Must**
27929 **be specific or waived.**
27930 (1) An offer in writing to pay a particular sum of money or to deliver a written
27931 instrument or specific personal property is, if not accepted, equivalent to the actual production
27932 and tender of the money, instrument, or property.
27933 (2) The person to whom a tender is made shall, at the time, specify any objection to the
27934 money, instrument, or property, or it is considered waived.
27935 (3) If the objection is to the amount of money, the terms of the instrument or the
27936 amount or kind of property, the person shall specify the amounts, terms, or kind which is
27937 required, or be precluded from objection afterwards.
27938 Section 835. Section **78B-5-803**, which is renumbered from Section 78-27-2 is
27939 renumbered and amended to read:
27940 **[~~78-27-2~~]. 78B-5-803. Receipt may be demanded as condition to payment or**
27941 **deposit.**
27942 [~~Whoever~~] A person who pays money, or delivers an instrument or property, is entitled
27943 to a receipt [~~therefor~~] from the person to whom the payment or delivery is made, and may
27944 demand a proper signature to [~~such~~] the receipt as a condition of the payment or delivery.
27945 Section 836. Section **78B-5-804**, which is renumbered from Section 78-27-4 is
27946 renumbered and amended to read:
27947 **[~~78-27-4~~]. 78B-5-804. Money deposited in court.**
27948 (1) (a) Any person depositing money in court, to be held in trust, shall pay it to the
27949 court clerk.
27950 (b) The clerk shall deposit the money in a court trust fund or with the county treasurer
27951 or city recorder to be held subject to the order of the court.
27952 (2) The Judicial Council shall adopt rules governing the maintenance of court trust
27953 funds and the disposition of interest earnings on those trust funds.
27954 (3) (a) Any interest earned on trust funds in the courts of record that is not required to
27955 accrue to the litigants by Judicial Council rule or court order shall be deposited in a restricted
27956 account. Any interest earned on trust funds in the courts not of record that is not required to
27957 accrue to the litigants by Judicial Council rule or court order shall be deposited in the general
27958 fund of the county or municipality.

27959 (b) The Legislature shall appropriate funds from the restricted account of the courts of
27960 record to the Judicial Council to:
27961 (i) offset costs to the courts for collection and maintenance of court trust funds; and
27962 (ii) provide accounting and auditing of all court revenue and trust accounts.
27963 Section 837. Section **78B-5-805**, which is renumbered from Section 78-27-12 is
27964 renumbered and amended to read:
27965 **[~~78-27-12~~]. 78B-5-805. State, state officers, and political subdivisions not**
27966 **required to give bond.**
27967 In any civil action or proceeding [~~wherein~~] in which the state is a party plaintiff, or any
27968 state officer in his official capacity or on behalf of the state, or any county or city or other
27969 public corporation is a party plaintiff or defendant, no bond, written undertaking, or security
27970 [~~can~~] may be required of the state, or any [~~such~~] state officer [~~thereof~~], or of any county or city
27971 or other public corporation[~~; but on complying~~]. Upon compliance with the other provisions of
27972 [~~this code~~] the law, the state, or any state officer acting in [~~his~~] an official capacity, or any
27973 county or city or other public corporation, has the same rights, remedies and benefits as if the
27974 bond, undertaking or security were given and approved as required by law.
27975 Section 838. Section **78B-5-806**, which is renumbered from Section 78-27-13 is
27976 renumbered and amended to read:
27977 **[~~78-27-13~~]. 78B-5-806. Payment of costs by state.**
27978 When a state is a party and costs are awarded against it, [~~they must~~] the costs shall be
27979 paid out of the state treasury[~~, and the~~]. The auditor shall draw [~~his~~] a warrant [~~therefor~~] on the
27980 General Fund for payment.
27981 Section 839. Section **78B-5-807**, which is renumbered from Section 78-27-14 is
27982 renumbered and amended to read:
27983 **[~~78-27-14~~]. 78B-5-807. Payment of costs by county.**
27984 When a county is a party and costs are awarded against it, [~~they must~~] the costs shall be
27985 paid out of the county treasury.
27986 Section 840. Section **78B-5-808**, which is renumbered from Section 78-27-15 is
27987 renumbered and amended to read:
27988 **[~~78-27-15~~]. 78B-5-808. Salaries of public officers subject to garnishment.**
27989 The state [~~of Utah,~~] and any [~~county, city, town, district, board of education or other~~]

27990 subdivision, agency, or institution of the state[~~, and any officer, board or institution, having~~]
27991 which has in its possession or under its control any credits or other personal property of, or
27992 owing any debt to the defendant in any action, whether as salary or wages, as a public official
27993 or employee[~~, or otherwise, shall~~] may be subject to attachment, garnishment, and execution
27994 [~~under such~~] in accordance with any rights, remedies, and [~~procedure as are or may be made~~]
27995 procedures applicable to attachment, garnishment, and execution, respectively, [~~in other cases,~~]
27996 except as provided in Section [~~78-27-16~~] 78B-5-809.
27997 Section 841. Section **78B-5-809**, which is renumbered from Section 78-27-16 is
27998 renumbered and amended to read:
27999 **[~~78-27-16~~]. 78B-5-809. Service of process.**
28000 [~~The process~~] Process for a garnishment under Section 78B-5-808 shall be served only
28001 upon the auditor of the legal subdivision garnished[~~, and, in case~~]. If there is no auditor, then
28002 process shall be served on the clerk of the [~~county, city, town, district, board of education, or~~
28003 ~~other subdivisions of the state, or board or institution, and the answer of such~~] subdivision,
28004 agency, or institution. The answer of the auditor or clerk shall be final and conclusive.
28005 Section 842. Section **78B-5-810**, which is renumbered from Section 78-27-17 is
28006 renumbered and amended to read:
28007 **[~~78-27-17~~]. 78B-5-810. Sureties on stay bonds entitled to subrogation.**
28008 [~~Whenever any~~] If a surety on an [~~undertaking on~~] appeal executed to stay proceedings
28009 upon a money judgment pays the judgment, either with or without action, after its affirmance
28010 by the appellate court, [~~he~~] the surety is subrogated to the rights of the judgment creditor, and
28011 [~~is~~] entitled to control, enforce, and satisfy [~~such~~] the judgment in all respects as if [~~he~~] the
28012 surety had recovered the same.
28013 Section 843. Section **78B-5-811**, which is renumbered from Section 78-27-18 is
28014 renumbered and amended to read:
28015 **[~~78-27-18~~]. 78B-5-811. Provisions as to depositions made applicable to**
28016 **nonjudicial proceedings.**
28017 The provisions of law relating to the taking of depositions in actions pending before the
28018 courts of this state are applicable to commissions, boards and officers authorized to subpoena
28019 witnesses and take testimony[~~, the necessary substitutions and changes being made~~].
28020 Section 844. Section **78B-5-812**, which is renumbered from Section 78-27-32 is

28021 renumbered and amended to read:
28022 **[~~78-27-32~~]. 78B-5-812. Release or settlement of personal injury claim -- When**
28023 **voidable.**
28024 (1) Any release of liability or settlement agreement entered into within a period of
28025 fifteen days from the date of an occurrence causing physical injury to any person, or entered
28026 into prior to the initial discharge of [~~this~~] the person from any hospital or sanitarium in which
28027 the injured person is confined as a result of the injuries sustained in the occurrence, is voidable
28028 by the injured person, as provided in [~~this act~~] Sections 78B-5-812 through 78B-5-816.
28029 (2) Notice of cancellation of the release or settlement agreement, together with any
28030 payment or other consideration received in connection with [~~this~~] the release or agreement shall
28031 be mailed or delivered to the party to whom the release or settlement agreement was given, by
28032 the later of the following dates:
28033 (a) within [~~fifteen~~] 15 days from the date of the occurrence causing the injuries which
28034 are subject of the settlement agreement or liability release; or
28035 (b) within [~~fifteen~~] 15 days after the date of the injured person's discharge from the
28036 hospital or sanitarium in which [~~this~~] the person has been confined continuously since the date
28037 of the occurrence causing the injury.
28038 Section 845. Section **78B-5-813**, which is renumbered from Section 78-27-33 is
28039 renumbered and amended to read:
28040 **[~~78-27-33~~]. 78B-5-813. Statement of injured person -- When inadmissible as**
28041 **evidence.**
28042 Except as otherwise provided in [~~this act~~] Sections 78B-5-812 through 78B-5-816, any
28043 statement, either written or oral, obtained from an injured person within 15 days of an
28044 occurrence or while [~~this~~] the person is confined in a hospital or sanitarium as a result of
28045 injuries sustained in the occurrence, and which statement is obtained by a person whose interest
28046 is adverse or may become adverse to the injured person, except a peace officer, [~~shall~~] is not
28047 [~~be~~] admissible as evidence in any civil proceeding brought by or against the injured person for
28048 damages sustained as a result of the occurrence, unless:
28049 (1) a written verbatim copy of the statement has been left with the injured party at the
28050 time the statement was taken; and
28051 (2) the statement has not been disavowed in writing within [~~fifteen~~] 15 days of the date

28052 of the statement or within [~~fifteen~~] 15 days after the date of the injured person's initial
28053 discharge from the hospital or sanitarium in which the person has been confined, whichever
28054 date is later.
28055 Section 846. Section **78B-5-814**, which is renumbered from Section 78-27-34 is
28056 renumbered and amended to read:
28057 **[~~78-27-34~~]. 78B-5-814. Release, settlement, or statement by injured person --**
28058 **When rescission or disavowal provisions inapplicable.**
28059 [~~This act shall~~] Sections 78B-5-812 through 78B-5-816 do not apply [~~in the following~~
28060 ~~circumstances: If~~] if at least five days prior to signing the settlement agreement, liability
28061 release, or statement, the injured person [~~has~~] signed a statement in writing indicating [~~his~~]
28062 willingness [~~that~~] and agreement to the settlement agreement, liability release, or statement [~~be~~
28063 ~~given or signed~~].
28064 Section 847. Section **78B-5-815**, which is renumbered from Section 78-27-35 is
28065 renumbered and amended to read:
28066 **[~~78-27-35~~]. 78B-5-815. Release, settlement, or statement by injured person --**
28067 **Notice of rescission or disavowal.**
28068 Notice of cancellation or notice disavowing a statement, if given by mail, is given when
28069 it is deposited in a mailbox, properly addressed with postage prepaid. Notice of cancellation
28070 given by the injured person need not take a particular form [~~and~~]. It is sufficient if it indicates
28071 by any form of written expression the intention of the injured person not to be bound by the
28072 settlement agreement, liability release, or disavowed statement.
28073 Section 848. Section **78B-5-816**, which is renumbered from Section 78-27-36 is
28074 renumbered and amended to read:
28075 **[~~78-27-36~~]. 78B-5-816. Right of rescission or disavowal of release, settlement, or**
28076 **statement by injured person in addition to other provisions.**
28077 The rights provided by [~~this act~~] Sections 78B-5-812 through 78B-5-816 are intended to
28078 be in addition to, and not in lieu of, any rights of rescission, rules of evidence, or provisions
28079 otherwise existing in the law.
28080 Section 849. Section **78B-5-817**, which is renumbered from Section 78-27-37 is
28081 renumbered and amended to read:
28082 **[~~78-27-37~~]. 78B-5-817. Definitions.**

28083 As used in [~~Section 78-27-37 through Section 78-27-43~~] Sections 78B-5-817 through
28084 78B-5-823:
28085 (1) "Defendant" means a person, other than a person immune from suit as defined in
28086 Subsection (3), who is claimed to be liable because of fault to any person seeking recovery.
28087 (2) "Fault" means any actionable breach of legal duty, act, or omission proximately
28088 causing or contributing to injury or damages sustained by a person seeking recovery, including
28089 negligence in all its degrees, comparative negligence, assumption of risk, strict liability, breach
28090 of express or implied warranty of a product, products liability, and misuse, modification, or
28091 abuse of a product.
28092 (3) "Person immune from suit" means:
28093 (a) an employer immune from suit under Title 34A, Chapter 2, Workers' Compensation
28094 Act, or Chapter 3, Utah Occupational Disease Act; and
28095 (b) a governmental entity or governmental employee immune from suit pursuant to
28096 Title 63, Chapter 30d, Governmental Immunity Act of Utah.
28097 (4) "Person seeking recovery" means any person seeking damages or reimbursement on
28098 its own behalf, or on behalf of another for whom it is authorized to act as legal representative.
28099 Section 850. Section **78B-5-818**, which is renumbered from Section 78-27-38 is
28100 renumbered and amended to read:
28101 **[~~78-27-38~~]. 78B-5-818. Comparative negligence.**
28102 (1) The fault of a person seeking recovery may not alone bar recovery by that person.
28103 (2) A person seeking recovery may recover from any defendant or group of defendants
28104 whose fault, combined with the fault of persons immune from suit and nonparties to whom
28105 fault is allocated, exceeds the fault of the person seeking recovery prior to any reallocation of
28106 fault made under Subsection [~~78-27-39~~] 78B-5-819(2).
28107 (3) No defendant is liable to any person seeking recovery for any amount in excess of
28108 the proportion of fault attributed to that defendant under Section [~~78-27-39~~] 78B-5-819.
28109 (4) (a) The fact finder may, and when requested by a party shall, allocate the percentage
28110 or proportion of fault attributable to each person seeking recovery, to each defendant, to any
28111 person immune from suit, and to any other person identified under Subsection [~~78-27-41~~]
28112 78B-5-821(4) for whom there is a factual and legal basis to allocate fault. In the case of a
28113 motor vehicle accident involving an unidentified motor vehicle, the existence of the vehicle

28114 shall be proven by clear and convincing evidence which may consist solely of one person's
28115 testimony.
28116 (b) Any fault allocated to a person immune from suit is considered only to accurately
28117 determine the fault of the person seeking recovery and a defendant and may not subject the
28118 person immune from suit to any liability, based on the allocation of fault, in this or any other
28119 action.
28120 Section 851. Section **78B-5-819**, which is renumbered from Section 78-27-39 is
28121 renumbered and amended to read:
28122 **[~~78-27-39~~]. 78B-5-819. Separate special verdicts on total damages and**
28123 **proportion of fault.**
28124 (1) The trial court may, and when requested by any party shall, direct the jury, if any, to
28125 find separate special verdicts determining the total amount of damages sustained and the
28126 percentage or proportion of fault attributable to each person seeking recovery, to each
28127 defendant, to any person immune from suit, and to any other person identified under
28128 Subsection [~~78-27-41~~] 78B-5-821(4) for whom there is a factual and legal basis to allocate
28129 fault.
28130 (2) (a) If the combined percentage or proportion of fault attributed to all persons
28131 immune from suit is less than 40%, the trial court shall reduce that percentage or proportion of
28132 fault to zero and reallocate that percentage or proportion of fault to the other parties and those
28133 identified under Subsection [~~78-27-41~~] 78B-5-821(4) for whom there is a factual and legal
28134 basis to allocate fault in proportion to the percentage or proportion of fault initially attributed to
28135 each by the fact finder. After this reallocation, cumulative fault shall equal 100% with the
28136 persons immune from suit being allocated no fault.
28137 (b) If the combined percentage or proportion of fault attributed to all persons immune
28138 from suit is 40% or more, that percentage or proportion of fault attributed to persons immune
28139 from suit may not be reduced under Subsection (2)(a).
28140 (c) (i) The jury may not be advised of the effect of any reallocation under Subsection
28141 (2).
28142 (ii) The jury may be advised that fault attributed to persons immune from suit may
28143 reduce the award of the person seeking recovery.
28144 (3) A person immune from suit may not be held liable, based on the allocation of fault,

28145 in this or any other action.
28146 Section 852. Section **78B-5-820**, which is renumbered from Section 78-27-40 is
28147 renumbered and amended to read:
28148 **[~~78-27-40~~]. 78B-5-820. Amount of liability limited to proportion of fault -- No**
28149 **contribution.**
28150 (1) Subject to Section [~~78-27-38~~] 78B-5-818, the maximum amount for which a
28151 defendant may be liable to any person seeking recovery is that percentage or proportion of the
28152 damages equivalent to the percentage or proportion of fault attributed to that defendant.
28153 (2) A defendant is not entitled to contribution from any other person.
28154 (3) A defendant or person seeking recovery may not bring a civil action against any
28155 person immune from suit to recover damages resulting from the allocation of fault under
28156 Section [~~78-27-38~~] 78B-5-818.
28157 Section 853. Section **78B-5-821**, which is renumbered from Section 78-27-41 is
28158 renumbered and amended to read:
28159 **[~~78-27-41~~]. 78B-5-821. Joinder of defendants.**
28160 (1) A person seeking recovery, or any defendant who is a party to the litigation, may
28161 join as a defendant, in accordance with the Utah Rules of Civil Procedure, any person other
28162 than a person immune from suit alleged to have caused or contributed to the injury or damage
28163 for which recovery is sought, for the purpose of having determined their respective proportions
28164 of fault.
28165 (2) A person immune from suit may not be named as a defendant, but fault may be
28166 allocated to a person immune from suit solely for the purpose of accurately determining the
28167 fault of the person seeking recovery and all defendants. A person immune from suit is not
28168 subject to any liability, based on the allocation of fault, in this or any other action.
28169 (3) (a) A person immune from suit may intervene as a party under Rule 24, Utah Rules
28170 of Civil Procedure, regardless of whether or not money damages are sought.
28171 (b) A person immune from suit who intervenes in an action may not be held liable for
28172 any fault allocated to that person under Section [~~78-27-38~~] 78B-5-818.
28173 (4) Fault may not be allocated to a non-party unless a party timely files a description of
28174 the factual and legal basis on which fault can be allocated and information identifying the
28175 non-party, to the extent known or reasonably available to the party, including name, address,

28176 telephone number and employer. The party shall file the description and identifying
28177 information in accordance with Rule 9, Utah Rules of Civil Procedure or as ordered by the
28178 court but in no event later than 90 days before trial as provided in Rule 9, Utah Rules of Civil
28179 Procedure.
28180 Section 854. Section **78B-5-822**, which is renumbered from Section 78-27-42 is
28181 renumbered and amended to read:
28182 **[~~78-27-42~~]. 78B-5-822. Release to one defendant does not discharge other**
28183 **defendants.**
28184 A release given by a person seeking recovery to one or more defendants does not
28185 discharge any other defendant unless the release so provides.
28186 Section 855. Section **78B-5-823**, which is renumbered from Section 78-27-43 is
28187 renumbered and amended to read:
28188 **[~~78-27-43~~]. 78B-5-823. Effect on immunity, exclusive remedy, indemnity, and**
28189 **contribution.**
28190 Nothing in Sections [~~78-27-37~~] 78B-5-817 through [~~78-27-42~~] 78B-5-822 affects or
28191 impairs any common law or statutory immunity from liability, including, but not limited to,
28192 governmental immunity as provided in Title 63, Chapter 30d, and the exclusive remedy
28193 provisions of Title 34A, Chapter 2, Workers' Compensation Act. Nothing in Sections
28194 [~~78-27-37~~] 78B-5-817 through [~~78-27-42~~] 78B-5-822 affects or impairs any right to indemnity
28195 or contribution arising from statute, contract, or agreement.
28196 Section 856. Section **78B-5-824**, which is renumbered from Section 78-27-44 is
28197 renumbered and amended to read:
28198 **[~~78-27-44~~]. 78B-5-824. Personal injury judgments -- Interest authorized.**
28199 (1) In all actions brought to recover damages for personal injuries sustained by any
28200 person, resulting from or occasioned by the tort of any other person, corporation, association, or
28201 partnership, whether by negligence or willful intent of that other person, corporation,
28202 association, or partnership, and whether [~~that~~] the injury [~~shall have resulted fatally~~] was fatal
28203 or otherwise, the plaintiff in the complaint may claim interest on [~~the~~] special damages
28204 actually incurred from the date of the occurrence of the act giving rise to the cause of action.
28205 (2) It is the duty of the court, in entering judgment for plaintiff in that action, to add to
28206 the amount of special damages actually incurred that are assessed by the verdict of the jury, or

28207 found by the court, interest on that amount calculated at the legal rate, as defined in Section
28208 15-1-1, from the date of the occurrence of the act giving rise to the cause of action to the date
28209 of entering the judgment, and to include it in that judgment.
28210 (3) As used in this section, "special damages actually incurred" does not include
28211 damages for future medical expenses, loss of future wages, or loss of future earning capacity.
28212 Section 857. Section **78B-5-825**, which is renumbered from Section 78-27-56 is
28213 renumbered and amended to read:
28214 **[~~78-27-56~~]. 78B-5-825. Attorney fees -- Award where action or defense in bad**
28215 **faith -- Exceptions.**
28216 (1) In civil actions, the court shall award reasonable [~~attorney's~~] attorney fees to a
28217 prevailing party if the court determines that the action or defense to the action was without
28218 merit and not brought or asserted in good faith, except under Subsection (2).
28219 (2) The court, in its discretion, may award no fees or limited fees against a party under
28220 Subsection (1), but only if the court:
28221 (a) finds the party has filed an affidavit of impecuniosity in the action before the court;
28222 or
28223 (b) the court enters in the record the reason for not awarding fees under the provisions
28224 of Subsection (1).
28225 Section 858. Section **78B-5-826**, which is renumbered from Section 78-27-56.5 is
28226 renumbered and amended to read:
28227 **[~~78-27-56.5~~]. 78B-5-826. Attorney fees -- Reciprocal rights to recover**
28228 **attorney fees.**
28229 A court may award costs and [~~attorney's~~] attorney fees to either party that prevails in a
28230 civil action based upon any promissory note, written contract, or other writing executed after
28231 April 28, 1986, when the provisions of the promissory note, written contract, or other writing
28232 allow at least one party to recover [~~attorney's~~] attorney fees.
28233 Section 859. Section **78B-5-827**, which is renumbered from Section 78-27-57 is
28234 renumbered and amended to read:
28235 **[~~78-27-57~~]. 78B-5-827. Attorney fees awarded to state funded agency in action**
28236 **against state or subdivision -- Forfeit of appropriated monies.**
28237 [~~Any~~] An agency or organization receiving state funds which, as a result of its suing the

28238 state, or political subdivision [~~thereof~~] of the state, receives [~~attorney's~~] attorney fees and costs
28239 as all or part of a settlement or award, shall forfeit to the General Fund, from its appropriated
28240 monies, an amount equal to the [~~attorney's~~] attorney fees received.
28241 Section 860. Section **78B-6-101** is enacted to read:
28242 **CHAPTER 6. PARTICULAR PROCEEDINGS**
28243 **Part 1. Utah Adoption Act**
28244 **78B-6-101. Title.**
28245 This part is known as the "Utah Adoption Act."
28246 Section 861. Section **78B-6-102**, which is renumbered from Section 78-30-1.5 is
28247 renumbered and amended to read:
28248 **[~~78-30-1.5~~]. 78B-6-102. Legislative intent and findings -- Best interest of child --**
28249 **Interests of each party.**
28250 (1) It is the intent and desire of the Legislature that in every adoption the best interest
28251 of the child should govern and be of foremost concern in the court's determination.
28252 [~~(2) The court shall make a specific finding regarding the best interest of the child, in~~
28253 ~~accordance with Section 78-30-9 and the provisions of this chapter.~~]
28254 (2) The court shall make a specific finding regarding the best interest of the child,
28255 taking into consideration information provided to the court pursuant to the requirements of this
28256 chapter relating to the health, safety, and welfare of the child and the moral climate of the
28257 potential adoptive placement.
28258 (3) The Legislature finds that the rights and interests of all parties affected by an
28259 adoption proceeding must be considered and balanced in determining what constitutional
28260 protections and processes are necessary and appropriate.
28261 (4) The Legislature specifically finds that it is not in a child's best interest to be adopted
28262 by a person or persons who are cohabiting in a relationship that is not a legally valid and
28263 binding marriage under the laws of this state. Nothing in this section limits or prohibits the
28264 court's placement of a child with a single adult who is not cohabiting as defined in this part.
28265 (5) The Legislature also finds that:
28266 (a) the state has a compelling interest in providing stable and permanent homes for
28267 adoptive children in a prompt manner, in preventing the disruption of adoptive placements, and
28268 in holding parents accountable for meeting the needs of children;

28269 (b) an unmarried mother, faced with the responsibility of making crucial decisions
28270 about the future of a newborn child, is entitled to privacy, and has the right to make timely and
28271 appropriate decisions regarding her future and the future of the child, and is entitled to
28272 assurance regarding the permanence of an adoptive placement;
28273 (c) adoptive children have a right to permanence and stability in adoptive placements;
28274 (d) adoptive parents have a constitutionally protected liberty and privacy interest in
28275 retaining custody of an adopted child;
28276 (e) an unmarried biological father has an inchoate interest that acquires constitutional
28277 protection only when he demonstrates a timely and full commitment to the responsibilities of
28278 parenthood, both during pregnancy and upon the child's birth; and
28279 (f) the state has a compelling interest in requiring unmarried biological fathers to
28280 demonstrate commitment by providing appropriate medical care and financial support and by
28281 establishing legal paternity, in accordance with the requirements of this chapter.
28282 (6) (a) In enacting this chapter, the Legislature has prescribed the conditions for
28283 determining whether an unmarried biological father's action is sufficiently prompt and
28284 substantial to require constitutional protection.
28285 (b) If an unmarried biological father fails to grasp the opportunities to establish a
28286 relationship with his child that are available to him, his biological parental interest may be lost
28287 entirely, or greatly diminished in constitutional significance by his failure to timely exercise it,
28288 or by his failure to strictly comply with the available legal steps to substantiate it.
28289 (c) A certain degree of finality is necessary in order to facilitate the state's compelling
28290 interest. The Legislature finds that the interests of the state, the mother, the child, and the
28291 adoptive parents described in this section outweigh the interest of an unmarried biological
28292 father who does not timely grasp the opportunity to establish and demonstrate a relationship
28293 with his child in accordance with the requirements of this chapter.
28294 (d) The Legislature finds no practical way to remove all risk of fraud or
28295 misrepresentation in adoption proceedings, and has provided a method for absolute protection
28296 of an unmarried biological father's rights by compliance with the provisions of this chapter. In
28297 balancing the rights and interests of the state, and of all parties affected by fraud, specifically
28298 the child, the adoptive parents, and the unmarried biological father, the Legislature has
28299 determined that the unmarried biological father is in the best position to prevent or ameliorate

28300 the effects of fraud and that, therefore, the burden of fraud shall be borne by him.
28301 (e) An unmarried biological father has the primary responsibility to protect his rights.
28302 (f) An unmarried biological father is presumed to know that the child may be adopted
28303 without his consent unless he strictly complies with the provisions of this chapter, manifests a
28304 prompt and full commitment to his parental responsibilities, and establishes paternity.
28305 (7) The Legislature finds that an unmarried mother has a right of privacy with regard to
28306 her pregnancy and adoption plan, and therefore has no legal obligation to disclose the identity
28307 of an unmarried biological father prior to or during an adoption proceeding, and has no
28308 obligation to volunteer information to the court with respect to the father.
28309 Section 862. Section **78B-6-103** is enacted to read:
28310 **78B-6-103. Definitions.**
28311 As used in this part:
28312 (1) "Adoptee" means a person who has been legally adopted.
28313 (2) "Adoption" means the judicial act which creates the relationship of parent and child
28314 where it did not previously exist and which permanently deprives a birth parent of parental
28315 rights.
28316 (3) "Adoption service provider" means a:
28317 (a) child-placing agency; or
28318 (b) licensed counselor who has at least one year of experience providing professional
28319 social work services to:
28320 (i) adoptive parents; or
28321 (ii) birth parents.
28322 (4) "Adult adoptee" means an adoptee who is 21 years of age or older.
28323 (5) "Adult sibling" means a brother or sister of the adoptee, who is 21 years of age or
28324 older and whose birth mother or father is the same as that of the adoptee.
28325 (6) "Birth parent" means a biological mother, a person whose paternity of a child is
28326 established, or an alleged father, who has been identified as the father of a child by the child's
28327 birth mother, and who has not denied paternity.
28328 (7) "Bureau" means the Bureau of Vital Statistics within the Department of Health
28329 operating under Title 26, Chapter 2, Utah Vital Statistics Act.
28330 (8) "Child-placing agency" means an agency licensed to place children for adoption

28331 under Title 62A, Chapter 4a, Part 6, Child Placing.
28332 (9) "Cohabiting" means residing with another person and being involved in a sexual
28333 relationship with that person.
28334 (10) "Division" means the Division of Child and Family Services, within the
28335 Department of Human Services, created in Section 62A-4a-103.
28336 (11) "Genetic and social history" means a comprehensive report, when obtainable, on
28337 an adoptee's birth parents, aunts, uncles, and grandparents, which contains the following
28338 information:
28339 (a) medical history;
28340 (b) health status;
28341 (c) cause of and age at death;
28342 (d) height, weight, and eye and hair color;
28343 (e) ethnic origins;
28344 (f) where appropriate, levels of education and professional achievement; and
28345 (g) religion, if any.
28346 (12) "Health history" means a comprehensive report of the adoptee's health status at the
28347 time of placement for adoption, and medical history, including neonatal, psychological,
28348 physiological, and medical care history.
28349 (13) "Identifying information" means the name and address of a birth parent or adult
28350 adoptee, or other specific information which by itself or in reasonable conjunction with other
28351 information may be used to identify that person.
28352 (14) "Licensed counselor" means a person who is licensed by the state, or another state,
28353 district, or territory of the United States as a:
28354 (a) certified social worker;
28355 (b) clinical social worker;
28356 (c) psychologist;
28357 (d) marriage and family therapist;
28358 (e) professional counselor; or
28359 (f) an equivalent licensed professional of another state, district, or territory of the
28360 United States.
28361 (15) "Parent," for purposes of Section 78B-6-119, means any person described in

28362 Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment
28363 for adoption is required under Sections 78B-6-120 through 78B-6-122.
28364 (16) "Unmarried biological father" means a person who:
28365 (a) is the biological father of a child; and
28366 (b) was not married to the biological mother of the child described in Subsection
28367 (16)(a) at the time of the child's:
28368 (i) conception; or
28369 (ii) birth.
28370 Section 863. Section **78B-6-104** is enacted to read:
28371 **78B-6-104. Limitations.**
28372 (1) Sections 78B-6-143 through 78B-6-145 do not apply to adoptions by a stepparent
28373 whose spouse is the adoptee's birth parent.
28374 (2) Sections 78B-6-143 through 78B-6-145 apply only to adoptions of adoptees born in
28375 this state.
28376 Section 864. Section **78B-6-105**, which is renumbered from Section 78-30-7 is
28377 renumbered and amended to read:
28378 **[~~78-30-7~~]. 78B-6-105. District court venue -- Jurisdiction of juvenile court --**
28379 **Jurisdiction over nonresidents -- Time for filing.**
28380 (1) Adoption proceedings shall be commenced by filing a petition with the clerk of the
28381 district court either:
28382 (a) in the district where the person adopting resides, or if the person adopting is not a
28383 resident of this state, in the district where the child was born or in which the child-placing
28384 agency that has custody of the child is located; or
28385 (b) with the juvenile court as provided in Subsection [~~78-3a-104~~] 78A-6-103(1).
28386 (2) All orders, decrees, agreements, and notices in the proceedings shall be filed with
28387 the clerk of the court where the adoption proceedings were commenced under Subsection (1).
28388 (3) A petition for adoption shall be filed within 30 days of the date the adoptee is
28389 placed in the home of the petitioners for the purpose of adoption, unless:
28390 (a) the time for filing has been extended by the court[~~,~~]; or [~~unless~~]
28391 (b) the adoption is arranged by a licensed child-placing agency in which case the
28392 agency may extend the filing time.

28393 (4) (a) If a person whose consent for the adoption is required under Section
28394 [~~78-30-4.14~~] 78B-6-120 or 78B-6-121 cannot be found within the state, the fact of the minor's
28395 presence within the state shall confer jurisdiction on the court in proceedings under this chapter
28396 as to such absent person, provided that due notice has been given in accordance with the Utah
28397 Rules of Civil Procedure.
28398 (b) The notice may not include the name of:
28399 (i) [~~the name of~~] the person or persons seeking to adopt the adoptee; or
28400 (ii) an unmarried mother without [~~that person's~~] her consent.
28401 (5) Service of notice as provided in Subsection (6) shall vest the court with jurisdiction
28402 over the person served in the same manner and to the same extent as if the person served was
28403 served personally within the state.
28404 (6) In the case of service outside the state, service completed not less than five days
28405 before the time set in the notice for appearance of the person served, shall be sufficient to
28406 confer jurisdiction.
28407 (7) Computation of periods of time not otherwise set forth in this section shall be made
28408 in accordance with the Utah Rules of Civil Procedure.
28409 Section 865. Section **78B-6-106**, which is renumbered from Section 78-30-4.15 is
28410 renumbered and amended to read:
28411 **[~~78-30-4.15~~]. 78B-6-106. Responsibility of each party for own actions --**
28412 **Fraud or misrepresentation.**
28413 (1) Each parent of a child conceived or born outside of marriage is responsible for his
28414 or her own actions and is not excused from strict compliance with the provisions of this
28415 chapter based upon any action, statement, or omission of the other parent or third parties.
28416 (2) Any person injured by fraudulent representations or actions in connection with an
28417 adoption is entitled to pursue civil or criminal penalties in accordance with existing law. A
28418 fraudulent representation is not a defense to strict compliance with the requirements of this
28419 chapter, and is not a basis for dismissal of a petition for adoption, vacation of an adoption
28420 decree, or an automatic grant of custody to the offended party. Custody determinations shall be
28421 based on the best interest of the child, in accordance with the provisions of Section
28422 [~~78-30-4.16~~] 78B-6-133.
28423 [~~(3) The Legislature finds no practical way to remove all risk of fraud or~~

28424 ~~misrepresentation in adoption proceedings, and has provided a method for absolute protection~~
28425 ~~of an unmarried biological father's rights by compliance with the provisions of this chapter. In~~
28426 ~~balancing the rights and interests of the state, and of all parties affected by fraud, specifically~~
28427 ~~the child, the adoptive parents, and the unmarried biological father, the Legislature has~~
28428 ~~determined that the unmarried biological father is in the best position to prevent or ameliorate~~
28429 ~~the effects of fraud and that, therefore, the burden of fraud shall be borne by him.~~]
28430 Section 866. Section **78B-6-107**, which is renumbered from Section 78-30-15.1 is
28431 renumbered and amended to read:
28432 **[~~78-30-15.1~~]. 78B-6-107. Compliance with the Interstate Compact on**
28433 **Placement of Children.**
28434 In any adoption proceeding the petition for adoption shall state whether the child was
28435 born in another state and, if so, both the petition and the court's final decree of adoption shall
28436 state that the requirements of Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of
28437 Children, have been complied with.
28438 Section 867. Section **78B-6-108**, which is renumbered from Section 78-30-8.5 is
28439 renumbered and amended to read:
28440 **[~~78-30-8.5~~]. 78B-6-108. Alien child -- Evidence of lawful admission to United**
28441 **States required.**
28442 (1) As used in this section, "alien child" means a child under 16 years of age who is not
28443 considered a citizen or national of the United States by the United States Immigration and
28444 Naturalization Service.
28445 (2) Any person adopting an alien child shall file with the petition for adoption written
28446 evidence from the United States Immigration and Naturalization Service that the child was
28447 inspected and:
28448 (a) admitted into the United States for permanent residence;
28449 (b) admitted into the United States temporarily in one of the lawful nonimmigrant
28450 categories specified in 8 U.S.C. Section 1101(a)(15); or
28451 (c) paroled into the United States pursuant to 8 U.S.C. Section 1182(d)(5).
28452 (3) The 1992 amendments to this section are retroactive to September 1, 1984. Any
28453 adoption decree entered after September 1, 1984, is considered valid if the requirements of
28454 Subsection (2), as amended, were met.

28455 Section 868. Section **78B-6-109**, which is renumbered from Section 78-30-4.24 is
28456 renumbered and amended to read:
28457 **[~~78-30-4.24~~]. 78B-6-109. Determination of rights prior to adoption**
28458 **petition.**
28459 Any interested person may petition a court having jurisdiction over adoption
28460 proceedings for a determination of the rights and interests of any person who may claim an
28461 interest in a child under this chapter, at any time prior to the finalization of the adoption,
28462 including any time prior to the child's birth.
28463 Section 869. Section **78B-6-110**, which is renumbered from Section 78-30-4.13 is
28464 renumbered and amended to read:
28465 **[~~78-30-4.13~~]. 78B-6-110. Notice of adoption proceedings.**
28466 (1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a
28467 sexual relationship with a woman:
28468 (i) is considered to be on notice that a pregnancy and an adoption proceeding regarding
28469 the child may occur; and
28470 (ii) has a duty to protect his own rights and interests.
28471 (b) An unmarried biological father is entitled to actual notice of a birth or an adoption
28472 proceeding with regard to his child only as provided in this section.
28473 (2) Notice of an adoption proceeding shall be served on each of the following persons:
28474 (a) any person or agency whose consent or relinquishment is required under Section
28475 [~~78-30-4.14~~] 78B-6-120 or 78B-6-121, unless that right has been terminated by:
28476 (i) waiver;
28477 (ii) relinquishment;
28478 (iii) consent; or
28479 (iv) judicial action;
28480 (b) any person who has initiated a paternity proceeding and filed notice of that action
28481 with the state registrar of vital statistics within the Department of Health, in accordance with
28482 Subsection (3);
28483 (c) any legally appointed custodian or guardian of the adoptee;
28484 (d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the
28485 petition;

28486 (e) the adoptee's spouse, if any;
28487 (f) any person who, prior to the time the mother executes her consent for adoption or
28488 relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with
28489 the knowledge and consent of the mother;
28490 (g) [~~any~~] a person who is:
28491 (i) openly living in the same household with the child at the time the consent is
28492 executed or relinquishment made; and
28493 (ii) holding himself out to be the child's father; and
28494 (h) any person who is married to the child's mother at the time she executes her consent
28495 to the adoption or relinquishes the child for adoption.
28496 (3) (a) In order to preserve any right to notice and consent, an unmarried, biological
28497 father may, consistent with Subsection (3)(d):
28498 (i) initiate proceedings in a district court of the state of Utah to establish paternity
28499 under Title [~~78~~] 78B, Chapter [~~45g~~] 15, Utah Uniform Parentage Act; and
28500 (ii) file a notice of the initiation of the proceedings described in Subsection (3)(a)(i)
28501 with the state registrar of vital statistics within the Department of Health.
28502 (b) If the unmarried, biological father does not know the county in which the birth
28503 mother resides, he may initiate his action in any county, subject to a change in trial pursuant to
28504 Section [~~78-13-7~~] 78B-3-307.
28505 (c) The Department of Health shall provide forms for the purpose of filing the notice
28506 described in Subsection (3)(a)(ii), and make those forms available in the office of the county
28507 health department in each county.
28508 (d) The action and notice described in Subsection (3)(a):
28509 (i) may be filed before or after the child's birth; and
28510 (ii) shall be filed prior to the mother's:
28511 (A) execution of consent to adoption of the child; or
28512 (B) relinquishment of the child for adoption.
28513 (4) Notice provided in accordance with this section need not disclose the name of the
28514 mother of the child who is the subject of an adoption proceeding.
28515 (5) The notice required by this section:
28516 (a) may be served immediately after relinquishment or execution of consent;

28517 (b) shall be served at least 30 days prior to the final dispositional hearing;
28518 (c) shall specifically state that the person served must respond to the petition within 30
28519 days of service if he intends to intervene in or contest the adoption;
28520 (d) shall state the consequences, described in Subsection (6)(b), for failure of a person
28521 to file a motion for relief within 30 days after the day on which the person is served with notice
28522 of an adoption proceeding;
28523 (e) is not required to include, nor be accompanied by, a summons or a copy of the
28524 petition for adoption; and
28525 (f) shall state where the person may obtain a copy of the petition for adoption.
28526 (6) (a) [~~Any~~] A person who has been served with notice of an adoption proceeding and
28527 who wishes to contest the adoption shall file a motion in the adoption proceeding:
28528 (i) within 30 days after the day on which the person was served with notice of the
28529 adoption proceeding;
28530 (ii) [~~that shall set~~] setting forth specific relief sought; and
28531 (iii) [~~that shall be~~] accompanied by a memorandum specifying the factual and legal
28532 grounds upon which the motion is based.
28533 (b) [~~Any~~] A person who fails to file a motion for relief within 30 days after the day on
28534 which the person was served with notice of the adoption proceeding:
28535 (i) waives any right to further notice in connection with the adoption;
28536 (ii) forfeits all rights in relation to the adoptee; and
28537 (iii) is barred from thereafter bringing or maintaining any action to assert any interest in
28538 the adoptee.
28539 (7) Service of notice under this section shall be made as follows:
28540 (a) (i) Subject to Subsection (5)(e), service on a person whose consent is necessary
28541 under Section [~~78-30-4.14~~] 78B-6-120 or 78B-6-121 shall be in accordance with the provisions
28542 of the Utah Rules of Civil Procedure.
28543 (ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court
28544 shall designate the content of the notice regarding the identity of the parties.
28545 (iii) The notice described in this Subsection (7)(a) may not include the name of a
28546 person seeking to adopt the adoptee.
28547 (b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice

28548 is required under this section, service by certified mail, return receipt requested, is sufficient.
28549 (ii) If the service described in Subsection (7)(b)(i) cannot be completed after two
28550 attempts, the court may issue an order providing for service by publication, posting, or by any
28551 other manner of service.
28552 (c) Notice to a person who has initiated a paternity proceeding and filed notice of that
28553 action with the state registrar of vital statistics in the Department of Health in accordance with
28554 the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at
28555 the last address filed with the registrar.
28556 (8) The notice required by this section may be waived in writing by the person entitled
28557 to receive notice.
28558 (9) Proof of service of notice on all persons for whom notice is required by this section
28559 shall be filed with the court before the final dispositional hearing on the adoption.
28560 (10) Notwithstanding any other provision of law, neither the notice of an adoption
28561 proceeding nor any process in that proceeding is required to contain the name of the person or
28562 persons seeking to adopt the adoptee.
28563 (11) Except as to those persons whose consent to an adoption is required under Section
28564 [~~78-30-4.14~~] 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable
28565 the person served to:
28566 (a) intervene in the adoption; and
28567 (b) present evidence to the court relevant to the best interest of the child.
28568 Section 870. Section **78B-6-111**, which is renumbered from Section 78-30-4.23 is
28569 renumbered and amended to read:
28570 **[~~78-30-4.23~~]. 78B-6-111. Criminal sexual offenses.**
28571 A biological father is not entitled to notice of an adoption proceeding, nor is the consent
28572 of a biological father required in connection with an adoption proceeding, in cases where it is
28573 shown that the child who is the subject of the proceeding was conceived as a result of conduct
28574 which would constitute any sexual offense described in Title 76, Chapter 5, Part 4, regardless
28575 of whether the biological father is formally charged with or convicted of a criminal offense.
28576 Section 871. Section **78B-6-112**, which is renumbered from Section 78-30-7.1 is
28577 renumbered and amended to read:
28578 **[~~78-30-7.1~~]. 78B-6-112. District court jurisdiction over certain termination of**

28579 **parental rights proceedings.**
28580 (1) A district court has jurisdiction to hear and decide a petition to terminate parental
28581 rights in a child if the party who filed the petition is seeking to terminate parental rights in a
28582 child for the purpose of facilitating the adoption of the child.
28583 (2) A petition to terminate parental rights under this section may:
28584 (a) be joined with a proceeding on an adoption petition; or
28585 (b) be filed as a separate proceeding.
28586 (3) A court may enter a final order terminating parental rights before a final decree of
28587 adoption is entered.
28588 (4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to
28589 proceedings to terminate parental rights as described in Section [~~78-3a-104~~] 78A-6-103.
28590 (b) This section does not grant jurisdiction to a district court to terminate parental
28591 rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse,
28592 neglect, dependency, or termination of parental rights proceeding.
28593 (5) The district court may terminate a person's parental rights in a child if:
28594 (a) the person executes a voluntary consent to adoption, or relinquishment for adoption,
28595 of the child, in accordance with:
28596 (i) the requirements of this chapter; or
28597 (ii) the laws of another state or country, if the consent is valid and irrevocable;
28598 (b) the person is an unmarried biological father who is not entitled to consent to
28599 adoption, or relinquishment for adoption, under Section [~~78-30-4.14~~] 78B-6-120 or 78B-6-121;
28600 (c) the person:
28601 (i) received notice of the adoption proceeding relating to the child under Section
28602 [~~78-30-4.13~~] 78B-6-110; and
28603 (ii) failed to file a motion for relief, under Subsection [~~78-30-4.13~~] 78B-6-110(6),
28604 within 30 days after the day on which the person was served with notice of the adoption
28605 proceeding;
28606 (d) the court finds, under Section [~~78-45g-607~~] 78B-15-607, that the person is not a
28607 parent of the child; or
28608 (e) the person's parental rights are terminated on grounds described in Title [~~78~~] 78A,
28609 Chapter [~~3a~~] 6, Part [~~4~~] 5, Termination of Parental Rights Act.

28610 Section 872. Section **78B-6-113**, which is renumbered from Section 78-30-3.6 is
28611 renumbered and amended to read:
28612 **[~~78-30-3.6~~]. 78B-6-113. Prospective parent not a resident -- Preplacement**
28613 **requirements.**
28614 (1) When an adoption petition is to be finalized in this state with regard to any
28615 prospective adoptive parent who is not a resident of this state at the time a child is placed in
28616 that person's home, the potential adoptive parent shall:
28617 (a) comply with the provisions of [~~Section 78-30-3.5~~] Sections 78B-6-128 and
28618 78B-6-130; and
28619 (b) (i) if the child is in state custody, submit fingerprints for a Federal Bureau of
28620 Investigation national criminal history record check through the Criminal and Technical
28621 Services Division of the Department of Public Safety in accordance with the provisions of
28622 Section 62A-2-120; or
28623 (ii) subject to Subsection (2), if the child is not in state custody:
28624 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history
28625 records check as a personal records check; or
28626 (B) complete a criminal records check and child abuse database check for each state
28627 and, if available, country, where the potential adoptive parent resided during the five years
28628 immediately preceding the day on which the adoption petition is to be finalized.
28629 (2) For purposes of Subsection (1)(b)(ii):
28630 (a) if the adoption is being handled by a human services program, as defined in Section
28631 62A-2-101:
28632 (i) the criminal history check described in Subsection (1)(b)(ii)(A) shall be submitted
28633 in accordance with procedures established by the Criminal Investigations and Technical
28634 Services Division of the Department of Public Safety; and
28635 (ii) subject to Subsection (3), the criminal history check described in Subsection
28636 (1)(b)(ii)(B) shall be submitted in a manner acceptable to the court that will:
28637 (A) preserve the chain of custody of the results; and
28638 (B) not permit tampering with the results by a prospective adoptive parent or other
28639 interested party; and
28640 (b) if the adoption is being handled by a private attorney, and not a human services

28641 program, the criminal history checks described in Subsection (1)(b)(ii), shall be:
28642 (i) submitted in accordance with procedures established by the Criminal Investigations
28643 and Technical Services Division of the Department of Public Safety; or
28644 (ii) subject to Subsection (3), submitted in a manner acceptable to the court that will:
28645 (A) preserve the chain of custody of the results; and
28646 (B) not permit tampering with the results by a prospective adoptive parent or other
28647 interested party.
28648 (3) In order to comply with Subsection (2)(a)(ii) of (b)(ii), the manner in which the
28649 criminal history check is submitted shall be approved by the court.
28650 (4) In addition to the other requirements of this section, before a child in state custody
28651 is placed with a prospective foster parent or a prospective adoptive parent, the Department of
28652 Human Services shall comply with [~~Subsections 78-30-3.5(8)(a) through (d)~~] Section
28653 78B-6-131.
28654 Section 873. Section **78B-6-114**, which is renumbered from Section 78-30-3 is
28655 renumbered and amended to read:
28656 **[~~78-30-3~~]. 78B-6-114. Adoption by married persons -- Consent.**
28657 (1) A married man who is not lawfully separated from his wife may not adopt a child
28658 without the consent of his wife[~~, neither may a~~], if his wife is capable of giving consent.
28659 (2) A married woman who is not lawfully separated from her husband may not adopt a
28660 child without his consent, if [~~the spouse not consenting is~~] he is capable of giving [~~that~~] his
28661 consent.
28662 Section 874. Section **78B-6-115**, which is renumbered from Section 78-30-1 is
28663 renumbered and amended to read:
28664 **[~~78-30-1~~]. 78B-6-115. Who may adopt -- Adoption of minor -- Adoption of**
28665 **adult.**
28666 [~~(1) Any minor child may be adopted by an adult person, in accordance with the~~
28667 ~~provisions and requirements of this section and this chapter.~~]
28668 [~~(2) (a)~~] (1) For purposes of this [~~Subsection (2)~~] section, "vulnerable adult" means:
28669 [~~(i)~~] (a) a person 65 years of age or older; or
28670 [~~(ii)~~] (b) an adult, 18 years of age or older, who has a mental or physical impairment
28671 which substantially affects that person's ability to:

28672 [~~(A)~~] (i) provide personal protection;
28673 [~~(B)~~] (ii) provide necessities such as food, shelter, clothing, or medical or other health
28674 care;
28675 [~~(C)~~] (iii) obtain services necessary for health, safety, or welfare;
28676 [~~(D)~~] (iv) carry out the activities of daily living;
28677 [~~(E)~~] (v) manage the adult's own resources; or
28678 [~~(F)~~] (vi) comprehend the nature and consequences of remaining in a situation of
28679 abuse, neglect, or exploitation.
28680 [~~(b)~~] (2) Subject to this [~~Subsection (2)~~] section and [~~Subsection (3)~~] Section
28681 78B-6-117, any adult may be adopted by another adult.
28682 [~~(c)~~] (3) The following provisions of this [~~chapter~~] part apply to the adoption of an
28683 adult just as though the person being adopted were a minor:
28684 [~~(i) Sections 78-30-1.1, 78-30-1.2, 78-30-2, 78-30-3, 78-30-4.18, 78-30-6, 78-30-8,~~
28685 ~~78-30-8.5, 78-30-8.6, 78-30-9, 78-30-10, 78-30-11, and 78-30-15;~~]
28686 (a) (i) Section 78B-6-108;
28687 (ii) Section 78B-6-114;
28688 (iii) Section 78B-6-116;
28689 (iv) Section 78B-6-118;
28690 (v) Section 78B-6-124;
28691 (vi) Section 78B-6-136;
28692 (vii) Section 78B-6-137;
28693 (viii) Section 78B-6-138;
28694 (ix) Section 78B-6-139;
28695 (x) Section 78B-6-141; and
28696 (xi) Section 78B-6-142;
28697 [~~(ii)~~] (b) Subsections [~~78-30-7~~] 78B-6-106(1), (2), and (7), except that the juvenile
28698 court does not have jurisdiction over a proceeding for adoption of an adult, unless the adoption
28699 arises from a case where the juvenile court has continuing jurisdiction over the adult adoptee;
28700 and
28701 [~~(iii)~~] (c) if the adult adoptee is a vulnerable adult, [~~Section 78-30-3.5~~] Sections
28702 78B-6-128 through 78B-6-131, regardless of whether the adult adoptee resides, or will reside,

28703 with the adoptors, unless the court, based on a finding of good cause, waives the requirements
28704 of [~~Section 78-30-3.5~~] those sections.
28705 [~~(d)~~] (4) Before a court enters a final decree of adoption of an adult, the adoptee and
28706 the adoptive parent or parents shall appear before the court presiding over the adoption
28707 proceedings and execute consent to the adoption.
28708 [~~(e)~~] (5) No provision of this [~~chapter~~] part, other than those listed or described in this
28709 [~~Subsection (2) or Subsection (3)~~] section or Section 78B-6-117, apply to the adoption of an
28710 adult.
28711 [~~(3) (a) A child may be adopted by:~~]
28712 [~~(i) adults who are legally married to each other in accordance with the laws of this~~
28713 ~~state, including adoption by a stepparent; or~~]
28714 [~~(ii) subject to Subsection (4), any single adult, except as provided in Subsection~~
28715 ~~(3)(b).~~]
28716 [~~(b) A child may not be adopted by a person who is cohabiting in a relationship that is~~
28717 ~~not a legally valid and binding marriage under the laws of this state. For purposes of this~~
28718 ~~Subsection (3)(b), "cohabiting" means residing with another person and being involved in a~~
28719 ~~sexual relationship with that person.~~]
28720 [~~(4) In order to provide a child who is in the custody of the division with the most~~
28721 ~~beneficial family structure, when a child in the custody of the division is placed for adoption,~~
28722 ~~the division or child-placing agency shall place the child with a man and a woman who are~~
28723 ~~married to each other, unless:~~]
28724 [~~(a) there are no qualified married couples who:~~]
28725 [~~(i) have applied to adopt a child;~~]
28726 [~~(ii) are willing to adopt the child; and~~]
28727 [~~(iii) are an appropriate placement for the child;~~]
28728 [~~(b) the child is placed with a relative of the child;~~]
28729 [~~(c) the child is placed with a person who has already developed a substantial~~
28730 ~~relationship with the child;~~]
28731 [~~(d) the child is placed with a person who:~~]
28732 [~~(i) is selected by a parent or former parent of the child, if the parent or former parent~~
28733 ~~consented to the adoption of the child; and~~]

28734 [~~(ii) the parent or former parent described in Subsection (4)(d)(i):~~]
28735 [~~(A) knew the person with whom the child is placed before the parent consented to the~~
28736 ~~adoption; or~~]
28737 [~~(B) became aware of the person with whom the child is placed through a source other~~
28738 ~~than the division or the child-placing agency that assists with the adoption of the child; or~~]
28739 [~~(c) it is in the best interests of the child to place the child with a single person.~~]
28740 Section 875. Section **78B-6-116**, which is renumbered from Section 78-30-1.2 is
28741 renumbered and amended to read:
28742 **[~~78-30-1.2~~]. 78B-6-116. Notice and consent for adoption of an adult.**
28743 (1) (a) Consent to the adoption of an adult is required from:
28744 (i) the adult adoptee;
28745 (ii) any person who is adopting the adult;
28746 (iii) the spouse of a person adopting the adult; and
28747 (iv) any legally appointed guardian or custodian of the adult adoptee.
28748 (b) No person, other than a person described in Subsection (1)(a), may consent, or
28749 withhold consent, to the adoption of an adult.
28750 (2) (a) Except as provided in Subsection (2)(b), notice of a proceeding for the adoption
28751 of an adult shall be served on each person described in Subsection (1)(a) and the spouse of the
28752 adoptee.
28753 (b) The notice described in Subsection (2)(a) may be waived, in writing, by the person
28754 entitled to receive notice.
28755 (3) The notice described in Subsection (2):
28756 (a) shall be served at least 30 days before the day on which the adoption is finalized;
28757 (b) shall specifically state that the person served must respond to the petition within 30
28758 days of service if the person intends to intervene in the adoption proceeding;
28759 (c) shall state the name of the person to be adopted;
28760 (d) may not state the name of a person adopting the adoptee, unless the person
28761 consents, in writing, to disclosure of the person's name;
28762 (e) with regard to a person described in Subsection (1)(a):
28763 (i) except as provided in Subsection (2)(b), shall be in accordance with the provisions
28764 of the Utah Rules of Civil Procedure; and

28765 (ii) may not be made by publication; and
28766 (f) with regard to the spouse of the adoptee, may be made:
28767 (i) in accordance with the provisions of the Utah Rules of Civil Procedure;
28768 (ii) by certified mail, return receipt requested; or
28769 (iii) by publication, posting, or other means if:
28770 (A) the service described in Subsection (3)(f)(ii) cannot be completed after two
28771 attempts; and
28772 (B) the court issues an order providing for service by publication, posting, or other
28773 means.
28774 (4) Proof of service of the notice on each person to whom notice is required by this
28775 section shall be filed with the court before the adoption is finalized.
28776 (5) (a) Any person who is served with notice of a proceeding for the adoption of an
28777 adult and who wishes to intervene in the adoption shall file a motion in the adoption
28778 proceeding:
28779 (i) within 30 days after the day on which the person is served with notice of the
28780 adoption proceeding;
28781 (ii) that sets forth the specific relief sought; and
28782 (iii) that is accompanied by a memorandum specifying the factual and legal grounds
28783 upon which the motion is made.
28784 (b) A person who fails to file the motion described in Subsection (5)(a) within the time
28785 described in Subsection (5)(a)(i):
28786 (i) waives any right to further notice of the adoption proceeding; and
28787 (ii) is barred from intervening in, or bringing or maintaining any action challenging, the
28788 adoption proceeding.
28789 (6) Except as provided in Subsection (7), after a court enters a final decree of adoption
28790 of an adult, the adult adoptee shall:
28791 (a) serve notice of the finalization of the adoption, pursuant to the Utah Rules of Civil
28792 Procedure, on each person who was a legal parent of the adult adoptee before the final decree
28793 of adoption described in this Subsection (6) was entered; and
28794 (b) file with the court proof of service of the notice described in Subsection (6)(a).
28795 (7) A court may, based on a finding of good cause, waive the notification requirement

28796 described in Subsection (6).
28797 Section 876. Section **78B-6-117** is enacted to read:
28798 **78B-6-117. Who may adopt -- Adoption of minor.**
28799 (1) A minor child may be adopted by an adult person, in accordance with the
28800 provisions and requirements of this section and this part.
28801 (2) A child may be adopted by:
28802 (a) adults who are legally married to each other in accordance with the laws of this
28803 state, including adoption by a stepparent; or
28804 (b) subject to Subsection (4), any single adult, except as provided in Subsection (3).
28805 (3) A child may not be adopted by a person who is cohabiting in a relationship that is
28806 not a legally valid and binding marriage under the laws of this state.
28807 (4) In order to provide a child who is in the custody of the division with the most
28808 beneficial family structure, when a child in the custody of the division is placed for adoption,
28809 the division or child-placing agency shall place the child with a man and a woman who are
28810 married to each other, unless:
28811 (a) there are no qualified married couples who:
28812 (i) have applied to adopt a child;
28813 (ii) are willing to adopt the child; and
28814 (iii) are an appropriate placement for the child;
28815 (b) the child is placed with a relative of the child;
28816 (c) the child is placed with a person who has already developed a substantial
28817 relationship with the child;
28818 (d) the child is placed with a person who:
28819 (i) is selected by a parent or former parent of the child, if the parent or former parent
28820 consented to the adoption of the child; and
28821 (ii) the parent or former parent described in Subsection (4)(d)(i):
28822 (A) knew the person with whom the child is placed before the parent consented to the
28823 adoption; or
28824 (B) became aware of the person with whom the child is placed through a source other
28825 than the division or the child-placing agency that assists with the adoption of the child; or
28826 (e) it is in the best interests of the child to place the child with a single person.

28827 Section 877. Section **78B-6-118**, which is renumbered from Section 78-30-2 is
28828 renumbered and amended to read:
28829 **[~~78-30-2~~]. 78B-6-118. Relative ages.**
28830 A person adopting a child must be at least ten years older than the child adopted, unless
28831 the petitioners for adoption are a married couple, one of which is at least ten years older than
28832 the child.
28833 Section 878. Section **78B-6-119**, which is renumbered from Section 78-30-3.3 is
28834 renumbered and amended to read:
28835 **[~~78-30-3.3~~]. 78B-6-119. Counseling for parents.**
28836 (1) Subject to Subsection (2)(a), before relinquishing a child to a child-placing agency,
28837 or consenting to the adoption of a child, a parent of the child has the right to participate in
28838 counseling:
28839 (a) by a licensed counselor or an adoption service provider selected by the parent
28840 participating in the counseling;
28841 (b) for up to three sessions of at least 50 minutes per session; and
28842 (c) subject to Subsection (2)(b), at the expense of the:
28843 (i) child-placing agency; or
28844 (ii) prospective adoptive parents.
28845 (2) (a) Notwithstanding Subsection (1), a parent who has the right to participate in the
28846 counseling described in this section may waive that right.
28847 (b) Notwithstanding Subsection (1)(c), the total amount required to be paid by a
28848 child-placing agency or the prospective adoptive parents for the counseling described in
28849 Subsection (1) may not exceed $250.
28850 (3) Before a parent relinquishes a child to a child-placing agency, or consents to the
28851 adoption of a child, the parent shall be informed of the right described in Subsection (1) by the:
28852 (a) child-placing agency;
28853 (b) prospective adoptive parents; or
28854 (c) representative of a person described in Subsection (3)(a) or (b).
28855 (4) (a) Subject to Subsections (4)(b) and (c), before the day on which a final decree of
28856 adoption is entered, a statement shall be filed with the court that:
28857 (i) is signed by each parent who:

28858 (A) relinquishes the parent's parental rights; or
28859 (B) consents to the adoption; and
28860 (ii) states that, before the parent took the action described in Subsection (4)(a)(i)(A) or
28861 (B), the parent was advised of the parent's right to participate in the counseling described in this
28862 section at the expense of the:
28863 (A) child-placing agency; or
28864 (B) prospective adoptive parents.
28865 (b) The statement described in Subsection (4)(a) may be included in the document that:
28866 (i) relinquishes the parent's parental rights; or
28867 (ii) consents to the adoption.
28868 (c) Failure by a person to give the notice described in Subsection (3), or pay for the
28869 counseling described in this section:
28870 (i) shall not constitute grounds for invalidating a:
28871 (A) relinquishment of parental rights; or
28872 (B) consent to adoption; and
28873 (ii) shall give rise to a cause of action for the recovery of damages suffered, if any, by
28874 the parent or guardian who took the action described in Subsection (4)(c)(i)(A) or (B) against
28875 the person required to:
28876 (A) give the notice described in Subsection (3); or
28877 (B) pay for the counseling described in this section.
28878 Section 879. Section **78B-6-120** is enacted to read:
28879 **78B-6-120. Necessary consent to adoption or relinquishment for adoption.**
28880 (1) Except as provided in Subsection (2), consent to adoption of a child, or
28881 relinquishment of a child for adoption, is required from:
28882 (a) the adoptee, if the adoptee is more than 12 years of age, unless the adoptee does not
28883 have the mental capacity to consent;
28884 (b) both parents or the surviving parent of an adoptee who was conceived or born
28885 within a marriage;
28886 (c) the mother of an adoptee born outside of marriage;
28887 (d) a biological parent who has been adjudicated to be the child's biological father by a
28888 court of competent jurisdiction prior to the mother's execution of consent to adoption or her

28889 relinquishment of the child for adoption;
28890 (e) consistent with Subsection (3), a biological parent who has executed and filed a
28891 voluntary declaration of paternity with the state registrar of vital statistics within the
28892 Department of Health in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act,
28893 prior to the mother's execution of consent to adoption or her relinquishment of the child for
28894 adoption;
28895 (f) an unmarried biological father of an adoptee, only if he strictly complies with the
28896 requirements of Sections 78B-6-121 and 78B-6-122; and
28897 (g) the person or agency to whom an adoptee has been relinquished and that is placing
28898 the child for adoption.
28899 (2) (a) The consent of a person described in Subsections (1)(b) through (g) is not
28900 required if the adoptee is 18 years of age or older.
28901 (b) The consent of a person described in Subsections (1)(b) through (f) is not required
28902 if the person's parental rights relating to the adoptee have been terminated.
28903 (3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered
28904 filed when it is entered into a database that:
28905 (a) can be accessed by the Department of Health; and
28906 (b) is designated by the state registrar of vital statistics as the official database for
28907 voluntary declarations of paternity.
28908 Section 880. Section **78B-6-121** is enacted to read:
28909 **78B-6-121. Consent of unmarried biological father.**
28910 (1) Except as provided in Subsections (2)(a) and 76B-6-122(1), and subject to
28911 Subsection (5), with regard to a child who is placed with adoptive parents more than six
28912 months after birth, consent of an unmarried biological father is not required unless the
28913 unmarried biological father:
28914 (a) (i) developed a substantial relationship with the child by:
28915 (A) visiting the child monthly, unless the unmarried biological father was physically or
28916 financially unable to visit the child on a monthly basis; or
28917 (B) engaging in regular communication with the child or with the person or authorized
28918 agency that has lawful custody of the child;
28919 (ii) took some measure of responsibility for the child and the child's future; and

28920 (iii) demonstrated a full commitment to the responsibilities of parenthood by financial
28921 support of the child of a fair and reasonable sum in accordance with the father's ability; or
28922 (b) (i) openly lived with the child:
28923 (A) (I) for a period of at least six months during the one-year period immediately
28924 preceding the day on which the child is placed with adoptive parents; or
28925 (II) if the child is less than one year old, for a period of at least six months during the
28926 period of time beginning on the day on which the child is born and ending on the day on which
28927 the child is placed with adoptive parents; and
28928 (B) immediately preceding placement of the child with adoptive parents; and
28929 (ii) openly held himself out to be the father of the child during the six-month period
28930 described in Subsection (1)(b)(i)(A).
28931 (2) (a) If an unmarried biological father was prevented from complying with a
28932 requirement of Subsection (1) by the person or authorized agency having lawful custody of the
28933 child, the unmarried biological father is not required to comply with that requirement.
28934 (b) The subjective intent of an unmarried biological father, whether expressed or
28935 otherwise, that is unsupported by evidence that the requirements in Subsection (1) have been
28936 met, shall not preclude a determination that the father failed to meet the requirements of
28937 Subsection (1).
28938 (3) Except as provided in Subsection 78B-6-122(1), and subject to Subsection (5), with
28939 regard to a child who is six months of age or less at the time the child is placed with adoptive
28940 parents, consent of an unmarried biological father is not required unless, prior to the time the
28941 mother executes her consent for adoption or relinquishes the child for adoption, the unmarried
28942 biological father:
28943 (a) initiates proceedings in a district court of the state to establish paternity under Title
28944 78B, Chapter 15, Utah Uniform Parentage Act;
28945 (b) files with the court that is presiding over the paternity proceeding a sworn affidavit:
28946 (i) stating that he is fully able and willing to have full custody of the child;
28947 (ii) setting forth his plans for care of the child; and
28948 (iii) agreeing to a court order of child support and the payment of expenses incurred in
28949 connection with the mother's pregnancy and the child's birth;
28950 (c) consistent with Subsection (4), files notice of the commencement of paternity

28951 proceedings, described in Subsection (3)(a), with the state registrar of vital statistics within the
28952 Department of Health, in a confidential registry established by the department for that purpose;
28953 and
28954 (d) offered to pay and paid a fair and reasonable amount of the expenses incurred in
28955 connection with the mother's pregnancy and the child's birth, in accordance with his financial
28956 ability, unless:
28957 (i) he did not have actual knowledge of the pregnancy;
28958 (ii) he was prevented from paying the expenses by the person or authorized agency
28959 having lawful custody of the child; or
28960 (iii) the mother refuses to accept the unmarried biological father's offer to pay the
28961 expenses described in this Subsection (3)(d).
28962 (4) The notice described in Subsection (3)(c) is considered filed when it is entered into
28963 the registry described in Subsection (3)(c).
28964 (5) Consent of an unmarried biological father is not required under this section if:
28965 (a) the court determines, in accordance with the requirements and procedures of Title
28966 78A, Chapter 6, Part 5, Termination of Parental Rights Act, that the unmarried biological
28967 father's rights should be terminated, based on the petition of any interested party; or
28968 (b) (i) a declaration of paternity declaring the unmarried biological father to be the
28969 father of the child is rescinded under Section 78B-15-306; and
28970 (ii) the unmarried biological father fails to comply with Subsection (3) within ten
28971 business days after the day that notice of the rescission described in Subsection (5)(b)(i) is
28972 mailed by the Office of Vital Records within the Department of Health as provided in Section
28973 78B-15-306.
28974 (6) Unless the adoptee is conceived or born within a marriage, the petitioner in an
28975 adoption proceeding shall, prior to entrance of a final decree of adoption, file with the court a
28976 certificate from the state registrar of vital statistics within the Department of Health, stating:
28977 (a) that a diligent search has been made of the registry of notices from unmarried
28978 biological fathers described in Subsection (3)(c); and
28979 (b) (i) that no filing has been found pertaining to the father of the child in question; or
28980 (ii) if a filing is found, the name of the putative father and the time and date of filing.
28981 Section 881. Section **78B-6-122** is enacted to read:

28982 **78B-6-122. Qualifying circumstance.**
28983 (1) (a) For purposes of this section, "qualifying circumstance" means that, at any point
28984 during the time period beginning at the conception of the child and ending at the time the
28985 mother executed a consent to adoption or relinquishment of the child for adoption:
28986 (i) the child or the child's mother resided, on a permanent or temporary basis, in the
28987 state;
28988 (ii) the mother intended to give birth to the child in the state;
28989 (iii) the child was born in the state; or
28990 (iv) the mother intended to execute a consent to adoption or relinquishment of the child
28991 for adoption:
28992 (A) in the state; or
28993 (B) under the laws of the state.
28994 (b) For purposes of Subsection (1)(c)(i), a court shall consider the totality of the
28995 circumstances when determining whether an unmarried biological father has demonstrated a
28996 full commitment to his parental responsibilities, including, if applicable:
28997 (i) efforts he has taken to discover the location of the child or the child's mother;
28998 (ii) whether he has expressed or demonstrated an interest in taking responsibility for
28999 the child;
29000 (iii) whether, and to what extent, he has developed, or attempted to develop, a
29001 relationship with the child;
29002 (iv) whether he offered to provide and, if the offer was accepted, did provide, financial
29003 support for the child or the child's mother;
29004 (v) whether, and to what extent, he has communicated, or attempted to communicate,
29005 with the child or the child's mother;
29006 (vi) whether he has filed legal proceedings to establish his paternity of, and take
29007 responsibility for, the child;
29008 (vii) whether he has filed a notice with a public official or agency relating to:
29009 (A) his paternity of the child; or
29010 (B) legal proceedings to establish his paternity of the child; or
29011 (viii) other evidence that demonstrates that he has demonstrated a full commitment to
29012 his parental responsibilities.

29013 (c) Notwithstanding the provisions of Section 78B-6-121, the consent of an unmarried
29014 biological father is required with respect to an adoptee who is under the age of 18 if:
29015 (i) (A) the unmarried biological father did not know, and through the exercise of
29016 reasonable diligence could not have known, before the time the mother executed a consent to
29017 adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;
29018 (B) before the mother executed a consent to adoption or relinquishment of the child for
29019 adoption, the unmarried biological father fully complied with the requirements to establish
29020 parental rights in the child, and to preserve the right to notice of a proceeding in connection
29021 with the adoption of the child, imposed by:
29022 (I) the last state where the unmarried biological father knew, or through the exercise of
29023 reasonable diligence should have known, that the mother resided in before the mother executed
29024 the consent to adoption or relinquishment of the child for adoption; or
29025 (II) the state where the child was conceived; and
29026 (C) the unmarried biological father has demonstrated, based on the totality of the
29027 circumstances, a full commitment to his parental responsibilities, as described in Subsection
29028 (1)(b); or
29029 (ii) (A) the unmarried biological father knew, or through the exercise of reasonable
29030 diligence should have known, before the time the mother executed a consent to adoption or
29031 relinquishment of the child for adoption, that a qualifying circumstance existed; and
29032 (B) the unmarried biological father complied with the requirements of Section
29033 78B-6-121 before the later of:
29034 (I) 20 days after the day that the unmarried biological father knew, or through the
29035 exercise of reasonable diligence should have known, that a qualifying circumstance existed; or
29036 (II) the time that the mother executed a consent to adoption or relinquishment of the
29037 child for adoption.
29038 (2) An unmarried biological father who does not fully and strictly comply with the
29039 requirements of this section is considered to have waived and surrendered any right in relation
29040 to the child, including the right to:
29041 (a) notice of any judicial proceeding in connection with the adoption of the child; and
29042 (b) consent, or refuse to consent, to the adoption of the child.
29043 Section 882. Section **78B-6-123**, which is renumbered from Section 78-30-4.21 is

29044 renumbered and amended to read:
29045 **[~~78-30-4.21~~]. 78B-6-123. Power of a minor to consent or relinquish.**
29046 (1) A minor parent has the power to:
29047 (a) consent to the adoption of the minor's child; and
29048 (b) relinquish the minor's control or custody of the child for adoption.
29049 (2) The consent or relinquishment described in Subsection (1) is valid and has the same
29050 force and effect as a consent or relinquishment executed by an adult parent.
29051 (3) A minor parent, having executed a consent or relinquishment, cannot revoke that
29052 consent upon reaching the age of majority or otherwise becoming emancipated.
29053 Section 883. Section **78B-6-124**, which is renumbered from Section 78-30-4.18 is
29054 renumbered and amended to read:
29055 **[~~78-30-4.18~~]. 78B-6-124. Persons who may take consents and**
29056 **relinquishments.**
29057 (1) A consent or relinquishment by a birth mother or an adoptee shall be signed before:
29058 (a) a judge of any court that has jurisdiction over adoption proceedings, or a person
29059 appointed by that judge for the purpose of taking consents or relinquishments; or
29060 (b) a person who is authorized by a licensed child-placing agency to take consents or
29061 relinquishments so long as the signature is notarized or witnessed by two individuals who are
29062 not members of the birth mother's immediate family.
29063 (2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it
29064 shall be signed before:
29065 (a) a person who is authorized by a child-placing agency to take consents or
29066 relinquishments;
29067 (b) a person authorized or appointed to take consents or relinquishments by a court of
29068 this state that has jurisdiction over adoption proceedings;
29069 (c) a court that has jurisdiction over adoption proceedings in the state where the
29070 consent or relinquishment is taken; or
29071 (d) a person authorized, under the laws of the state where the consent or relinquishment
29072 is taken, to take consents or relinquishments of a birth mother or adoptee.
29073 (3) The consent or relinquishment of any other person or agency as required by Section
29074 [~~78-30-4.14~~] 78B-6-120 may be signed before a Notary Public or any person authorized to take

29075 a consent or relinquishment under Subsection (1) or (2).
29076 (4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments,
29077 shall certify to the best of his information and belief that the person executing the consent or
29078 relinquishment has read and understands the consent or relinquishment and has signed it freely
29079 and voluntarily.
29080 (5) A person executing a consent or relinquishment is entitled to receive a copy of the
29081 consent or relinquishment.
29082 Section 884. Section **78B-6-125**, which is renumbered from Section 78-30-4.19 is
29083 renumbered and amended to read:
29084 **[~~78-30-4.19~~]. 78B-6-125. Time period prior to birth mother's consent.**
29085 (1) A birth mother may not consent to the adoption of her child or relinquish control or
29086 custody of her child until at least 24 hours after the birth of her child.
29087 (2) The consent or relinquishment of any other person as required by Section
29088 [~~78-30-4.14~~] Sections 78B-6-120 and 78B-6-121 may be executed at any time, including prior
29089 to the birth of the child.
29090 Section 885. Section **78B-6-126**, which is renumbered from Section 78-30-4.20 is
29091 renumbered and amended to read:
29092 **[~~78-30-4.20~~]. 78B-6-126. When consent or relinquishment effective.**
29093 A consent or relinquishment is effective when it is signed and may not be revoked.
29094 Section 886. Section **78B-6-127**, which is renumbered from Section 78-30-4.17 is
29095 renumbered and amended to read:
29096 **[~~78-30-4.17~~]. 78B-6-127. Parents whose rights have been terminated.**
29097 Neither notice nor consent to adoption or relinquishment for adoption is required from a
29098 parent whose rights with regard to an adoptee have been terminated by a court.
29099 Section 887. Section **78B-6-128** is enacted to read:
29100 **78B-6-128. Preplacement adoptive evaluations -- Exceptions.**
29101 (1) (a) Except as otherwise provided in this section, a child may not be placed in an
29102 adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive
29103 parent and the prospective adoptive home, has been conducted in accordance with the
29104 requirements of this section.
29105 (b) Except as provided in Section 78B-6-131, the court may, at any time, authorize

29106 temporary placement of a child in a potential adoptive home pending completion of a
29107 preplacement adoptive evaluation described in this section.
29108 (c) Subsection (1)(a) does not apply if a birth parent has legal custody of the child to be
29109 adopted and the prospective adoptive parent is related to that child as a step-parent, sibling by
29110 half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the
29111 evaluation is otherwise requested by the court. The prospective adoptive parent described in
29112 this Subsection (1)(c) shall, however, obtain the information described in Subsections (2)(a)
29113 and (b), and file that documentation with the court prior to finalization of the adoption.
29114 (d) The required preplacement adoptive evaluation must be completed or updated
29115 within the 12-month period immediately preceding the placement of a child with the
29116 prospective adoptive parent. If the prospective adoptive parent has previously received custody
29117 of a child for the purpose of adoption, the preplacement adoptive evaluation must be completed
29118 or updated within the 12-month period immediately preceding the placement of a child with the
29119 prospective adoptive parent and after the placement of the previous child with the prospective
29120 adoptive parent.
29121 (2) The preplacement adoptive evaluation shall include:
29122 (a) criminal history record information regarding each prospective adoptive parent and
29123 any other adult living in the prospective home, prepared by a law enforcement agency based on
29124 a fingerprint criminal history check, no earlier than 18 months immediately preceding
29125 placement of the child;
29126 (b) a report prepared by the Department of Human Services containing all information
29127 regarding reports and investigation of child abuse, neglect, and dependency, with respect to
29128 each prospective adoptive parent and any other adult living in the prospective home, obtained
29129 no earlier than 18 months immediately preceding placement of the child, pursuant to waivers
29130 executed by those parties;
29131 (c) an evaluation conducted by an expert in family relations approved by the court or a
29132 certified social worker, clinical social worker, marriage and family therapist, psychologist,
29133 professional counselor, or other court-determined expert in family relations, who is licensed to
29134 practice under the laws of this state or under the laws of the state where the prospective
29135 adoptive parent or other person living in the prospective adoptive home resides. The
29136 evaluation shall be in a form approved by the Department of Human Services. Neither the

29137 Department of Human Services nor any of its divisions may proscribe who qualifies as an
29138 expert in family relations or who may conduct evaluations pursuant to this Subsection (2); and
29139 (d) if the child to be adopted is a child who is in the custody of any public child welfare
29140 agency, and is a child with special needs as defined in Subsection 62A-4a-902(2), the
29141 preplacement evaluation must be conducted by the Department of Human Services or a
29142 licensed child placing agency which has entered into a contract with the department to conduct
29143 the preplacement evaluations for children with special needs. Any fee assessed by the
29144 evaluating agency is the responsibility of the adopting parent or parents.
29145 (3) The person or agency conducting the preplacement adoptive evaluation shall, in
29146 connection with the evaluation, provide the prospective adoptive parent or parents with
29147 literature approved by the Division of Child and Family Services relating to adoption, and
29148 including information relating to the adoption process, developmental issues that may require
29149 early intervention, and community resources that are available to the adoptive parent or parents.
29150 (4) A copy of the preplacement adoptive evaluation shall be filed with the court.
29151 Section 888. Section **78B-6-129** is enacted to read:
29152 **78B-6-129. Postplacement adoptive evaluations.**
29153 (1) Except as provided in Subsections (2) and (3), a postplacement evaluation shall be
29154 conducted and submitted to the court prior to the final hearing in an adoption proceeding. The
29155 postplacement evaluation shall include:
29156 (a) verification of the allegations of fact contained in the petition for adoption;
29157 (b) an evaluation of the progress of the child's placement in the adoptive home; and
29158 (c) a recommendation regarding whether the adoption is in the best interest of the child.
29159 (2) The exemptions from and requirements for evaluations, described in Subsections
29160 78B-6-128(1)(c), (2)(c), and (3), also apply to postplacement adoptive evaluations.
29161 (3) Upon the request of the petitioner, the court may waive the postplacement adoptive
29162 evaluation, unless it determines that it is in the best interest of the child to require the
29163 postplacement evaluation. Except where the child to be adopted and the prospective parent are
29164 related as set forth in Subsection 78B-6-128(1)(c), the court may waive the postplacement
29165 adoptive evaluation for a child with special needs as defined in Section 62A-4a-902.
29166 Section 889. Section **78B-6-130** is enacted to read:
29167 **78B-6-130. Preplacement and postplacement adoptive studies -- Review by court.**

29168 (1) If the person or agency conducting the evaluation disapproves the adoptive
29169 placement, either in the preplacement or postplacement adoptive evaluation, the court may
29170 dismiss the petition. However, upon request of a prospective adoptive parent, the court shall
29171 order that an additional preplacement or postplacement adoptive evaluation be conducted, and
29172 hold a hearing on the suitability of the adoption, including testimony of interested parties.
29173 (2) Prior to finalization of a petition for adoption the court shall review and consider
29174 the information and recommendations contained in the preplacement and postplacement
29175 adoptive studies required by Sections 78B-6-128 and 78B-6-129.
29176 Section 890. Section **78B-6-131** is enacted to read:
29177 **78B-6-131. Child in custody of state -- Placement.**
29178 Notwithstanding any other provision of this section, except as otherwise permitted by
29179 federal law or rule, a child who is in the legal custody of the state may not be placed with a
29180 prospective foster parent or a prospective adoptive parent, unless, before the child is placed
29181 with the prospective foster parent or the prospective adoptive parent:
29182 (1) a fingerprint based FBI national criminal history records check is conducted on the
29183 prospective foster parent or prospective adoptive parent and each adult living in the home of
29184 the prospective foster parent or prospective adoptive parent;
29185 (2) the Department of Human Services conducts a check of the child abuse and neglect
29186 registry in each state where the prospective foster parent or prospective adoptive parent resided
29187 in the five years immediately preceding the day on which the prospective foster parent or
29188 prospective adoptive parent applied to be a foster parent or adoptive parent, to determine
29189 whether the prospective foster parent or prospective adoptive parent is listed in the registry as
29190 having a substantiated or supported finding of child abuse or neglect;
29191 (3) the Department of Human Services conducts a check of the child abuse and neglect
29192 registry of each state where each adult living in the home of the prospective foster parent or
29193 prospective adoptive parent described in Subsection (2) resided in the five years immediately
29194 preceding the day on which the prospective foster parent or prospective adoptive parent applied
29195 to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry
29196 as having a substantiated or supported finding of child abuse or neglect; and
29197 (4) each person required to undergo a background check described in this section
29198 passes the background check, pursuant to the provisions of Section 62A-2-120.

29199 Section 891. Section **78B-6-132**, which is renumbered from Section 78-30-1.6 is
29200 renumbered and amended to read:
29201 **[~~78-30-1.6~~]. 78B-6-132. Children in the custody of the Division of Child and**
29202 **Family Services -- Consideration of child's relationship with foster parents who petition**
29203 **for adoption.**
29204 In assessing the best interest of a child in the custody of the Division of Child and
29205 Family Services whose foster parents have petitioned for adoption, the court shall give special
29206 consideration to the relationship of the child with his foster parents, if the child has been in that
29207 home for a period of six months or longer.
29208 Section 892. Section **78B-6-133**, which is renumbered from Section 78-30-4.16 is
29209 renumbered and amended to read:
29210 **[~~78-30-4.16~~]. 78B-6-133. Contested adoptions -- Rights of parties --**
29211 **Determination of custody.**
29212 (1) If a person whose consent for an adoption is required pursuant to Subsection
29213 [~~78-30-4.14~~] 78B-6-120(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine
29214 whether proper grounds exist for the termination of that person's rights pursuant to the
29215 provisions of this chapter or Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part [~~4~~] 5, Termination of Parental
29216 Rights Act.
29217 (2) (a) If there are proper grounds to terminate the person's parental rights, the court
29218 shall order that the person's rights be terminated.
29219 (b) If there are not proper grounds to terminate the person's parental rights, the court
29220 shall:
29221 (i) dismiss the adoption petition;
29222 (ii) conduct an evidentiary hearing to determine who should have custody of the child;
29223 and
29224 (iii) award custody of the child in accordance with the child's best interest.
29225 (3) Evidence considered at the custody hearing may include:
29226 (a) evidence of psychological or emotional bonds that the child has formed with a third
29227 person, including the prospective adoptive parent; and
29228 (b) any detriment that a change in custody may cause the child.
29229 (4) The fact that a person relinquished a child for adoption or consented to the adoption

29230 may not be considered as evidence that it is not in the child's best interest for custody to be
29231 awarded to such person or that:
29232 (a) the person is unfit or incompetent to be a parent;
29233 (b) the person has neglected or abandoned the child; or
29234 (c) the person is not interested in having custody of the child.
29235 (5) Any custody order entered pursuant to this section may also:
29236 (a) include provisions for:
29237 (i) parent-time by a biological parent; or
29238 (ii) visitation by an interested third party; and
29239 (b) provide for the financial support of the child.
29240 (6) (a) If a person or entity whose consent is required for an adoption under Subsection
29241 [~~78-30-4.14~~] 78B-6-120(1)(a) or (g) refuses to consent, the court shall proceed with an
29242 evidentiary hearing and award custody as set forth in Subsection (2).
29243 (b) The court may also finalize the adoption if doing so is in the best interest of the
29244 child.
29245 (7) (a) A person may not contest an adoption after the final decree of adoption is
29246 entered, if that person:
29247 (i) was a party to the adoption proceeding;
29248 (ii) was served with notice of the adoption proceeding; or
29249 (iii) executed a consent to the adoption or relinquishment for adoption.
29250 (b) No person may contest an adoption after one year from the day on which the final
29251 decree of adoption is entered.
29252 (c) The limitations on contesting an adoption action, described in this Subsection (7),
29253 apply to all attempts to contest an adoption:
29254 (i) regardless of whether the adoption is contested directly or collaterally; and
29255 (ii) regardless of the basis for contesting the adoption, including claims of fraud,
29256 duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of
29257 jurisdiction.
29258 (d) The limitations on contesting an adoption action, described in this Subsection (7),
29259 do not prohibit a timely appeal of:
29260 (i) a final decree of adoption; or

29261 (ii) a decision in an action challenging an adoption, if the action was brought within the
29262 time limitations described in Subsections (7)(a) and (b).
29263 Section 893. Section **78B-6-134**, which is renumbered from Section 78-30-4.22 is
29264 renumbered and amended to read:
29265 **[~~78-30-4.22~~]. 78B-6-134. Custody pending final decree.**
29266 (1) Except as otherwise provided by the court, once a petitioner has received the
29267 adoptee into his home and a petition for adoption has been filed, the petitioner is entitled to the
29268 custody and control of the adoptee and is responsible for the care, maintenance, and support of
29269 the adoptee, including any necessary medical or surgical treatment, pending further order of the
29270 court.
29271 (2) Once a child has been placed with, relinquished to, or ordered into the custody of a
29272 licensed child-placing agency for purposes of adoption, the agency shall have custody and
29273 control of the child and is responsible for his care, maintenance, and support. The agency may
29274 delegate the responsibility for care, maintenance, and support, including any necessary medical
29275 or surgical treatment, to the petitioner once the petitioner has received the child into his home.
29276 However, until the final decree of adoption is entered by the court, the agency has the right to
29277 the custody and control of the child.
29278 Section 894. Section **78B-6-135**, which is renumbered from Section 78-30-14 is
29279 renumbered and amended to read:
29280 **[~~78-30-14~~]. 78B-6-135. Division of Child and Family Services -- Duties -- Report**
29281 **-- Fee.**
29282 (1) At the request of the court, the division, through its field agents, persons licensed
29283 by the division for the care and placement of children, or through the probation officer of the
29284 juvenile court or court of like jurisdiction of the county, under the division's supervision, shall:
29285 (a) verify the allegations of the petition for adoption of a minor child;
29286 (b) make a thorough investigation of the matter; and
29287 (c) report the division's findings in writing to the court.
29288 (2) (a) When the court requests an investigation under Subsection (1), the court shall
29289 serve a copy of the petition, together with a statement containing the names and addresses of
29290 the child and petitioners, on the division by certified mail.
29291 (b) The division, or the person appointed by the division, shall complete the

29292 investigation described in Subsection (2)(a) and submit a written report to the court within 60
29293 days after the day that the petition is served on the division.
29294 (3) (a) The division shall charge the petitioner a reasonable fee for the services
29295 provided under this section.
29296 (b) Fees collected shall be deposited in the General Fund.
29297 (4) The written report submitted to the court under this section shall state:
29298 (a) why the birth parents, if living, desire to be released from the care, support, and
29299 guardianship of the child;
29300 (b) whether the birth parents have abandoned the child or are morally unfit for custody;
29301 (c) whether the proposed adoptive parent or parents are financially able and morally fit
29302 to have the care, supervision, and training of the child;
29303 (d) the physical and mental condition of the child, so far as that may be determined;
29304 and
29305 (e) any other facts and circumstances pertaining to the child and the child's welfare.
29306 (5) (a) The court shall conduct a full hearing on the petition for adoption and examine
29307 the parties in interest under oath.
29308 (b) The court may adjourn the hearing from time to time as the nature of the case
29309 requires.
29310 (6) If the report submitted by the division under Subsection (2) disapproves of the
29311 adoption of the child by the petitioner, the court may dismiss the petition.
29312 (7) (a) Except as provided in Subsection (7)(b), a final decree of adoption may not be
29313 entered until the child has lived in the home of the adoptive parent or parents for six months,
29314 unless, based on a finding of good cause, the court orders that the final decree of adoption may
29315 be entered at an earlier time.
29316 (b) If the adoptive parent is the spouse of the birth parent, a final decree of adoption
29317 may not be entered until the child has lived in the home of that adoptive parent for one year,
29318 unless, based on a finding of good cause, the court orders that the final decree of adoption may
29319 be entered at an earlier time.
29320 (c) In the event the child dies during the time that the child is placed in the home of an
29321 adoptive parent or parents for the purpose of adoption, the court has authority to enter a final
29322 decree of adoption after the child's death upon the request of the adoptive parents.

29323 (d) The court may enter a final decree of adoption declaring that a child is adopted by
29324 both a deceased and a surviving adoptive parent if, after the child is placed in the home of the
29325 child's adoptive parents:
29326 (i) one of the adoptive parents dies;
29327 (ii) the surviving adoptive parent requests that the court enter the decree; and
29328 (iii) the decree is entered after the child has lived in the home of the surviving adoptive
29329 parent for at least six months.
29330 (e) Upon request of a surviving birth parent, or a surviving parent for whom adoption
29331 of a child has been finalized, the court may enter a final decree of adoption declaring that a
29332 child is adopted by a deceased adoptive parent who was the spouse of the surviving parent at
29333 the time of the adoptive parent's death.
29334 (f) The court may enter a final decree of adoption declaring that a child is adopted by
29335 both deceased adoptive parents if:
29336 (i) both of the adoptive parents die after the child is placed in the adoptive parent's
29337 home; and
29338 (ii) it is in the best interests of the child to enter the decree.
29339 (8) Nothing in this section shall be construed to grant any rights to the birth parents of a
29340 child to assert any interest in the child during the six-month or one-year periods described in
29341 this section.
29342 Section 895. Section **78B-6-136**, which is renumbered from Section 78-30-8 is
29343 renumbered and amended to read:
29344 **[~~78-30-8~~]. 78B-6-136. Final decree of adoption -- Agreement by adoptive**
29345 **parent or parents.**
29346 (1) Except as provided in Subsection (2), the adoptive parent or parents and the child
29347 being adopted shall appear before the appropriate court, and an agreement shall be executed by
29348 the adoptive parent or parents stating that the child shall be adopted and treated in all respects
29349 as his own lawful child.
29350 (2) Except as provided in Subsection [~~78-30-1(2)(d)~~] 78B-6-115(4), a court may waive
29351 the requirement that the adoptive parent or parents and the child being adopted appear before
29352 the court if:
29353 (a) the adoption is not contested; and

29354 (b) all requirements of this chapter to obtain a final decree of adoption are otherwise
29355 complied with.
29356 Section 896. Section **78B-6-137**, which is renumbered from Section 78-30-9 is
29357 renumbered and amended to read:
29358 **[~~78-30-9~~]. 78B-6-137. Decree of adoption -- Best interest of child -- Legislative**
29359 **findings.**
29360 [~~(1)~~] The court shall examine each person appearing before it in accordance with this
29361 chapter, separately, and, if satisfied that the interests of the child will be promoted by the
29362 adoption, it shall enter a final decree of adoption declaring that the child is adopted by the
29363 adoptive parent or parents and shall be regarded and treated in all respects as the child of the
29364 adoptive parent or parents.
29365 [~~(2) The court shall make a specific finding regarding the best interest of the child,~~
29366 ~~taking into consideration information provided to the court pursuant to the requirements of this~~
29367 ~~chapter relating to the health, safety, and welfare of the child and the moral climate of the~~
29368 ~~potential adoptive placement.~~]
29369 [~~(3) (a) The Legislature specifically finds that it is not in a child's best interest to be~~
29370 ~~adopted by a person or persons who are cohabiting in a relationship that is not a legally valid~~
29371 ~~and binding marriage under the laws of this state. Nothing in this section limits or prohibits the~~
29372 ~~court's placement of a child with a single adult who is not cohabiting as defined in Subsection~~
29373 ~~(3)(b).~~]
29374 [~~(b) For purposes of this section, "cohabiting" means residing with another person and~~
29375 ~~being involved in a sexual relationship with that person.~~]
29376 Section 897. Section **78B-6-138**, which is renumbered from Section 78-30-11 is
29377 renumbered and amended to read:
29378 **[~~78-30-11~~]. 78B-6-138. Birth parent's rights and duties dissolved.**
29379 A birth parent of an adopted child is released from all parental duties toward and all
29380 responsibilities for the adopted child, and has no further rights with regard to that child at the
29381 earlier of:
29382 (1) the time the parent's parental rights are terminated; or
29383 (2) the time the final decree of adoption is entered.
29384 Section 898. Section **78B-6-139**, which is renumbered from Section 78-30-10 is

29385 renumbered and amended to read:
29386 **[~~78-30-10~~]. 78B-6-139. Name and status of adopted child.**
29387 When a final decree of adoption is entered under Section [~~78-30-9~~] 78B-6-137, a child
29388 may take the family name of the adoptive parent or parents. After that decree of adoption is
29389 entered, the adoptive parent or parents and the child shall sustain the legal relationship of
29390 parent and child, and have all the rights and be subject to all the duties of that relationship.
29391 Section 899. Section **78B-6-140**, which is renumbered from Section 78-30-15.5 is
29392 renumbered and amended to read:
29393 **[~~78-30-15.5~~]. 78B-6-140. Itemization of fees and expenses.**
29394 (1) Except as provided in Subsection (4), prior to the date that a final decree of
29395 adoption is entered, an affidavit regarding fees and expenses, signed by the adoptive parent or
29396 parents and the person or agency placing the child, shall be filed with the court.
29397 (2) The affidavit described in Subsection (1) shall itemize the following items in
29398 connection with the adoption:
29399 (a) all legal expenses, maternity expenses, medical or hospital expenses, and living
29400 expenses that have been or will be paid to or on behalf of the birth mother or biological father,
29401 including the source of payment;
29402 (b) fees paid by the prospective adoptive parent or parents in connection with the
29403 adoption;
29404 (c) all gifts, property, or other items that have been or will be provided to the birth
29405 mother or biological father, including the source of the gifts, property, or other items;
29406 (d) all public funds used for any medical or hospital costs in connection with the:
29407 (i) pregnancy;
29408 (ii) delivery of the child; or
29409 (iii) care of the child;
29410 (e) the state of residence of the:
29411 (i) birth mother; and
29412 (ii) prospective adoptive parent or parents;
29413 (f) a description of services provided to the prospective adoptive parent or parents or
29414 biological parents in connection with the adoption; and
29415 (g) that Section 76-7-203 has not been violated.

29416 (3) A copy of the affidavit described in Subsection (1) shall be provided to the Office
29417 of Licensing within the Department of Human Services.
29418 (4) This section does not apply if the adoptive parent is the legal spouse of the birth
29419 parent.
29420 Section 900. Section **78B-6-141**, which is renumbered from Section 78-30-15 is
29421 renumbered and amended to read:
29422 **[~~78-30-15~~]. 78B-6-141. Petition, report, and documents to be sealed --**
29423 **Exceptions.**
29424 The court shall order that the petition for adoption, the written report described in
29425 Section [~~78-30-14~~] 78B-6-135, and any other documents filed in connection with the hearing
29426 be sealed. Those items are not open to inspection or copying except:
29427 (1) upon order of the court expressly permitting inspection or copying, after good cause
29428 has been shown;
29429 (2) as provided under Section [~~78-30-18~~] 78B-6-144;
29430 (3) those records shall become public on the one hundredth anniversary of the date the
29431 final decree of adoption was entered; or
29432 (4) if the adoptee is an adult at the time the final decree of adoption is entered, the
29433 documents described in this section are open to inspection and copying without a court order by
29434 the adoptee or a parent who adopted the adoptee, unless the final decree of adoption is entered
29435 by the juvenile court under Subsection [~~78-30-1(2)(b)(ii)~~] 78B-6-115(3)(b).
29436 Section 901. Section **78B-6-142**, which is renumbered from Section 78-30-8.6 is
29437 renumbered and amended to read:
29438 **[~~78-30-8.6~~]. 78B-6-142. Adoption order from foreign country.**
29439 (1) Except as otherwise provided by federal law, an adoption order rendered to a
29440 resident of this state that is made by a foreign country shall be recognized by the courts of this
29441 state and enforced as if the order were rendered by a court in this state.
29442 (2) A person who adopts a child in a foreign country may register the order in this state.
29443 A petition for registration of a foreign adoption order may be combined with a petition for a
29444 name change. If the court finds that the foreign adoption order meets the requirements of
29445 Subsection (1), the court shall order the state registrar to:
29446 (a) file the order pursuant to Section [~~78-30-9~~] 78B-6-137; and

29447 (b) file a certificate of birth for the child pursuant to Section 26-2-28.
29448 (3) If a clerk of the court is unable to establish the fact, time, and place of birth from
29449 the documentation provided, a person holding a direct, tangible, and legitimate interest as
29450 described in Subsection 26-2-22(2)(a) or (b) may petition for a court order establishing the fact,
29451 time, and place of a birth pursuant to Subsection 26-2-15(1).
29452 Section 902. Section **78B-6-143**, which is renumbered from Section 78-30-17 is
29453 renumbered and amended to read:
29454 **[~~78-30-17~~]. 78B-6-143. Nonidentifying health history of adoptee filed with**
29455 **bureau -- Limited availability.**
29456 (1) Upon finalization of an adoption in this state, the person who proceeded on behalf
29457 of the petitioner for adoption, or a licensed child placing agency if an agency is involved in the
29458 adoption, shall file a report with the bureau, in the form established by the bureau. That report
29459 shall include a detailed health history, and a genetic and social history of the adoptee.
29460 (2) The report filed under Subsection (1) may not contain any information which
29461 identifies the adoptee's birth parents or members of their families.
29462 (3) When the report described in Subsection (1) is filed, a duplicate report shall be
29463 provided to the adoptive parents.
29464 (4) The report filed with the bureau under Subsection (1) shall only be available upon
29465 request, and upon presentation of positive identification, to the following persons:
29466 (a) the adoptive parents;
29467 (b) in the event of the death of the adoptive parents, the adoptee's legal guardian;
29468 (c) the adoptee;
29469 (d) in the event of the death of the adoptee, the adoptee's spouse, if the spouse is the
29470 parent or guardian of the adoptee's child;
29471 (e) the adoptee's child or descendant;
29472 (f) the adoptee's birth parent; and
29473 (g) the adoptee's adult sibling.
29474 (5) No information which identifies a birth parent or his family may be disclosed under
29475 this section.
29476 (6) The actual cost of providing information under this section shall be paid by the
29477 person requesting the information.

29478 Section 903. Section **78B-6-144**, which is renumbered from Section 78-30-18 is
29479 renumbered and amended to read:
29480 **[~~78-30-18~~]. 78B-6-144. Mutual-consent, voluntary adoption registry --**
29481 **Procedures -- Fees.**
29482 (1) The bureau shall establish a mutual-consent, voluntary adoption registry.
29483 (a) Adult adoptees and birth parents of adult adoptees, upon presentation of positive
29484 identification, may request identifying information from the bureau, in the form established by
29485 the bureau. A court of competent jurisdiction or a child placing agency licensed under Title
29486 62A, Chapter 4a, Part 6, may accept that request from the adult adoptee or birth parent, in the
29487 form provided by the bureau, and transfer that request to the bureau. The adult adoptee or birth
29488 parent is responsible for notifying the bureau of any change in information contained in the
29489 request.
29490 (b) The bureau may only release identifying information to an adult adoptee or birth
29491 parent when it receives requests from both the adoptee and his birth parent.
29492 (c) After matching the request of an adult adoptee with that of at least one of his birth
29493 parents, the bureau shall notify both the adoptee and the birth parent that the requests have been
29494 matched, and disclose the identifying information to those parties. However, if that adult
29495 adoptee has a sibling of the same birth parent who is under the age of 21 years, and who was
29496 raised in the same family setting as the adult adoptee, the bureau shall not disclose the
29497 requested identifying information to that adult adoptee or his birth parent.
29498 (2) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of
29499 positive identification, may request identifying information from the bureau, in the form
29500 established by the bureau. A court of competent jurisdiction or a child placing agency licensed
29501 under Title 62A, Chapter 4a, Part 6, may accept that request from the adult adoptee or adult
29502 sibling, in the form provided by the bureau, and transfer that request to the bureau. The adult
29503 adoptee or adult sibling is responsible for notifying the bureau of any change in information
29504 contained in the request.
29505 (b) The bureau may only release identifying information to an adult adoptee or adult
29506 sibling when it receives requests from both the adoptee and his adult sibling.
29507 (c) After matching the request of an adult adoptee with that of his adult sibling, if the
29508 bureau has been provided with sufficient information to make that match, the bureau shall

29509 notify both the adoptee and the adult sibling that the requests have been matched, and disclose
29510 the identifying information to those parties.
29511 (3) Information registered with the bureau under this section is available only to a
29512 registered adult adoptee and his registered birth parent or registered adult sibling, under the
29513 terms of this section.
29514 (4) Information regarding a birth parent who has not registered a request with the
29515 bureau may not be disclosed.
29516 (5) The bureau may charge a fee for services provided under this section, limited to the
29517 cost of providing those services.
29518 Section 904. Section **78B-6-145**, which is renumbered from Section 78-30-19 is
29519 renumbered and amended to read:
29520 **[~~78-30-19~~]. 78B-6-145. Restrictions on disclosure of information -- Violations --**
29521 **Penalty.**
29522 (1) Information maintained or filed with the bureau under this chapter may not be
29523 disclosed except as provided by this chapter, or pursuant to a court order.
29524 (2) Any person who discloses information obtained from the bureau's voluntary
29525 adoption registry in violation of this [~~chapter~~] part, or knowingly allows that information to be
29526 disclosed in violation of this chapter is guilty of a class A misdemeanor.
29527 Section 905. Section **78B-6-201**, which is renumbered from Section 78-31b-1 is
29528 renumbered and amended to read:
29529 **Part 2. Alternative Dispute Resolution Act**
29530 **[~~78-31b-1~~]. 78B-6-201. Title.**
29531 This [~~act~~] part is known as the "Alternative Dispute Resolution Act."
29532 Section 906. Section **78B-6-202**, which is renumbered from Section 78-31b-2 is
29533 renumbered and amended to read:
29534 **[~~78-31b-2~~]. 78B-6-202. Definitions.**
29535 As used in this [~~act~~] part:
29536 (1) "ADR" means alternative dispute resolution and includes arbitration, mediation,
29537 and other means of dispute resolution, other than court trial, authorized by the Judicial Council
29538 under this [~~chapter~~] part.
29539 (2) "ADR organization" means an organization which provides training for ADR

29540 providers or offers other ADR services.
29541 (3) "ADR provider" means a neutral person who conducts an ADR procedure. An
29542 arbitrator, mediator, and early neutral evaluator are ADR providers. An ADR provider may be
29543 an employee of the court or an independent contractor.
29544 (4) "Arbitration" means a private hearing before a neutral or panel of neutrals who hear
29545 the evidence, consider the contentions of the parties, and enter a written award to resolve the
29546 issues presented pursuant to Section [~~78-31b-6~~] 78B-6-206.
29547 (5) "Award" as used in connection with arbitration includes monetary or equitable
29548 relief and may include damages, interest, costs, and [~~attorneys'~~] attorney fees.
29549 (6) "Civil action" means an action in which a party seeks monetary or equitable relief at
29550 common law or pursuant to statute.
29551 (7) "Early neutral evaluation" means a confidential meeting with a neutral expert to
29552 identify the issues in a dispute, explore settlement, and assess the merits of the claims.
29553 (8) "Mediation" means a private forum in which one or more impartial persons
29554 facilitate communication between parties to a civil action to promote a mutually acceptable
29555 resolution or settlement.
29556 (9) "Summary jury trial" means a summary presentation of a case to a jury which
29557 results in a nonbinding verdict.
29558 Section 907. Section **78B-6-203**, which is renumbered from Section 78-31b-3 is
29559 renumbered and amended to read:
29560 **[~~78-31b-3~~]. 78B-6-203. Purpose and findings.**
29561 (1) The purpose of this [~~act~~] part is to offer an alternative or supplement to the formal
29562 processes associated with a court trial and to promote the efficient and effective operation of
29563 the courts of this state by authorizing and encouraging the use of alternative methods of dispute
29564 resolution to secure the just, speedy, and inexpensive determination of civil actions filed in the
29565 courts of this state.
29566 (2) The Legislature finds that:
29567 (a) the use of alternative methods of dispute resolution authorized by this [~~act~~] part will
29568 secure the purposes of Article I, Section 11, Utah Constitution, by providing supplemental or
29569 complementary means for the just, speedy, and inexpensive resolution of disputes;
29570 (b) preservation of the confidentiality of ADR procedures will significantly aid the

29571 successful resolution of civil actions in a just, speedy, and inexpensive manner;
29572 (c) ADR procedures will reduce the need for judicial resources and the time and
29573 expense of the parties;
29574 (d) mediation has, in pilot programs, resulted in the just and equitable settlement of
29575 petitions for the protection of children under Section [~~78-3a-305~~] 78A-6-304 and petitions for
29576 the terminations of parental rights under Section [~~78-3a-405~~] 78A-6-505; and
29577 (e) the purpose of this act will be promoted by authorizing the Judicial Council to
29578 establish rules to promote the use of ADR procedures by the courts of this state as an
29579 alternative or supplement to court trial.
29580 Section 908. Section **78B-6-204**, which is renumbered from Section 78-31b-4 is
29581 renumbered and amended to read:
29582 **[~~78-31b-4~~]. 78B-6-204. Dispute Resolution Programs -- Director -- Duties --**
29583 **Report.**
29584 (1) Within the Administrative Office of the Courts, there shall be a director of Dispute
29585 Resolution Programs, appointed by the state court administrator.
29586 (2) The director shall be an employee of the Administrative Office of the Courts and
29587 shall be responsible for the administration of all court-annexed Dispute Resolution Programs.
29588 The director shall have duties, powers, and responsibilities as the Judicial Council may
29589 determine. The qualifications for employment of the director shall be based on training and
29590 experience in the management, principles, and purposes of alternative dispute resolution
29591 procedures.
29592 (3) In order to implement the purposes of this [~~act~~] part, the Administrative Office of
29593 the Courts may employ or contract with ADR providers or ADR organizations on a
29594 case-by-case basis, on a service basis, or on a program basis. ADR providers and organizations
29595 shall be subject to the rules and fees set by the Judicial Council. The Administrative Office of
29596 the Courts shall establish programs for training ADR providers and orienting attorneys and
29597 their clients to ADR programs and procedures.
29598 (4) An ADR provider is immune from all liability when conducting proceedings under
29599 the rules of the Judicial Council and the provisions of this [~~act~~] part, except for wrongful
29600 disclosure of confidential information, to the same extent as a judge of the courts in this state.
29601 (5) The director shall report annually to the Supreme Court, the Judicial Council, the

29602 Judiciary Interim Committee, the governor, and the Utah State Bar on the operation of the
29603 Dispute Resolution Programs.
29604 (a) Copies of the report shall be available to the public at the Administrative Office of
29605 the Courts.
29606 (b) The report shall include:
29607 (i) identification of participating judicial districts and the methods of alternative
29608 dispute resolution that are available in those districts;
29609 (ii) the number and types of disputes received;
29610 (iii) the methods of alternative dispute resolution to which the disputes were referred;
29611 (iv) the course of the referral;
29612 (v) the status of cases referred to alternative dispute resolution or the disposition of
29613 these disputes; and
29614 (vi) any problems encountered in the administration of the program and the
29615 recommendations of the director as to the continuation or modification of any program.
29616 (c) Nothing may be included in a report which would impair the privacy or
29617 confidentiality of any specific ADR proceeding.
29618 Section 909. Section **78B-6-205**, which is renumbered from Section 78-31b-5 is
29619 renumbered and amended to read:
29620 **[~~78-31b-5~~]. 78B-6-205. Judicial Council rules for ADR procedures.**
29621 (1) To promote the use of ADR procedures, the Judicial Council may by rule establish
29622 experimental and permanent ADR programs administered by the Administrative Office of the
29623 Courts under the supervision of the director of Dispute Resolution Programs.
29624 (2) The rules of the Judicial Council shall be based upon the purposes and provisions
29625 of this [~~act~~] part. Any procedural and evidentiary rules [~~as the~~] adopted by the Supreme Court
29626 may [~~adopt shall~~] not impinge on the constitutional rights of any parties.
29627 (3) The rules of the Judicial Council shall include provisions:
29628 (a) to orient parties and their counsel to the ADR program, ADR procedures, and the
29629 rules of the Judicial Council;
29630 (b) to identify types of civil actions that qualify for ADR procedures;
29631 (c) to refer to ADR procedures all or particular issues within a civil action;
29632 (d) to protect persons not parties to the civil action whose rights may be affected in the

29633 resolution of the dispute;
29634 (e) to ensure that no party or its attorney is prejudiced for electing, in good faith, not to
29635 participate in an optional ADR procedure;
29636 (f) to exempt any case from the ADR program in which the objectives of ADR would
29637 not be realized;
29638 (g) to create timetables to ensure that the ADR procedure is instituted and completed
29639 without undue delay or expense;
29640 (h) to establish the qualifications of ADR providers for each form of ADR procedure
29641 including that:
29642 (i) an ADR provider may, but need not be, a certified ADR provider pursuant to Title
29643 58, Chapter 39a, Alternative Dispute Resolution Providers Certification Act; and
29644 (ii) formal education in any particular field may not, by itself, be either a prerequisite or
29645 sufficient qualification to serve as an ADR provider under the program authorized by this [~~act~~]
29646 part;
29647 (i) to govern the conduct of each type of ADR procedure, including the site at which
29648 the procedure is conducted;
29649 (j) to establish the means for the selection of an ADR provider for each form of ADR
29650 procedure;
29651 (k) to determine the powers, duties, and responsibilities of the ADR provider for each
29652 form of ADR procedure;
29653 (l) to establish a code of ethics applicable to ADR providers with means for its
29654 enforcement;
29655 (m) to protect and preserve the privacy and confidentiality of ADR procedures;
29656 (n) to protect and preserve the privacy rights of the persons attending the ADR
29657 procedures;
29658 (o) to permit waiver of all or part of fees assessed for referral of a case to the ADR
29659 program on a showing of impecuniosity or other compelling reason;
29660 (p) to authorize imposition of sanctions for failure of counsel or parties to participate in
29661 good faith in the ADR procedure assigned;
29662 (q) to assess the fees to cover the cost of compensation for the services of the ADR
29663 provider and reimbursement for the provider's allowable, out-of-pocket expenses and

29664 disbursements; and
29665 (r) to allow vacation of an award by a court as provided in Section [~~78-31a-124~~]
29666 78B-11-124.
29667 (4) The Judicial Council may, from time to time, limit the application of its ADR rules
29668 to particular judicial districts.
29669 Section 910. Section **78B-6-206**, which is renumbered from Section 78-31b-6 is
29670 renumbered and amended to read:
29671 **[~~78-31b-6~~]. 78B-6-206. Minimum procedures for arbitration.**
29672 (1) An award in an arbitration proceeding shall be in writing and, at the discretion of
29673 the arbitrator or panel of arbitrators, may state the reasons or otherwise explain the nature or
29674 amount of the award.
29675 (2) The award shall be final and enforceable as any other judgment in a civil action,
29676 unless:
29677 (a) within 30 days after the filing of the award with the clerk of the court any party files
29678 with the clerk of court a demand for a trial de novo upon which the case shall be returned to the
29679 trial calendar; or
29680 (b) any party files with the arbitrator or panel of arbitrators and serves a copy on all
29681 other parties a written request to modify the award on the grounds:
29682 (i) there is an evident miscalculation of figures or description of persons or property
29683 referred to in the award;
29684 (ii) the award does not dispose of all the issues presented to the arbitrator or panel of
29685 arbitrators for resolution; or
29686 (iii) the award purports to resolve issues not submitted for resolution in the arbitration
29687 process.
29688 (c) The period for filing a demand for trial de novo is tolled until the arbitrator or panel
29689 of arbitrators have acted on the request to modify the award, which must be completed within
29690 30 days of the filing.
29691 (3) The parties to an arbitration procedure may stipulate that:
29692 (a) an award need not be filed with the court, except in those cases where the rights of
29693 third parties may be affected by the provisions of the award; and
29694 (b) the case is dismissed in which the award was made.

29695 (4) (a) At any time the parties may enter into a written agreement for referral of the
29696 case or of issues in the case to arbitration pursuant to Title [~~78~~] 78B, Chapter [~~31a~~] 11, Utah
29697 Uniform Arbitration Act, or the Federal Arbitration Act, 9 U.S.C. Sec. 1 et seq., as the parties
29698 shall specify.
29699 (b) The court may dismiss the case, or if less than all the issues are referred to
29700 arbitration, stay the case for a reasonable period for the parties to complete a private arbitration
29701 proceeding.
29702 Section 911. Section **78B-6-207**, which is renumbered from Section 78-31b-7 is
29703 renumbered and amended to read:
29704 **[~~78-31b-7~~]. 78B-6-207. Minimum procedures for mediation.**
29705 (1) A judge or court commissioner may refer to mediation any case for which the
29706 Judicial Council and Supreme Court have established a program or procedures. A party may
29707 file with the court an objection to the referral which may be granted for good cause.
29708 (2) (a) Unless all parties and the neutral or neutrals agree only parties, their
29709 representatives, and the neutral may attend the mediation sessions.
29710 (b) If the mediation session is pursuant to a referral under Subsection [~~78-3a-109~~]
29711 78A-6-108(9), the ADR provider or ADR organization shall notify all parties to the proceeding
29712 and any person designated by a party. The ADR provider may notify any person whose rights
29713 may be affected by the mediated agreement or who may be able to contribute to the agreement.
29714 A party may request notice be provided to a person who is not a party.
29715 (3) (a) Except as provided in Subsection (3)(b), any settlement agreement between the
29716 parties as a result of mediation may be executed in writing, filed with the clerk of the court, and
29717 enforceable as a judgment of the court. If the parties stipulate to dismiss the action, any
29718 agreement to dismiss shall not be filed with the court.
29719 (b) With regard to mediation affecting any petition filed under Section [~~78-3a-305 or~~
29720 ~~78-3a-405~~] 78A-6-304 or 78A-6-505:
29721 (i) all settlement agreements and stipulations of the parties shall be filed with the court;
29722 (ii) all timelines, requirements, and procedures described in Title [~~78~~] 78A, Chapter
29723 [~~3a~~] 6, Parts 3 and [~~4~~] 5, and in Title 62A, Chapter 4a, shall be complied with; and
29724 (iii) the parties to the mediation may not agree to a result that could not have been
29725 ordered by the court in accordance with the procedures and requirements of Title [~~78~~] 78A,

29726 Chapter [~~3a~~] 6, Parts 3 and [~~4~~] 5, and Title 62A, Chapter 4a.
29727 Section 912. Section **78B-6-208**, which is renumbered from Section 78-31b-8 is
29728 renumbered and amended to read:
29729 **[~~78-31b-8~~]. 78B-6-208. Confidentiality.**
29730 (1) ADR proceedings shall be conducted in a manner that encourages informal and
29731 confidential exchange among the persons present to facilitate resolution of the dispute or a part
29732 of the dispute. ADR proceedings shall be closed unless the parties agree that the proceedings
29733 be open. ADR proceedings [~~shall~~] may not be recorded.
29734 (2) No evidence concerning the fact, conduct, or result of an ADR proceeding may be
29735 subject to discovery or admissible at any subsequent trial of the same case or same issues
29736 between the same parties.
29737 (3) No party to the case may introduce as evidence information obtained during an
29738 ADR proceeding unless the information was discovered from a source independent of the ADR
29739 proceeding.
29740 (4) Unless all parties and the neutral agree, no person attending an ADR proceeding,
29741 including the ADR provider or ADR organization, may disclose or be required to disclose any
29742 information obtained in the course of an ADR proceeding, including any memoranda, notes,
29743 records, or work product.
29744 (5) Except as provided, an ADR provider or ADR organization may not disclose or
29745 discuss any information about any ADR proceeding to anyone outside the proceeding,
29746 including the judge or judges to whom the case may be assigned. An ADR provider or an ADR
29747 organization may communicate information about an ADR proceeding with the director for the
29748 purposes of training, program management, or program evaluation and when consulting with a
29749 peer. In making those communications, the ADR provider or ADR organization shall render
29750 anonymous all identifying information.
29751 (6) Nothing in this section limits or affects the responsibility to report child abuse or
29752 neglect in accordance with Section 62A-4a-403.
29753 (7) [~~No records~~] Records of ADR proceedings under this [~~act~~] chapter or under Title
29754 [~~78~~] 78B, Chapter [~~31a~~] 11, Utah Uniform Arbitration Act, [~~shall~~] may not be subject to Title
29755 63, Chapter 2, Government Records Access and Management Act, except settlement
29756 agreements filed with the court after conclusion of an ADR proceeding or awards filed with the

29757 court after the period for filing a demand for trial de novo has expired.
29758 Section 913. Section **78B-6-209**, which is renumbered from Section 78-31b-9 is
29759 renumbered and amended to read:
29760 **[~~78-31b-9~~]. 78B-6-209. Dispute Resolution Fund -- Appropriation.**
29761 There is created within the General Fund a restricted account known as the Dispute
29762 Resolution Fund. Three dollars of the fees established in Subsections [~~78-7-35~~]
29763 78A-2-301(1)(a) through (e), (1)(g), and (1)(r) shall be allocated to and deposited in the fund.
29764 The Legislature shall annually appropriate money from the Dispute Resolution Fund to the
29765 Administrative Office of the Courts to implement the purposes of the Alternative Dispute
29766 Resolution Act.
29767 Section 914. Section **78B-6-301**, which is renumbered from Section 78-32-1 is
29768 renumbered and amended to read:
29769 **Part 3. Contempt**
29770 **[~~78-32-1~~]. 78B-6-301. Acts and omissions constituting contempt.**
29771 The following acts or omissions in respect to a court or its proceedings [~~therein~~] are
29772 contempts of the authority of the court:
29773 (1) disorderly, contemptuous, or insolent behavior toward the judge while holding the
29774 court, tending to interrupt the [~~due~~] course of a trial or other judicial proceeding[~~.~~];
29775 (2) breach of the peace, boisterous conduct or violent disturbance, tending to interrupt
29776 the due course of a trial or other judicial proceeding[~~.~~];
29777 (3) misbehavior in office, or other willful neglect or violation of duty by an attorney,
29778 counsel, clerk, sheriff, or other person appointed or elected to perform a judicial or ministerial
29779 service[~~.~~];
29780 (4) deceit, or abuse of the process or proceedings of the court, by a party to an action or
29781 special proceeding[~~.~~];
29782 (5) disobedience of any lawful judgment, order or process of the court[~~.~~];
29783 (6) [~~Assuming to be~~] acting as an officer, attorney or counselor, of a court[~~, and acting~~
29784 ~~as such~~] without authority[~~.~~];
29785 (7) rescuing any person or property that is in the custody of an officer by virtue of an
29786 order or process of [~~such~~] the court[~~.~~];
29787 (8) unlawfully detaining a witness or party to an action while going to, remaining at, or

29788 returning from, the court where the action is on the calendar for trial[~~.~~];
29789 (9) any other unlawful interference with the process or proceedings of a court[~~.~~];
29790 (10) disobedience of a subpoena duly served, or refusing to be sworn or to answer as a
29791 witness[~~.~~];
29792 (11) when summoned as a juror in a court, neglecting to attend or serve [~~as such~~], or
29793 improperly conversing with a party to an action to be tried at [~~such~~] the court, or with any other
29794 person, concerning the merits of [~~such~~] an action, or receiving a communication from a party or
29795 other person in respect to it, without immediately disclosing the [~~same~~] communication to the
29796 court[~~.~~]; and
29797 (12) disobedience by an inferior tribunal, magistrate or officer of the lawful judgment,
29798 order or process of a superior court, or proceeding in an action or special proceeding contrary
29799 to law, after [~~such~~] the action or special proceeding is removed from the jurisdiction of [~~such~~]
29800 the inferior tribunal, magistrate or officer. Disobedience of the lawful orders or process of a
29801 judicial officer is also a contempt of the authority of [~~such~~] the officer.
29802 Section 915. Section **78B-6-302**, which is renumbered from Section 78-32-3 is
29803 renumbered and amended to read:
29804 **[~~78-32-3~~]. 78B-6-302. Contempt in immediate presence of court -- Summary**
29805 **action -- Outside presence of court -- procedure.**
29806 (1) When a contempt is committed in the immediate view and presence of the court, or
29807 judge at chambers, it may be punished summarily[~~, for which an~~]. An order [~~must~~] shall be
29808 made, reciting the facts [~~as~~] occurring in [~~such~~] the immediate view and presence[~~, adjudging~~]
29809 of the court. The order shall state that the person proceeded against is [~~thereby~~] guilty of a
29810 contempt[~~,~~] and [~~that he~~] shall be punished as prescribed in Section [~~78-32-10 hereof~~]
29811 78B-6-310.
29812 (2) When the contempt is not committed in the immediate view and presence of the
29813 court or judge [~~at chambers~~], an affidavit or statement of the facts by a judicial officer shall be
29814 presented to the court or judge of the facts constituting the contempt[~~, or a statement of the~~
29815 ~~facts by the referees or arbitrators or other judicial officers~~].
29816 Section 916. Section **78B-6-303**, which is renumbered from Section 78-32-4 is
29817 renumbered and amended to read:
29818 **[~~78-32-4~~]. 78B-6-303. Warrant of attachment or commitment order to show**

29819 **cause.**
29820 [~~When~~] If the contempt is not committed in the immediate view and presence of the
29821 court or judge, a warrant of attachment may be issued to bring the person charged to answer[~~;~~
29822 ~~or, without a~~]. If there is no previous arrest, a warrant of commitment may, upon notice, or
29823 upon an order to show cause, be granted[~~; and no~~]. A warrant of commitment [~~can~~] may not be
29824 issued without [~~such~~] a previous attachment to answer, or [~~such~~] a notice or order to show
29825 cause.
29826 Section 917. Section **78B-6-304**, which is renumbered from Section 78-32-5 is
29827 renumbered and amended to read:
29828 **[~~78-32-5~~]. 78B-6-304. Bail.**
29829 Whenever a warrant of attachment is issued pursuant to this chapter, the court or judge
29830 must direct, by an indorsement on [~~such~~] the warrant, that the person charged may be [~~let~~]
29831 allowed to post bail for [~~his~~] the person's appearance, in an amount to be prescribed in [~~such~~]
29832 the indorsement.
29833 Section 918. Section **78B-6-305**, which is renumbered from Section 78-32-6 is
29834 renumbered and amended to read:
29835 **[~~78-32-6~~]. 78B-6-305. Duty of sheriff -- Excuse for nonappearance --**
29836 **Unnecessary restraint forbidden.**
29837 (1) Upon executing the warrant of attachment, the sheriff [~~must~~] shall keep the person
29838 in custody[~~;~~] and bring [~~him~~] the person before the court or judge [~~and detain him~~] until an
29839 order is made in the premises, unless the person arrested [~~entitles himself to be discharged~~]
29840 posts bail as provided in Section [~~78-32-7~~] 78B-6-306.
29841 (2) Whenever by the provisions of this chapter an officer is required to keep in custody
29842 a person arrested on a warrant of attachment and to bring the person before a court or judge, the
29843 inability from illness or otherwise of the person to attend is a sufficient excuse for not bringing
29844 the person up; and the officer must not confine a person arrested upon the warrant in a prison or
29845 otherwise restrain the person of personal liberty, except so far as may be necessary to secure the
29846 person's personal attendance.
29847 Section 919. Section **78B-6-306**, which is renumbered from Section 78-32-7 is
29848 renumbered and amended to read:
29849 **[~~78-32-7~~]. 78B-6-306. Bail bond -- Form.**

29850 When a direction to [~~let~~] allow the person arrested to post bail is contained in the
29851 warrant of attachment [~~or indorsed thereon, he must be discharged from the arrest upon~~
29852 ~~executing and delivering to the officer, at any time before the return day of the warrant, a~~
29853 ~~written undertaking, with two sufficient sureties, to the effect that the person arrested will~~], the
29854 person shall be released if bond is posted and the person executes a written promise to appear
29855 on the return of the warrant, and abide by the order of the court or judge [~~thereon, or that the~~
29856 ~~sureties will pay as may be directed the sum specified in the warrant~~].
29857 Section 920. Section **78B-6-307**, which is renumbered from Section 78-32-8 is
29858 renumbered and amended to read:
29859 **[~~78-32-8~~]. 78B-6-307. Officer's return.**
29860 The officer [~~must~~] shall return the warrant of arrest, and the undertaking, if any,
29861 received from the person arrested, by the return day specified therein.
29862 Section 921. Section **78B-6-308**, which is renumbered from Section 78-32-13 is
29863 renumbered and amended to read:
29864 **[~~78-32-13~~]. 78B-6-308. Procedure when party charged fails to appear.**
29865 When the warrant of arrest has been [~~returned~~] served, if the person arrested does not
29866 appear on the [~~return~~] specified day, the court or judge may issue another warrant of arrest, or
29867 may order the undertaking to be prosecuted or both. If the undertaking is prosecuted, the
29868 measure of damages in the action is the extent of the loss or injury sustained by the aggrieved
29869 party by reason of the misconduct for which the warrant was issued, and the costs of the
29870 proceeding.
29871 Section 922. Section **78B-6-309**, which is renumbered from Section 78-32-9 is
29872 renumbered and amended to read:
29873 **[~~78-32-9~~]. 78B-6-309. Hearing.**
29874 When the person arrested has been brought up or has appeared, the court [~~or judge~~
29875 ~~must~~] shall proceed to investigate the charge, and [~~must~~] hear any answer which the person
29876 arrested may make [~~to the same, and~~]. The court may examine witnesses for or against [~~him;~~]
29877 the person arrested, for which an adjournment may be had from time to time, if necessary.
29878 Section 923. Section **78B-6-310**, which is renumbered from Section 78-32-10 is
29879 renumbered and amended to read:
29880 **[~~78-32-10~~]. 78B-6-310. Contempt -- Action by court.**

29881 [~~Upon the answer and evidence taken, the~~] The court shall determine whether the
29882 person proceeded against is guilty of the contempt charged. If the court finds the person is
29883 guilty of the contempt, the court may impose a fine not exceeding $1,000, order the person
29884 incarcerated in the county jail not exceeding 30 days, or both. However, a justice court judge
29885 or court commissioner may punish for contempt by a fine not to exceed $500 or by
29886 incarceration for five days or both.
29887 Section 924. Section **78B-6-311**, which is renumbered from Section 78-32-11 is
29888 renumbered and amended to read:
29889 **[~~78-32-11~~]. 78B-6-311. Damages to party aggrieved.**
29890 If an actual loss or injury to a party in an action or special proceeding[~~, prejudicial to his~~
29891 ~~rights therein,~~] is caused by the contempt, the court, in lieu of or in addition to the fine or
29892 imprisonment imposed for the contempt [~~or in place thereof~~], may order the person proceeded
29893 against to pay the party aggrieved a sum of money sufficient to indemnify him and to satisfy his
29894 costs and expenses[~~; which~~]. The order and the acceptance of money under it is a bar to an
29895 action by the aggrieved party for [~~such~~] the loss and injury.
29896 Section 925. Section **78B-6-312**, which is renumbered from Section 78-32-12 is
29897 renumbered and amended to read:
29898 **[~~78-32-12~~]. 78B-6-312. Imprisonment to compel performance.**
29899 When the contempt consists [~~in~~] of the omission to perform an act enjoined by law,
29900 which is yet in the power of the person to perform, [~~he~~] the person may be imprisoned until [~~he~~
29901 ~~shall perform it~~] the act is performed, or until released by the court[~~, and in such case the act~~
29902 ~~must~~]. The act shall be specified in the warrant of commitment.
29903 Section 926. Section **78B-6-313** is enacted to read:
29904 **78B-6-313. Contempt of process of nonjudicial officer -- Procedure.**
29905 (1) If a person, officer, referee, arbitrator, board, or committee with the authority to
29906 compel the attendance of witnesses or the production of documents issues a subpoena and the
29907 person to whom the subpoena is issued refuses to appear or produce the documents ordered, the
29908 person shall be considered in contempt.
29909 (2) The person, officer, referee, arbitrator, board, or committee may report the person
29910 to whom the subpoena is issued to the judge of the district court. The court may then issue a
29911 warrant of attachment or order to show cause to compel the person's appearance.

29912 (3) When a person charged has been brought up or has appeared, the person's contempt
29913 may be purged in the same manner as other contempts mentioned in this part.
29914 Section 927. Section **78B-6-314**, which is renumbered from Section 78-32-2 is
29915 renumbered and amended to read:
29916 **[~~78-32-2~~]. 78B-6-314. Re-entry after eviction from real property.**
29917 [~~Every~~] (1) A person [~~dispossessed of, or ejected from or out of, any~~] who is ordered to
29918 vacate real property by [~~the judgment or process of any~~] a court of competent jurisdiction, who,
29919 not having a right so to do, refuses to vacate, re-enters [~~into or upon~~], or takes possession of,
29920 [~~any such~~] the real property, [~~or induces or procures any person, not having the right so to do,~~
29921 ~~or aids or abets him therein,~~] is guilty of a contempt of the court [~~by which such~~] issuing the
29922 judgment [~~was rendered, or from which such process issued~~].
29923 (2) Upon a conviction for [~~such~~] the contempt, the court [~~must~~] shall immediately issue
29924 an alias process, directed to the proper officer, requiring [~~him~~] the person to restore [~~such~~]
29925 possession of the property to the party entitled [~~thereto~~] to possession under the original
29926 judgment or process.
29927 Section 928. Section **78B-6-315**, which is renumbered from Section 78-32-17 is
29928 renumbered and amended to read:
29929 **[~~78-32-17~~]. 78B-6-315. Noncompliance with child support order.**
29930 (1) When a court of competent jurisdiction, or the Office of Recovery Services
29931 pursuant to an action under Title 63, Chapter 46b, Administrative Procedures Act, makes an
29932 order requiring a parent to furnish support or necessary food, clothing, shelter, medical care, or
29933 other remedial care for his child, and the parent fails to do so, proof of noncompliance shall be
29934 prima facie evidence of contempt of court.
29935 (2) Proof of noncompliance may be demonstrated by showing that:
29936 (a) the order was made, and filed with the district court; and
29937 (b) the parent knew of the order because:
29938 (i) the order was mailed to the parent at his last-known address as shown on the court
29939 records;
29940 (ii) the parent was present in court at the time the order was pronounced;
29941 (iii) the parent entered into a written stipulation and the parent or counsel for the parent
29942 was sent a copy of the order;

29943 (iv) counsel was present in court and entered into a stipulation which was accepted and
29944 the order based upon the stipulation was then sent to counsel for the parent; or
29945 (v) the parent was properly served and failed to answer.
29946 (3) Upon establishment of a prima facie case of contempt under Subsection (2), the
29947 obligor under the child support order has the burden of proving inability to comply with the
29948 child support order.
29949 (4) A court may, in addition to other available sanctions, withhold, suspend, or restrict
29950 the use of driver's licenses, professional and occupational licenses, and recreational licenses
29951 and impose conditions for reinstatement upon a finding that:
29952 (a) an obligor has:
29953 (i) made no payment for 60 days on a current obligation of support as set forth in an
29954 administrative or court order and, thereafter, has failed to make a good faith effort under the
29955 circumstances to make payment on the support obligation in accordance with the order; or
29956 (ii) made no payment for 60 days on an arrearage obligation of support as set forth in a
29957 payment schedule, written agreement with the Office of Recovery Services, or an
29958 administrative or judicial order and, thereafter, has failed to make a good faith effort under the
29959 circumstances to make payment on the arrearage obligation in accordance with the payment
29960 schedule, agreement, or order; and
29961 (iii) not obtained a judicial order staying enforcement of the support or arrearage
29962 obligation for which the obligor would be otherwise delinquent;
29963 (b) a custodial parent has:
29964 (i) violated a parent-time order by denying contact for 60 days between a noncustodial
29965 parent and a child and, thereafter, has failed to make a good faith effort under the
29966 circumstances to comply with a parent-time order; and
29967 (ii) not obtained a judicial order staying enforcement of the parent-time order; or
29968 (c) an obligor or obligee, after receiving appropriate notice, has failed to comply with a
29969 subpoena or order relating to a paternity or child support proceeding.
29970 Section 929. Section **78B-6-316**, which is renumbered from Section 78-32-12.1 is
29971 renumbered and amended to read:
29972 **[~~78-32-12.1~~]. 78B-6-316. Compensatory service for violation of**
29973 **parent-time order or failure to pay child support.**

29974 (1) If a court finds by a preponderance of the evidence that a parent has refused to
29975 comply with the minimum amount of parent-time ordered in a decree of divorce, the court shall
29976 order the parent to:
29977 (a) perform a minimum of ten hours of compensatory service; and
29978 (b) participate in workshops, classes, or individual counseling to educate the parent
29979 about the importance of complying with the court order and providing a child a continuing
29980 relationship with both parents.
29981 (2) If a custodial parent is ordered to perform compensatory service or undergo
29982 court-ordered education, there is a rebuttable presumption that the noncustodial parent be
29983 granted parent-time by the court to provide child care during the time the custodial parent is
29984 complying with compensatory service or education in order to recompense him for parent-time
29985 wrongfully denied by the custodial parent under the divorce decree.
29986 (3) If a noncustodial parent is ordered to perform compensatory service or undergo
29987 court-ordered education, the court shall attempt to schedule the compensatory service or
29988 education at times that will not interfere with the noncustodial parent's parent-time with the
29989 child.
29990 (4) The person ordered to participate in court-ordered education is responsible for
29991 expenses of workshops, classes, and individual counseling.
29992 (5) If a court finds by a preponderance of the evidence that an obligor, as defined in
29993 Section [~~78-45-2~~] 78B-12-102, has refused to pay child support as ordered by a court in
29994 accordance with Title [~~78~~] 78B, Chapter [~~45, Uniform Civil Liability for~~] 12, Utah Child
29995 Support Act, the court shall order the obligor to:
29996 (a) perform a minimum of ten hours of compensatory service; and
29997 (b) participate in workshops, classes, or individual counseling to educate the obligor
29998 about the importance of complying with the court order and providing the children with a
29999 regular and stable source of support.
30000 (6) The obligor is responsible for the expenses of workshops, classes, and individual
30001 counseling ordered by the court.
30002 (7) If a court orders an obligor to perform compensatory service or undergo
30003 court-ordered education, the court shall attempt to schedule the compensatory service or
30004 education at times that will not interfere with the obligor's parent-time with the child.

30005 (8) The sanctions that the court shall impose under this section do not prevent the court
30006 from imposing other sanctions or prevent any person from bringing a cause of action allowed
30007 under state or federal law.
30008 (9) The Legislature shall allocate the money from the Children's Legal Defense
30009 Account to the judiciary to defray the cost of enforcing and administering this section.
30010 Section 930. Section **78B-6-401**, which is renumbered from Section 78-33-1 is
30011 renumbered and amended to read:
30012 **Part 4. Declaratory Judgments**
30013 **[~~78-33-1~~]. 78B-6-401. Jurisdiction of district courts -- Form -- Effect.**
30014 [~~The district courts within their respective jurisdictions shall have power to declare~~]
30015 (1) Each district court has the power to issue declaratory judgments determining rights,
30016 status, and other legal relations[~~, whether or not further relief is or could be claimed. No~~]
30017 within its respective jurisdiction. An action or proceeding [~~shall~~] may not be open to objection
30018 on the ground that a declaratory judgment or decree is prayed for.
30019 (2) The declaration may be either affirmative or negative in form and effect[~~;~~] and
30020 [~~such declaration~~] shall have the force and effect of a final judgment or decree.
30021 Section 931. Section **78B-6-402**, which is renumbered from Section 78-33-5 is
30022 renumbered and amended to read:
30023 **[~~78-33-5~~]. 78B-6-402. Court's general powers.**
30024 The [~~enumeration in Sections 78-33-2, 78-33-3 and 78-33-4 does~~] provisions of
30025 Sections 78B-6-408, 78B-6-409, and 78B-6-410 do not limit or restrict the exercise of the
30026 general powers conferred in Section [~~78-33-1~~] 78B-6-401 in any proceeding where declaratory
30027 relief is sought, in which a judgment or decree will terminate the controversy or remove an
30028 uncertainty.
30029 Section 932. Section **78B-6-403**, which is renumbered from Section 78-33-11 is
30030 renumbered and amended to read:
30031 **[~~78-33-11~~]. 78B-6-403. Parties.**
30032 (1) When declaratory relief is sought all persons shall be made parties who have or
30033 claim any interest which would be affected by the declaration, and [~~no~~] a declaration [~~shall~~]
30034 may not prejudice the rights of persons not parties to the proceeding.
30035 (2) In any proceeding which involves the validity of a municipal or county ordinance or

30036 franchise [~~such~~], the municipality or county shall be made a party, and shall be entitled to be
30037 heard[~~, and if~~].
30038 (3) If a statute or state franchise or permit is alleged to be invalid, the attorney general
30039 shall be served with a copy of the proceeding and be entitled to be heard.
30040 Section 933. Section **78B-6-404**, which is renumbered from Section 78-33-6 is
30041 renumbered and amended to read:
30042 **[~~78-33-6~~]. 78B-6-404. Discretion to deny declaratory relief.**
30043 The court may refuse to render or enter a declaratory judgment or decree where [~~such~~] a
30044 judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy
30045 giving rise to the proceeding.
30046 Section 934. Section **78B-6-405**, which is renumbered from Section 78-33-7 is
30047 renumbered and amended to read:
30048 **[~~78-33-7~~]. 78B-6-405. Appeals and reviews.**
30049 All orders, judgments, and decrees under this [~~chapter~~] part may be reviewed in the
30050 same manner as other orders, judgments, and decrees.
30051 Section 935. Section **78B-6-406**, which is renumbered from Section 78-33-8 is
30052 renumbered and amended to read:
30053 **[~~78-33-8~~]. 78B-6-406. Supplemental relief.**
30054 Further relief based on a declaratory judgment or decree may be granted whenever
30055 necessary or proper. The application [~~therefor~~] for further relief shall be by petition to a court
30056 having jurisdiction to grant the relief. If the application is [~~deemed~~] considered sufficient, the
30057 court shall, on reasonable notice, require any adverse party, whose rights have been adjudicated
30058 by the declaratory judgment or decree, to show cause why further relief should not be
30059 immediately granted [~~forthwith~~].
30060 Section 936. Section **78B-6-407**, which is renumbered from Section 78-33-9 is
30061 renumbered and amended to read:
30062 **[~~78-33-9~~]. 78B-6-407. Trial of issues of fact.**
30063 When a proceeding under this chapter involves the determination of an issue of fact,
30064 [~~such~~] the issue may be tried in the court in which the proceeding is pending and determined in
30065 the same manner as issues of fact are tried and determined in other civil actions in the court [~~in~~
30066 ~~which the proceeding is pending~~].

30067 Section 937. Section **78B-6-408**, which is renumbered from Section 78-33-2 is
30068 renumbered and amended to read:
30069 **[~~78-33-2~~]. 78B-6-408. Rights, status, legal relations under instruments, or**
30070 **statutes may be determined.**
30071 [~~Any~~] A person [~~interested under~~] with an interest in a deed, will, or written contract, or
30072 whose rights, status, or other legal relations are affected by a statute, municipal ordinance,
30073 contract, or franchise, may [~~have determined~~] request the district court to determine any
30074 question of construction or validity arising under the instrument, statute, ordinance, contract, or
30075 franchise and obtain a declaration of rights, status, or other legal relations [~~thereunder~~].
30076 Section 938. Section **78B-6-409**, which is renumbered from Section 78-33-3 is
30077 renumbered and amended to read:
30078 **[~~78-33-3~~]. 78B-6-409. Contracts.**
30079 A contract may be construed [~~either~~] before or after there has been a breach [~~thereof~~].
30080 Section 939. Section **78B-6-410**, which is renumbered from Section 78-33-4 is
30081 renumbered and amended to read:
30082 **[~~78-33-4~~]. 78B-6-410. Suit by fiduciary or representative.**
30083 Any person interested as or through an executor, administrator, trustee, guardian, or
30084 other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the
30085 administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may
30086 [~~have a declaration of rights or legal relations in respect thereto~~] petition the court for a
30087 declaratory judgment:
30088 (1) to ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;
30089 [~~or,~~]
30090 (2) to direct the executors, administrators, or trustees to do or abstain from doing any
30091 particular act in their fiduciary capacity; or[~~,~~]
30092 (3) to determine any question arising in the administration of the estate or trust,
30093 including questions of construction of wills and other writings.
30094 Section 940. Section **78B-6-411**, which is renumbered from Section 78-33-10 is
30095 renumbered and amended to read:
30096 **[~~78-33-10~~]. 78B-6-411. Costs.**
30097 In any proceeding under this [~~chapter~~] part the court may make [~~such~~] an award of costs

30098 [~~as may seem~~] it considers equitable and just.
30099 Section 941. Section **78B-6-412**, which is renumbered from Section 78-33-12 is
30100 renumbered and amended to read:
30101 **[~~78-33-12~~]. 78B-6-412. Chapter to be liberally construed.**
30102 This chapter is [~~declared~~] to be remedial[~~; its~~]. Its purpose is to settle and to afford
30103 relief from uncertainty and insecurity with respect to rights, status, and other legal relations;
30104 and is to be liberally construed and administered.
30105 Section 942. Section **78B-6-501**, which is renumbered from Section 78-34-1 is
30106 renumbered and amended to read:
30107 **Part 5. Eminent Domain**
30108 **[~~78-34-1~~]. 78B-6-501. Eminent domain -- Uses for which right may be**
30109 **exercised.**
30110 Subject to the provisions of this [~~chapter~~] part, the right of eminent domain may be
30111 exercised [~~in~~] on behalf of the following public uses:
30112 (1) All public uses authorized by the Government of the United States.
30113 (2) Public buildings and grounds for the use of the state, and all other public uses
30114 authorized by the Legislature.
30115 (3) (a) Public buildings and grounds for the use of any county, city or incorporated
30116 town, or board of education;
30117 (b) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water for the
30118 use of the inhabitants of any county or city or incorporated town, or for the draining of any
30119 county, city or incorporated town;
30120 (c) the raising of the banks of streams, removing obstructions [~~therefrom~~], and
30121 widening, deepening, or straightening their channels;
30122 (d) bicycle paths and sidewalks adjacent to paved roads;
30123 (e) roads, streets, and alleys for public vehicular use, excluding trails, paths, or other
30124 ways for walking, hiking, bicycling, equestrian use, or other recreational uses; and
30125 (f) all other public uses for the benefit of any county, city or incorporated town, or [~~the~~]
30126 its inhabitants [~~thereof~~].
30127 (4) Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank
30128 and turnpike roads, roads for transportation by traction engines or road locomotives, roads for

30129 logging or lumbering purposes, and railroads and street railways for public transportation.
30130 (5) Reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes
30131 for the supplying of persons, mines, mills, smelters or other works for the reduction of ores,
30132 with water for domestic or other uses, or for irrigation purposes, or for the draining and
30133 reclaiming of lands, or for the floating of logs and lumber on streams not navigable, or for solar
30134 evaporation ponds and other facilities for the recovery of minerals in solution.
30135 (6) (a) Roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places
30136 to facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries,
30137 coal mines, or mineral deposits including minerals in solution;
30138 (b) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water
30139 from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal
30140 mines or mineral deposits including minerals in solution;
30141 (c) mill dams;
30142 (d) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or
30143 formation in any land for the underground storage of natural gas, and in connection [~~therewith~~
30144 ~~such~~] with that, any other interests in property [~~as~~] which may be required to adequately [~~to~~]
30145 examine, prepare, maintain, and operate [~~such~~] underground natural gas storage facilities; [~~and~~]
30146 (e) solar evaporation ponds and other facilities for the recovery of minerals in solution;
30147 [~~also~~] and
30148 (f) any occupancy in common by the owners or possessors of different mines, quarries,
30149 coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any
30150 place for the flow, deposit or conduct of tailings or refuse matter.
30151 (7) Byroads leading from highways to residences and farms.
30152 (8) Telegraph, telephone, electric light and electric power lines, and sites for electric
30153 light and power plants.
30154 (9) Sewerage of any city or town, or of any settlement of not less than ten families, or
30155 of any public building belonging to the state, or of any college or university.
30156 (10) Canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and
30157 storing water for the operation of machinery for the purpose of generating and transmitting
30158 electricity for power, light or heat.
30159 (11) Cemeteries and public parks.

30160 (12) Pipe lines for the purpose of conducting any and all liquids connected with the
30161 manufacture of beet sugar.
30162 (13) Sites for mills, smelters or other works for the reduction of ores and necessary to
30163 [~~the~~] their successful operation [~~thereof~~], including the right to take lands for the discharge and
30164 natural distribution of smoke, fumes, and dust [~~therefrom~~], produced by the operation of [~~such~~]
30165 works[~~;~~], provided[~~;~~] that the powers granted by this [~~subdivision shall~~] subsection may not be
30166 exercised in any county where the population exceeds [~~twenty thousand~~] 20,000, or within one
30167 mile of the limits of any city or incorporated town[~~;~~] nor unless the proposed condemner has
30168 the right to operate by purchase, option to purchase or easement, at least [~~seventy-five per cent~~]
30169 75% in value of land acreage owned by persons or corporations situated within a radius of four
30170 miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of
30171 [~~said~~] the four-mile radius; nor as to lands covered by contracts, easements, or agreements
30172 existing between the condemner and the owner of land within [~~said~~] the limit and providing for
30173 the operation of such mill, smelter, or other works for the reduction of ores; nor until an action
30174 shall have been commenced to restrain the operation of such mill, smelter, or other works for
30175 the reduction of ores.
30176 Section 943. Section **78B-6-502**, which is renumbered from Section 78-34-2 is
30177 renumbered and amended to read:
30178 **[~~78-34-2~~]. 78B-6-502. Estates and rights that may be taken.**
30179 The following estates and rights in lands are subject to being taken for public use:
30180 (1) a fee simple, when taken for:
30181 (a) public buildings or grounds;
30182 (b) permanent buildings;
30183 (c) reservoirs and dams, and permanent flooding occasioned by them;
30184 (d) any permanent flood control structure affixed to the land;
30185 (e) an outlet for a flow, a place for the deposit of debris or tailings of a mine, mill,
30186 smelter, or other place for the reduction of ores; and
30187 (f) solar evaporation ponds and other facilities for the recovery of minerals in solution,
30188 except when the surface ground is underlaid with minerals, coal, or other deposits sufficiently
30189 valuable to justify extraction, only a perpetual easement may be taken over the surface ground
30190 over the deposits;

30191 (2) an easement, when taken for any other use; and
30192 (3) the right of entry upon and occupation of lands, with the right to take from those
30193 lands earth, gravel, stones, trees, and timber as necessary for a public use.
30194 Section 944. Section **78B-6-503**, which is renumbered from Section 78-34-3 is
30195 renumbered and amended to read:
30196 **[~~78-34-3~~]. 78B-6-503. Private property which may be taken.**
30197 [~~The private~~] Private property which may be taken under this [~~chapter~~] part includes:
30198 (1) all real property belonging to any person[~~.~~];
30199 (2) lands belonging to the state, or to any county, city or incorporated town, not
30200 appropriated to some public use[~~.~~];
30201 (3) property appropriated to public use; provided[~~,~~] that [~~such~~] the property [~~shall~~] may
30202 not be taken unless for a more necessary public use than that to which it has already been
30203 [~~already~~] appropriated[~~.~~];
30204 (4) franchises for toll roads, toll bridges, ferries, and all other franchises; provided[~~,~~]
30205 that [~~such~~] the franchises [~~shall~~] may not be taken unless for free highways, railroads, or other
30206 more necessary public use[~~.~~];
30207 (5) all rights of way for any and all purposes mentioned in Section [~~78-34-1~~]
30208 78B-6-501 hereof, and any and all structures and improvements [~~thereon~~] on the property, and
30209 the lands held or used in connection [~~therewith~~] with the property, shall be subject to be
30210 connected with, crossed, or intersected by any other right of way or improvement or structure
30211 [~~thereon~~]; they shall also be subject to a limited use in common with the owners [~~thereof~~],
30212 when necessary; but [~~such~~] uses of crossings, intersections, and connections shall be made in
30213 the manner most compatible with the greatest public benefit and the least private injury[~~.~~]; and
30214 (6) all classes of private property not enumerated [~~may be taken for public use when~~
30215 ~~such~~] if the taking is authorized by law.
30216 Section 945. Section **78B-6-504**, which is renumbered from Section 78-34-4 is
30217 renumbered and amended to read:
30218 **[~~78-34-4~~]. 78B-6-504. Conditions precedent to taking.**
30219 (1) Before property can be taken it must appear that:
30220 (a) [~~that~~] the use to which it is to be applied is a use authorized by law;
30221 (b) [~~that~~] the taking is necessary [~~to such~~] for the use;

30222 (c) [~~that~~] construction and use of all property sought to be condemned will commence
30223 within a reasonable time as determined by the court, after the initiation of proceedings under
30224 this [~~chapter~~] part; and
30225 (d) if already appropriated to some public use, [~~that~~] the public use to which it is to be
30226 applied is a more necessary public use.
30227 (2) (a) As used in this [~~subsection (2)~~] section, "governing body" means:
30228 (i) for a county, city, or town, the legislative body of the county, city, or town; and
30229 (ii) for any other political subdivision of the state, the person or body with authority to
30230 govern the affairs of the political subdivision.
30231 (b) Property may not be taken by a political subdivision of the state unless the
30232 governing body of the political subdivision approves the taking.
30233 (c) Before taking a final vote to approve the filing of an eminent domain action, the
30234 governing body of each political subdivision intending to take property shall provide written
30235 notice to each owner of property to be taken of each public meeting of the political
30236 subdivision's governing body at which a vote on the proposed taking is expected to occur and
30237 allow the property owner the opportunity to be heard on the proposed taking.
30238 (d) The requirement under Subsection (2)(c) to provide notice to a property owner is
30239 satisfied by the governing body mailing the written notice to the property owner:
30240 (i) at the owner's address as shown on the records of the county assessor's office; and
30241 (ii) at least ten business days before the public meeting.
30242 Section 946. Section **78B-6-505**, which is renumbered from Section 78-34-4.5 is
30243 renumbered and amended to read:
30244 **[~~78-34-4.5~~]. 78B-6-505. Negotiation and disclosure required before voting to**
30245 **approve an eminent domain action.**
30246 Each person who seeks to acquire property by eminent domain or who intends to use
30247 eminent domain to acquire property if the property cannot be acquired in a voluntary
30248 transaction shall:
30249 (1) before taking a final vote to approve the filing of an eminent domain action, make a
30250 reasonable effort to negotiate with the property owner for the purchase of the property; and
30251 (2) as early in the negotiation process under Subsection (1) as practicable but no later
30252 than 14 days before a final vote is taken to approve the filing of an eminent domain action,

30253 unless the court for good cause allows a shorter period before filing:
30254 (a) advise the property owner of the owner's rights to mediation and arbitration under
30255 Section [~~78-34-21~~] 78B-6-522, including the name and current telephone number of the
30256 property rights ombudsman, established in Title 13, Chapter 43, Property Rights Ombudsman
30257 Act; and
30258 (b) provide the property owner a written statement explaining that oral representations
30259 or promises made during the negotiation process are not binding upon the person seeking to
30260 acquire the property by eminent domain.
30261 Section 947. Section **78B-6-506**, which is renumbered from Section 78-34-5 is
30262 renumbered and amended to read:
30263 **[~~78-34-5~~]. 78B-6-506. Right of entry for survey and location.**
30264 (1) If land is required for public use, the person or the person's agent in charge of the
30265 use may survey and locate the [~~same; but it~~] property. It must be located in the manner which
30266 will be most compatible with the greatest public good and the least private injury, and subject
30267 to the provisions of this chapter.
30268 (2) (a) The person or the person's agent in charge of the public use may, at reasonable
30269 times and upon reasonable notice, enter upon the land and make examinations, surveys, and
30270 maps of the land.
30271 (b) Entry upon land as authorized under Subsection (2)(a) does not constitute a cause
30272 of action in favor of the owners of the lands, except for actual damage to the land and
30273 improvements on the land caused by [~~such~~] the entry[~~,~~] and which is not repaired on or before
30274 the date the examinations and surveys are completed.
30275 Section 948. Section **78B-6-507**, which is renumbered from Section 78-34-6 is
30276 renumbered and amended to read:
30277 **[~~78-34-6~~]. 78B-6-507. Complaint -- Contents.**
30278 (1) The complaint [~~must~~] shall contain:
30279 [~~(1)~~] (a) the name of the corporation, association, commission or person in charge of
30280 the public use for which the property is sought, who must be styled plaintiff;
30281 [~~(2)~~] (b) the names of all owners and claimants of the property, if known, or a
30282 statement that they are unknown, who must be styled defendants;
30283 [~~(3)~~] (c) a statement of the right of the plaintiff;

30284 [~~(4)~~] (d) if a right of way is sought, [~~the complaint must show~~] its location, general
30285 route, beginning and [~~termini~~] ending, and [~~must~~] be accompanied by a map [~~thereof, so far as~~
30286 ~~the same~~] of the proposed right of way, as it is involved in the action or proceeding;
30287 [~~(5)~~] (e) if any interest in land is sought for a right of way or associated facilities for a
30288 subject activity as defined in Section 19-3-318:
30289 [~~(a)~~] (i) the permission of the governor with the concurrence of the Legislature
30290 authorizing:
30291 [~~(i)~~] (A) use of the site for [~~a~~] the subject activity; and
30292 [~~(ii)~~] (B) use of the proposed route for [~~a~~] the subject activity; and
30293 [~~(b)~~] (ii) the proposed route as required by Subsection [~~(4)~~] (1)(d); and
30294 [~~(6)~~] (f) a description of each piece of land sought to be taken, and whether [~~the same~~]
30295 it includes the whole or only part of an entire parcel or tract.
30296 (2) All parcels lying in the county and required for the same public use may be
30297 included in the same or separate proceedings, at the option of the plaintiff, but the court may
30298 consolidate or separate them to suit the convenience of parties.
30299 Section 949. Section **78B-6-508**, which is renumbered from Section 78-34-7 is
30300 renumbered and amended to read:
30301 **[~~78-34-7~~]. 78B-6-508. Who may appear and defend.**
30302 All persons in occupation of, or having or claiming an interest in, any of the property
30303 described in the complaint, or in the damages for the taking [~~thereof~~], though not named,
30304 including shareholders in a mutual stock water company in a proceeding involving the taking
30305 of the company or property belonging to the company, may appear, plead and defend, each in
30306 respect to his own property or interest, or that claimed by him, in the same manner as if named
30307 in the complaint.
30308 Section 950. Section **78B-6-509**, which is renumbered from Section 78-34-8 is
30309 renumbered and amended to read:
30310 **[~~78-34-8~~]. 78B-6-509. Powers of court or judge.**
30311 The court [~~or judge thereof~~] shall have the power to:
30312 (1) [~~to~~] hear and determine all adverse or conflicting claims to the property sought to
30313 be condemned, and [~~to~~] the damages [~~therefor,~~]; and
30314 (2) [~~to~~] determine the respective rights of different parties seeking condemnation of the

30315 same property.
30316 Section 951. Section **78B-6-510**, which is renumbered from Section 78-34-9 is
30317 renumbered and amended to read:
30318 **[~~78-34-9~~]. 78B-6-510. Occupancy of premises pending action -- Deposit paid**
30319 **into court -- Procedure for payment of compensation.**
30320 (1) (a) At any time after the commencement of suit, and after giving notice to the
30321 defendant as provided in the Utah Rules of Civil Procedure, the plaintiff may file a motion
30322 with the court requesting an order permitting the plaintiff to:
30323 (i) occupy the premises sought to be condemned pending the action, including appeal;
30324 and
30325 (ii) to do whatever work on the premises that is required.
30326 (b) Except as ordered by the court for good cause shown, a defendant may not be
30327 required to reply to a motion for immediate occupancy before expiration of the time to answer
30328 the complaint.
30329 (2) The court shall:
30330 (a) take proof by affidavit or otherwise of:
30331 (i) the value of the premises sought to be condemned;
30332 (ii) the damages that will accrue from the condemnation; and
30333 (iii) the reasons for requiring a speedy occupation; and
30334 (b) grant or refuse the motion according to the equity of the case and the relative
30335 damages that may accrue to the parties.
30336 (3) (a) If the motion is granted, the court shall enter its order requiring that the plaintiff,
30337 as a condition precedent to occupancy, file with the clerk of the court a sum equal to the
30338 condemning authority's appraised valuation of the property sought to be condemned.
30339 (b) That amount shall be for the purposes of the motion only and is not admissible in
30340 evidence on final hearing.
30341 (4) (a) Upon the filing of the petition for immediate occupancy, the court shall fix the
30342 time within which, and the terms upon which, the parties in possession are required to
30343 surrender possession to the plaintiff.
30344 (b) The court may issue orders governing encumbrances, liens, rents, assessments,
30345 insurance, and other charges, if any, as required.

30346 (5) (a) The rights of just compensation for the land taken as authorized by this section
30347 or damaged as a result of that taking vests in the parties entitled to it.
30348 (b) That compensation shall be ascertained and awarded as provided in Section
30349 [~~78-34-10~~] 78B-6-511.
30350 (c) (i) Except as provided in Subsection (5)(c)(ii), judgment shall include, as part of the
30351 just compensation awarded, interest at the rate of 8% per annum on the amount finally awarded
30352 as the value of the property and damages, from the date of taking actual possession of the
30353 property by the plaintiff or from the date of the order of occupancy, whichever is earlier, to the
30354 date of judgment.
30355 (ii) The court may not award interest on the amount of the judgment that was paid into
30356 court.
30357 (6) (a) Upon the application of the parties in interest, the court shall order that the
30358 money deposited in the court be paid before judgment as an advance on the just compensation
30359 to be awarded in the proceeding.
30360 (b) This advance payment to a defendant shall be considered to be an abandonment by
30361 the defendant of all defenses except a claim for greater compensation.
30362 (c) If the compensation finally awarded exceeds the advance, the court shall enter
30363 judgment against the plaintiff for the amount of the deficiency.
30364 (d) If the advance received by the defendant is greater than the amount finally awarded,
30365 the court shall enter judgment against the defendant for the amount of the excess.
30366 (7) Arbitration of a dispute under Section 13-43-204 or [~~78-34-21~~] 78B-6-522 is not a
30367 bar or cause to stay the action for occupancy of premises authorized by this section.
30368 Section 952. Section **78B-6-511**, which is renumbered from Section 78-34-10 is
30369 renumbered and amended to read:
30370 **[~~78-34-10~~]. 78B-6-511. Compensation and damages -- How assessed.**
30371 The court, jury, or referee [~~must~~] shall hear [~~such~~] any legal evidence [~~as may be~~]
30372 offered by any of the parties to the proceedings, and [~~thereupon must ascertain~~] determine and
30373 assess:
30374 (1) (a) the value of the property sought to be condemned and all improvements
30375 [~~thereon appertaining~~] pertaining to the realty[~~, and~~];
30376 (b) the value of each and every separate estate or interest [~~therein~~] in the property; and

30377 (c) if it consists of different parcels, the value of each parcel and of each estate or
30378 interest [~~therein~~] in each shall be separately assessed;
30379 (2) if the property sought to be condemned constitutes only a part of a larger parcel, the
30380 damages which will accrue to the portion not sought to be condemned by reason of its
30381 severance from the portion sought to be condemned and the construction of the improvement in
30382 the manner proposed by the plaintiff;
30383 (3) if the property, though no part [~~thereof~~] of it is taken, will be damaged by the
30384 construction of the proposed improvement, and the amount of [~~such~~] the damages;
30385 (4) separately, how much the portion not sought to be condemned, and each estate or
30386 interest [~~therein~~] in it, will be [~~benefited~~] benefitted, if at all, by the construction of the
30387 improvement proposed by the plaintiff. If the benefit [~~shall be~~] is equal to the damages assessed
30388 under [~~Subdivision~~] Subsection (2) [~~of this section~~], the owner of the parcel shall be allowed
30389 no compensation except the value of the portion taken; but if the benefit [~~shall be~~] is less than
30390 the damages [~~so~~] assessed, the former shall be deducted from the latter, and the remainder shall
30391 be the only damages allowed in addition to the value of the portion taken;
30392 (5) if the property sought to be condemned consists of water rights or part of a water
30393 delivery system or both, and the taking will cause present or future damage to or impairment of
30394 the water delivery system not being taken, including impairment of the system's carrying
30395 capacity, an amount to compensate for the damage or impairment;
30396 (6) if land on which crops are growing at the time of service of summons is sought to
30397 be condemned, the value that those crops would have had after being harvested, taking into
30398 account the expenses that would have been incurred cultivating and harvesting the crops; and
30399 (7) as far as practicable compensation [~~must~~] shall be assessed for each source of
30400 damages separately.
30401 Section 953. Section **78B-6-512**, which is renumbered from Section 78-34-11 is
30402 renumbered and amended to read:
30403 **[~~78-34-11~~]. 78B-6-512. Damages -- When right has accrued -- Mitigation or**
30404 **reduction -- Improvements.**
30405 (1) For the purpose of assessing compensation and damages, the right [~~thereto~~] to
30406 compensation and damages shall be [~~deemed~~] considered to have accrued at the date of the
30407 service of summons, and its actual value at that date shall be the measure of compensation for

30408 all property to be actually taken, and the basis of damages to property not actually taken, but
30409 injuriously affected, in all cases where [~~such~~] damages are allowed, as provided in Section
30410 [~~78-34-10~~] 78B-6-511.
30411 (2) The court or the jury shall consider mitigation or reduction of damages in its
30412 assessment of compensation and damages if, after the date of the service of summons, the
30413 plaintiff:
30414 (a) mitigates the damages to the property; or
30415 (b) reduces the amount of property actually taken.
30416 (3) Improvements put upon the property by the property owner subsequent to the date
30417 of service of summons [~~shall~~] may not be included in the assessment of compensation or
30418 damages.
30419 Section 954. Section **78B-6-513**, which is renumbered from Section 78-34-12 is
30420 renumbered and amended to read:
30421 **[~~78-34-12~~]. 78B-6-513. When title sought found defective -- Another action**
30422 **allowed.**
30423 If the title attempted to be acquired is found to be defective from any cause, the plaintiff
30424 may again institute proceedings to acquire the [~~same as in this chapter~~] property as prescribed
30425 in this part.
30426 Section 955. Section **78B-6-514**, which is renumbered from Section 78-34-13 is
30427 renumbered and amended to read:
30428 **[~~78-34-13~~]. 78B-6-514. Payment of award -- Bond from railroad to secure**
30429 **fencing.**
30430 The plaintiff [~~must~~] shall, within [~~thirty~~] 30 days after final judgment, pay the sum of
30431 money assessed; and, if the plaintiff is a railroad company, it shall also execute to the defendant
30432 a bond, with sureties, to be determined and approved by the court or judge, conditioned that the
30433 plaintiff will build proper fences within six months from the time the railroad is built on or
30434 over the land taken. In an action on the bond all damages sustained and the cost of the
30435 construction of [~~such~~] fences may be recovered.
30436 Section 956. Section **78B-6-515**, which is renumbered from Section 78-34-14 is
30437 renumbered and amended to read:
30438 **[~~78-34-14~~]. 78B-6-515. Distribution of award -- Execution -- Annulment of**

30439 **proceedings on failure to pay.**
30440 Payment may be made to the defendants entitled [~~thereto~~] to payment, or the money
30441 may be deposited in court for the defendants and distributed to those entitled [~~thereto~~] to
30442 payment. If the money is not [~~so~~] paid or deposited, the defendants may have execution as in
30443 civil cases; and if the money cannot be made on execution, the court upon a showing to that
30444 effect [~~must~~] shall set aside and annul the entire proceedings, and restore possession of the
30445 property to the defendants, if possession has been taken by the plaintiff.
30446 Section 957. Section **78B-6-516**, which is renumbered from Section 78-34-15 is
30447 renumbered and amended to read:
30448 **[~~78-34-15~~]. 78B-6-516. Judgment of condemnation -- Recordation -- Effect.**
30449 When payments have been made and the bond given, if the plaintiff elects to give one,
30450 as required by Sections [~~78-34-13 and 78-34-14~~] 78B-6-514 and 78B-6-515, the court [~~must~~]
30451 shall make a final judgment of condemnation, which [~~must~~] shall describe the property
30452 condemned and the purpose of [~~such~~] the condemnation. A copy of the judgment [~~must~~] shall
30453 be filed in the office of the county recorder [~~of the county,~~] and [~~thereupon~~] the property
30454 described [~~therein~~] in it shall vest in the plaintiff for the purpose [~~therein~~] specified.
30455 Section 958. Section **78B-6-517**, which is renumbered from Section 78-34-16 is
30456 renumbered and amended to read:
30457 **[~~78-34-16~~]. 78B-6-517. Substitution of bond for deposit paid into court --**
30458 **Abandonment of action by condemner -- Conditions of dismissal.**
30459 In the event that no order is entered by the court permitting payment of [~~said~~] the
30460 deposit on account of the just compensation to be awarded in the proceeding within [~~thirty~~
30461 ~~(30)~~] 30 days following its deposit, the court may, on application of the condemning authority,
30462 permit the substitution of a bond in [~~such~~] an amount and with [~~such~~] sureties as [~~shall be~~]
30463 determined and approved by the court. Condemner, whether a public or private body, may, at
30464 any time prior to final payment of compensation and damages awarded the defendant by the
30465 court or jury, abandon the proceedings and cause the action to be dismissed without prejudice,
30466 provided, however, that as a condition of dismissal condemner first compensate condemnee for
30467 all damages he has sustained and also reimburse him in full for all reasonable and necessary
30468 expenses actually incurred by condemnee because of the filing of the action by condemner,
30469 including [~~attorneys~~] attorney fees.

30470 Section 959. Section **78B-6-518**, which is renumbered from Section 78-34-17 is
30471 renumbered and amended to read:
30472 **[~~78-34-17~~]. 78B-6-518. Rights of cities and towns not affected.**
30473 Nothing in this [~~chapter must~~] part may be construed to abrogate or repeal any statute
30474 providing for the taking of property in any city or town for street purposes.
30475 Section 960. Section **78B-6-519**, which is renumbered from Section 78-34-18 is
30476 renumbered and amended to read:
30477 **[~~78-34-18~~]. 78B-6-519. When right of way acquired -- Duty of party acquiring.**
30478 A party obtaining a right of way shall without delay construct [~~such~~] crossings as [~~may~~
30479 ~~be~~] required by the court or judge, and [~~shall~~] keep them and the way itself in good repair.
30480 Section 961. Section **78B-6-520**, which is renumbered from Section 78-34-19 is
30481 renumbered and amended to read:
30482 **[~~78-34-19~~]. 78B-6-520. Action to set aside condemnation for failure to**
30483 **commence or complete construction within reasonable time.**
30484 (1) In an action to condemn property, if the court makes a finding of what is a
30485 reasonable time for commencement of construction and use of all the property sought to be
30486 condemned and the construction and use is not accomplished within the time specified, the
30487 condemnee may file an action against the condemnor to set aside the condemnation of the
30488 entire parcel or any portion [~~thereof~~] upon which construction and use was to have taken place.
30489 (2) In [~~such~~] the action, if the court finds that the condemnor, without reasonable
30490 justification, did not commence or complete construction and use within the time specified, it
30491 shall enter judgment fixing the amount the condemnor has paid the condemnee, as a result of
30492 condemnation and all amounts due the condemnee as damages sustained by reason of
30493 condemnation, including damages resulting from partial completion of the contemplated use,
30494 plus all reasonable and necessary expenses actually incurred by the condemnee including
30495 attorney fees.
30496 (3) If amounts due the condemnee under Subsection (2) [~~of this section~~] exceed
30497 amounts paid by the condemnor, or these amounts are equal, judgment shall be entered in favor
30498 of the condemnee, which judgment shall describe the property condemned and award judgment
30499 for any amounts due condemnee. A copy of the judgment shall be filed in the office of the
30500 county recorder of the county, and [~~thereupon~~] the property described [~~therein~~] in the judgment

30501 shall vest in the condemnee.
30502 (4) If amounts paid by the condemnor under Subsection (2) [~~of this section~~] exceed
30503 amounts due the condemnee, judgment shall be entered describing the property condemned and
30504 giving the condemnee 60 days from the date [~~thereof~~] of the judgment to pay the difference
30505 between the amounts to the condemnor. If payment is made, the court shall amend the
30506 judgment to reflect [~~such~~] the payment and order the amended judgment filed with the office of
30507 the county recorder of the county, and [~~thereupon~~] the property described [~~therein~~] in the
30508 judgment shall vest in the condemnee. If payment is not made, the court shall amend the
30509 judgment to reflect nonpayment and order the amended judgment filed with the county recorder
30510 [~~of the county~~].
30511 Section 962. Section **78B-6-521**, which is renumbered from Section 78-34-20 is
30512 renumbered and amended to read:
30513 **[~~78-34-20~~]. 78B-6-521. Sale of property acquired by eminent domain.**
30514 (1) As used in this section, "condemnation or threat of condemnation" means:
30515 (a) acquisition through an eminent domain proceeding; or
30516 (b) an official body of the state or a subdivision of the state, having the power of
30517 eminent domain, has specifically authorized the use of eminent domain to acquire the real
30518 property.
30519 (2) If the state or one of its subdivisions, at its sole discretion, declares real property
30520 that is acquired through condemnation or threat of condemnation to be surplus real property, it
30521 may not sell the real property on the open market unless:
30522 (a) the real property has been offered for sale to the original grantor, at the highest offer
30523 made to the state or one of its subdivisions with first right of refusal being given to the original
30524 grantor;
30525 (b) the original grantor expressly waived in writing the first right of refusal on the offer
30526 or failed to accept the offer within 90 days after notification by registered mail to the
30527 last-known address; and
30528 (c) neither the state nor the subdivision of the state selling the property is involved in
30529 the rezoning of the property or the acquisition of additional property to enhance the value of the
30530 real property to be sold.
30531 (3) This section shall only apply to property acquired after July 1, 1983.

30532 Section 963. Section **78B-6-522**, which is renumbered from Section 78-34-21 is
30533 renumbered and amended to read:
30534 **[~~78-34-21~~]. 78B-6-522. Dispute resolution.**
30535 (1) In any dispute between a condemner and a private property owner arising out of this
30536 chapter, the private property owner may submit the dispute for mediation or arbitration to the
30537 private property ombudsman under Section 13-43-204.
30538 (2) An action submitted to the private property ombudsman under authority of this
30539 section does not bar or stay any action for occupancy of premises authorized by Section
30540 [~~78-34-9~~] 78B-6-510.
30541 (3) (a) (i) A mediator or arbitrator, acting at the request of the property owner under
30542 Section 13-43-204, has standing in an action brought in district court under this chapter to file
30543 with the court a motion to stay the action during the pendency of the mediation or arbitration.
30544 (ii) A mediator or arbitrator may not file a motion to stay under Subsection (3)(a)(i)
30545 unless the mediator or arbitrator certifies at the time of filing the motion that a stay is
30546 reasonably necessary to reach a resolution of the case through mediation or arbitration.
30547 (b) If a stay is granted pursuant to a motion under Subsection (3)(a) and the order
30548 granting the stay does not specify when the stay terminates, the mediator or arbitrator shall file
30549 with the district court a motion to terminate the stay within 30 days after:
30550 (i) the resolution of the dispute through mediation;
30551 (ii) the issuance of a final arbitration award; or
30552 (iii) a determination by the mediator or arbitrator that mediation or arbitration is not
30553 appropriate.
30554 (4) (a) The private property owner or displaced person may request that the mediator or
30555 arbitrator authorize an additional appraisal.
30556 (b) If the mediator or arbitrator determines that an additional appraisal is reasonably
30557 necessary to reach a resolution of the case, the mediator or arbitrator may:
30558 (i) have an additional appraisal of the property prepared by an independent appraiser;
30559 and
30560 (ii) require the condemnor to pay the costs of the first additional appraisal.
30561 Section 964. Section **78B-6-601**, which is renumbered from Section 78-35-1 is
30562 renumbered and amended to read:

30563 **Part 6. Extraordinary Writs**

30564 **[~~78-35-1~~]. 78B-6-601. Penalty for wrongful refusal to allow writ of habeas**
30565 **corpus.**

30566 Any judge, whether acting individually or as a member of a court, who wrongfully and
30567 willfully refuses to allow a writ of habeas corpus whenever proper application [~~for the same~~]
30568 has been made shall forfeit and pay a sum not exceeding $5,000 to the [~~party thereby~~]
30569 aggrieved party.

30570 Section 965. Section **78B-6-602**, which is renumbered from Section 78-35-2 is
30571 renumbered and amended to read:

30572 **[~~78-35-2~~]. 78B-6-602. Recommitment.**

30573 (1) In all cases where it is claimed that a person is illegally or wrongfully restrained or
30574 deprived of his liberty, where [~~such~~] restraint or imprisonment is for a criminal offense and
30575 there is not sufficient cause for [~~discharge (~~] release, even though the commitment may have
30576 been informally made or without due authority, or the process may have been executed by a
30577 person not duly authorized[~~)~~], the court or judge may make a new commitment, or [~~admit~~]
30578 allow the party to post bail, if the case is bailable. [~~And all~~]

30579 (2) All material witnesses shall [~~also~~] be required [~~to enter into a recognizance~~] to
30580 appear at the same time and place and not depart [~~therefrom~~] without leave. All [~~such papers~~
30581 ~~must~~] documents shall be filed in the clerk's office [~~where the same are made returnable~~].

30582 Section 966. Section **78B-6-603**, which is renumbered from Section 78-35-3 is
30583 renumbered and amended to read:

30584 **[~~78-35-3~~]. 78B-6-603. Recommitment after discharge forbidden -- Exceptions.**

30585 [~~No~~] A person who has been discharged by order of the court or judge upon habeas
30586 corpus [~~shall~~] may not be [~~again~~] imprisoned again, restrained, or kept in custody for the same
30587 cause, except in the following cases:

30588 (1) if [~~he~~] the person has been discharged from custody on a criminal charge and is
30589 afterward committed for the same offense by legal order or process[~~.~~]; or

30590 (2) if, after discharge for defect of proof or for any defect of the process, warrant or
30591 commitment in a criminal case, the prisoner is again arrested on sufficient proof and committed
30592 by legal process for the same offense.

30593 Section 967. Section **78B-6-604**, which is renumbered from Section 78-35-4 is

30594 renumbered and amended to read:
30595 **[~~78-35-4~~]. 78B-6-604. Refusing to exhibit authority for detention -- Penalty.**
30596 A person [~~refusing~~] who refuses to deliver a copy of the legal process by which [~~he~~] the
30597 person detains the plaintiff in custody to anyone who demands [~~such~~] a copy for the purpose of
30598 [~~taking out~~] filing a writ of habeas corpus [~~shall forfeit not exceeding $200~~] is liable to the
30599 plaintiff in an amount not to exceed $200.
30600 Section 968. Section **78B-6-605** is enacted to read:
30601 **78B-6-605. Penalties for wrongful acts of defendant.**
30602 (1) A defendant, officer, or other person is guilty of a class B misdemeanor and liable
30603 to the injured party in an amount not to exceed $5,000 if:
30604 (a) the defendant attempts to evade the service of the writ of habeas corpus; or
30605 (b) an officer or other person willfully fails to comply with the legal duties imposed
30606 upon him or disobeys an order to release a person in custody.
30607 (2) Any person knowingly aiding in or abetting invalidation of this section is subject to
30608 the same punishment and forfeiture.
30609 Section 969. Section **78B-6-606**, which is renumbered from Section 78-35-6 is
30610 renumbered and amended to read:
30611 **[~~78-35-6~~]. 78B-6-606. Judgment of removal -- Costs -- Penalty by fine where**
30612 **state is party.**
30613 [~~When~~] If a defendant is found guilty of usurping, intruding into or unlawfully holding
30614 or exercising an office, franchise, or privilege, [~~judgment~~] the court shall [~~be rendered that~~
30615 ~~such~~] order the defendant [~~be ousted and altogether excluded therefrom~~] removed from the
30616 office, and that the relator recover [~~his~~] the costs of pursuing the action. The court may also, in
30617 its discretion, in actions to which the state is a party impose upon the defendant a fine not
30618 exceeding $5,000, [~~which fine when collected must~~] to be paid [~~into~~] to the state treasury.
30619 Section 970. Section **78B-6-607**, which is renumbered from Section 78-35-7 is
30620 renumbered and amended to read:
30621 **[~~78-35-7~~]. 78B-6-607. Judgment against director of corporation -- Of**
30622 **induction in favor of person entitled.**
30623 When the action is against a director of a corporation, and the court finds that, at [~~his~~]
30624 the election, either illegal votes were received or legal votes were rejected, or both, sufficient to

30625 change the result, [~~judgment~~] the court may [~~be rendered that~~] order the defendant [~~be ousted~~]
30626 removed, and judgment of induction entered in favor of the person who was entitled to be
30627 declared elected at [~~such~~] the election.
30628 Section 971. Section **78B-6-608**, which is renumbered from Section 78-35-8 is
30629 renumbered and amended to read:
30630 **[~~78-35-8~~]. 78B-6-608. Action for damages because of usurpation -- Limitation**
30631 **of action.**
30632 [~~Such~~] A person may, at any time within one year after the date of [~~such judgment~~] an
30633 order for removal, bring an action against the party [~~ousted~~] removed under the provisions of
30634 Section 78B-6-606 or 78B-6-607 and recover the damages [~~he~~] sustained by [~~reason of such~~]
30635 the usurpation.
30636 Section 972. Section **78B-6-609**, which is renumbered from Section 78-35-9 is
30637 renumbered and amended to read:
30638 **[~~78-35-9~~]. 78B-6-609. Mandamus and prohibition -- Judgment.**
30639 In any proceeding to obtain a writ of mandate or prohibition, if judgment is given for
30640 the applicant, he may recover the damages which [~~he has~~] were sustained, as found by the jury,
30641 or [~~as may be~~] determined by the court, or referees upon a reference, ordered[~~,~~] together with
30642 costs[~~, and for such~~]. For damages and costs an execution may issue, and a peremptory
30643 mandate [~~must also~~] shall be awarded without delay.
30644 Section 973. Section **78B-6-610**, which is renumbered from Section 78-35-10 is
30645 renumbered and amended to read:
30646 **[~~78-35-10~~]. 78B-6-610. Disobedience of writ -- Punishment.**
30647 When a peremptory writ of mandate or writ of prohibition has been issued and directed
30648 to an inferior tribunal, corporation, board, or person, [~~if it appears to~~] and the court determines
30649 that any member of [~~such~~] the tribunal, corporation, board, or person upon whom [~~such~~] the
30650 writ [~~has been~~] was personally served has, without just excuse, refused or neglected to obey the
30651 [~~same~~] writ, the court may, upon motion, impose a fine not exceeding $500. In cases of
30652 persistence in a refusal of obedience, the court may order the party to be imprisoned until the
30653 writ is obeyed, and may make any orders necessary and proper for [~~the complete~~] enforcement
30654 of the writ.
30655 Section 974. Section **78B-6-701**, which is renumbered from Section 78-15-1 is

30656 renumbered and amended to read:

30657 **Part 7. Utah Product Liability Act**

30658 **[~~78-15-1~~]. 78B-6-701. Title.**

30659 This [~~act shall be~~] part is known and may be cited as the "Utah Product Liability Act."

30660 Section 975. Section **78B-6-702** is enacted to read:

30661 **78B-6-702. Definition -- Unreasonably dangerous.**

30662 As used in this part, "unreasonably dangerous" means that the product was dangerous to
30663 an extent beyond which would be contemplated by the ordinary and prudent buyer, consumer,
30664 or user of that product in that community considering the product's characteristics, propensities,
30665 risks, dangers, and uses together with any actual knowledge, training, or experience possessed
30666 by that particular buyer, user, or consumer.

30667 Section 976. Section **78B-6-703**, which is renumbered from Section 78-15-6 is
30668 renumbered and amended to read:

30669 **[~~78-15-6~~]. 78B-6-703. Defect or defective condition making product**
30670 **unreasonably dangerous -- Rebuttable presumption.**

30671 (1) In any action for damages for personal injury, death, or property damage allegedly
30672 caused by a defect in a product[~~: (1) No~~], a product [~~shall~~] may not be considered to have a
30673 defect or to be in a defective condition, unless at the time the product was sold by the
30674 manufacturer or other initial seller, there was a defect or defective condition in the product
30675 which made the product unreasonably dangerous to the user or consumer.

30676 [~~(2) As used in this act, "unreasonably dangerous" means that the product was~~
30677 ~~dangerous to an extent beyond which would be contemplated by the ordinary and prudent~~
30678 ~~buyer, consumer or user of that product in that community considering the product's~~
30679 ~~characteristics, propensities, risks, dangers and uses together with any actual knowledge,~~
30680 ~~training, or experience possessed by that particular buyer, user or consumer.~~]

30681 [~~(3)~~] (2) There is a rebuttable presumption that a product is free from any defect or
30682 defective condition where the alleged defect in the plans or designs for the product or the
30683 methods and techniques of manufacturing, inspecting and testing the product were in
30684 conformity with government standards established for that industry which were in existence at
30685 the time the plans or designs for the product or the methods and techniques of manufacturing,
30686 inspecting and testing the product were adopted.

30687 Section 977. Section **78B-6-704**, which is renumbered from Section 78-15-4 is
30688 renumbered and amended to read:
30689 **[~~78-15-4~~]. 78B-6-704. Prayer for damages.**
30690 No dollar amount shall be specified in the prayer of a complaint filed in a product
30691 liability action against a product manufacturer, wholesaler or retailer. The complaint shall
30692 merely pray for such damages as are reasonable in the premises.
30693 Section 978. Section **78B-6-705**, which is renumbered from Section 78-15-5 is
30694 renumbered and amended to read:
30695 **[~~78-15-5~~]. 78B-6-705. Alteration or modification of product after sale as**
30696 **substantial contributing cause -- Manufacturer or seller not liable.**
30697 For purposes of Section [~~78-27-38~~] 78B-5-818, fault shall include an alteration or
30698 modification of the product, which occurred subsequent to the sale by the manufacturer or
30699 seller to the initial user or consumer, and which changed the purpose, use, function, design, or
30700 intended use or manner of use of the product from that for which the product was originally
30701 designed, tested, or intended.
30702 Section 979. Section **78B-6-706**, which is renumbered from Section 78-15-3 is
30703 renumbered and amended to read:
30704 **[~~78-15-3~~]. 78B-6-706. Statute of limitations.**
30705 A civil action under this [~~chapter~~] part shall be brought within two years from the time
30706 the individual who would be the claimant in [~~such~~] the action discovered, or in the exercise of
30707 due diligence should have discovered, both the harm and its cause.
30708 Section 980. Section **78B-6-707**, which is renumbered from Section 78-15-7 is
30709 renumbered and amended to read:
30710 **[~~78-15-7~~]. 78B-6-707. Indemnification provisions void and unenforceable.**
30711 Any clause in a sales contract or collateral document that requires a purchaser or end
30712 user of a product to indemnify, hold harmless, or defend a manufacturer of a product [~~shall be~~]
30713 is contrary to public policy and [~~is~~] void and unenforceable if a defect in the design or
30714 manufacturing of the product causes an injury or death.
30715 Section 981. Section **78B-6-801** is enacted to read:
30716 **Part 8. Forcible Entry and Detainer**
30717 **78B-6-801. Definitions.**

30718 (1) "Commercial tenant" means any tenant who may be a body politic and corporate,
30719 partnership, association, or company.
30720 (2) "Forcible detainer" means:
30721 (a) holding and keeping by force, or by menaces and threats of violence, the possession
30722 of any real property, whether acquired peaceably or otherwise; or
30723 (b) unlawfully entering real property during the absence of the occupants or at night,
30724 and, after demand is made for the surrender of the property, refusing for a period of three days
30725 to surrender the property to the former occupant.
30726 (3) "Forcible entry" means:
30727 (a) entering any real property by:
30728 (i) breaking open doors, windows, or other parts of a house;
30729 (ii) fraud, intimidation, or stealth; or
30730 (iii) any kind of violence or circumstances of terror; or
30731 (b) after entering peaceably upon real property, turning out by force, threats, or
30732 menacing conduct the party in actual possession.
30733 (4) "Occupant of real property" means one who within five days preceding an unlawful
30734 entry was in the peaceable and undisturbed possession of the property.
30735 (5) "Owner:"
30736 (a) means the actual owner of the premises;
30737 (b) has the same meaning as landlord under common law and the statutes of this state;
30738 and
30739 (c) includes the owner's designated agent or successor to the estate.
30740 (6) "Tenant" means any natural person and any individual other than a commercial
30741 tenant.
30742 (7) "Willful exclusion" means preventing the tenant from entering into the premises
30743 with intent to deprive the tenant of entry.
30744 Section 982. Section **78B-6-802**, which is renumbered from Section 78-36-3 is
30745 renumbered and amended to read:
30746 **[~~78-36-3~~]. 78B-6-802. Unlawful detainer by tenant for term less than life.**
30747 (1) A tenant [~~of~~] holding real property[~~,~~] for a term less than life, is guilty of an
30748 unlawful detainer if the tenant:

30749 (a) [~~when he~~] continues in possession, in person or by subtenant, of the property or any
30750 part of it, after the expiration of the specified term or period for which it is let to him, which
30751 specified term or period, whether established by express or implied contract, or whether written
30752 or parol, shall be terminated without notice at the expiration of the specified term or period;
30753 (b) [~~when,~~] having leased real property for an indefinite time with monthly or other
30754 periodic rent reserved:
30755 (i) [~~he~~] continues in possession of it in person or by subtenant after the end of any
30756 month or period, in cases where the owner, [~~his~~] the owner's designated agent, or any successor
30757 in estate of the owner, 15 calendar days or more prior to the end of that month or period, has
30758 served notice requiring [~~him~~] the tenant to quit the premises at the expiration of that month or
30759 period; or
30760 (ii) in cases of tenancies at will, [~~where he~~] remains in possession of the premises after
30761 the expiration of a notice of not less than five calendar days;
30762 (c) [~~when he~~] continues in possession, in person or by subtenant, after default in the
30763 payment of any rent or other amounts due and after a notice in writing requiring in the
30764 alternative the payment of the rent and other amounts due or the surrender of the detained
30765 premises, has remained uncomplied with for a period of three calendar days after service,
30766 which notice may be served at any time after the rent becomes due;
30767 (d) [~~when he~~] assigns or sublets the leased premises contrary to the covenants of the
30768 lease, or commits or permits waste on the premises[~~, or when he~~];
30769 (e) sets up or carries on any unlawful business on or in the premises[~~, or when he~~];
30770 (f) suffers, permits, or maintains on or about the premises any nuisance, including
30771 nuisance as defined in Section [~~78-38-9, or when the tenant~~] 78B-6-1107;
30772 (g) commits a criminal act on the premises and remains in possession after service
30773 [~~upon him~~] of a three calendar days' notice to quit; or
30774 [~~(e) when he~~] (h) continues in possession, in person or by subtenant, after a neglect or
30775 failure to perform any condition or covenant of the lease or agreement under which the property
30776 is held, other than those previously mentioned, and after notice in writing requiring in the
30777 alternative the performance of the conditions or covenant or the surrender of the property,
30778 served upon [~~him~~] the tenant and upon any subtenant in actual occupation of the premises
30779 remains uncomplied with for three calendar days after service.

30780 (2) Within three calendar days after the service of the notice, the tenant, any subtenant
30781 in actual occupation of the premises, any mortgagee of the term, or other person interested in
30782 its continuance may perform the condition or covenant and thereby save the lease from
30783 forfeiture, except that if the covenants and conditions of the lease violated by the lessee cannot
30784 afterwards be performed, or the violation cannot be brought into compliance, the notice
30785 provided for in [~~Subsection~~] Subsections (1)(d) through (g) may be given.
30786 [~~(2)~~] (3) Unlawful detainer by an owner resident of a mobile home is determined under
30787 Title 57, Chapter 16, Mobile Home Park Residency Act.
30788 [~~(3)~~] (4) The notice provisions for nuisance in [~~Subsection (1)(d) are not applicable~~]
30789 Subsections (1)(d) through (g) do not apply to nuisance actions provided in Sections [~~78-38-9~~]
30790 78B-6-1107 through [~~78-38-16 only~~] 78B-6-1114.
30791 Section 983. Section **78B-6-803**, which is renumbered from Section 78-36-4 is
30792 renumbered and amended to read:
30793 **[~~78-36-4~~]. 78B-6-803. Right of tenant of agricultural lands to hold over.**
30794 In all cases of tenancy upon agricultural lands, where the tenant has held over and
30795 retained possession for more than 60 days after the expiration of [~~his~~] the term without any
30796 demand of possession or notice to quit by the owner, [~~his designated agent, or his successor in~~
30797 ~~estate, he shall be deemed to be held~~] the tenant shall be considered to be in possession by
30798 permission of the owner[~~, his designated agent, or his successor in estate, and~~]. The tenant
30799 shall be entitled to hold under the terms of the lease for another full year[~~,~~] and [~~shall~~] may not
30800 be guilty of an unlawful detainer during that year[~~; and the~~]. The holding over for the 60-day
30801 period shall be taken and construed as a consent on the part of the tenant to hold for another
30802 year.
30803 Section 984. Section **78B-6-804**, which is renumbered from Section 78-36-5 is
30804 renumbered and amended to read:
30805 **[~~78-36-5~~]. 78B-6-804. Remedies available to tenant against undertenant.**
30806 A tenant may take proceedings similar to those prescribed in this [~~chapter~~] part to
30807 obtain possession of [~~the~~] premises let to an undertenant in case of [~~his~~] the undertenant's
30808 unlawful detention of the premises [~~underlet to him~~].
30809 Section 985. Section **78B-6-805**, which is renumbered from Section 78-36-6 is
30810 renumbered and amended to read:

30811 **[~~78-36-6~~]. 78B-6-805. Notice to quit -- How served.**
30812 [~~(1) For purposes of this section:~~]
30813 [~~(a) "Commercial tenant" means any tenant who may be a body politic and corporate,~~
30814 ~~partnership, association, or company.~~]
30815 [~~(b) "Tenant" means any natural person and any individual other than a commercial~~
30816 ~~tenant.~~]
30817 [~~(2)~~] (1) The notices required by [~~Title 78, Chapter 36, Forcible Entry and Detainer,~~]
30818 this part may be served:
30819 (a) by delivering a copy to the tenant personally or, if the tenant is a commercial tenant,
30820 by delivering a copy to the commercial tenant's usual place of business by leaving a copy of the
30821 notice with a person of suitable age and discretion;
30822 (b) by sending a copy through registered or certified mail addressed to the tenant at [~~his~~
30823 ~~place of~~] the tenant's residence or, if the tenant is a commercial tenant, by sending a copy
30824 through registered or certified mail addressed to the commercial tenant's usual place of
30825 business;
30826 (c) if [~~he~~] the tenant is absent from [~~his place of~~] the residence or [~~from his~~] usual place
30827 of business, by leaving a copy with a person of suitable age and discretion at either place and
30828 mailing a copy to the tenant at the [~~address of his place of~~] tenant's residence or place of
30829 business;
30830 (d) if a person of suitable age or discretion cannot be found at the place of residence,
30831 then by affixing a copy in a conspicuous place on the leased property; or
30832 (e) if an order of abatement by eviction of the nuisance is issued by the court as
30833 provided in Section [~~78-38-11~~] 78B-6-1109, when issued, the parties present shall be on notice
30834 that the abatement by eviction order is issued and immediately effective or as to any absent
30835 party, notice shall be given as provided in Subsections [~~(2)~~] (1)(a) through (e).
30836 [~~(3)~~] (2) Service upon a subtenant may be made in the same manner as provided in
30837 Subsection [~~(2)~~] (1).
30838 Section 986. Section **78B-6-806**, which is renumbered from Section 78-36-7 is
30839 renumbered and amended to read:
30840 **[~~78-36-7~~]. 78B-6-806. Necessary parties defendant.**
30841 (1) No person other than the tenant of the premises, a lease signer, and subtenant if

30842 there is one in the actual occupation of the premises when the action is commenced, [~~shall~~]
30843 may be made a party defendant in the proceeding, except as provided in Section [~~78-38-13, nor~~
30844 ~~shall any~~] 78B-6-1111. A proceeding may not abate, nor the plaintiff be nonsuited, for the
30845 nonjoinder of any person who might have been made a party defendant[~~; but when~~]. If it
30846 appears that any of the parties served with process or appearing in the proceedings are guilty,
30847 judgment shall be rendered against those parties.
30848 (2) If a person has become a subtenant of the premises in controversy after the service
30849 of any notice as provided in this [~~chapter~~] part, the fact that [~~such~~] the notice was not served on
30850 the subtenant is not a defense to the action. All persons who enter under the tenant after the
30851 commencement of the action shall be bound by the judgment the same as if they had been made
30852 parties to the action.
30853 (3) A landlord, owner, or designated agent is a necessary party defendant only in an
30854 abatement by eviction action for an unlawful drug house as provided in Section [~~78-38-13~~]
30855 78B-6-1111.
30856 Section 987. Section **78B-6-807**, which is renumbered from Section 78-36-8 is
30857 renumbered and amended to read:
30858 **[~~78-36-8~~]. 78B-6-807. Allegations permitted in complaint -- Time for**
30859 **appearance -- Service of summons.**
30860 (1) The plaintiff, in his complaint[~~, in addition to setting~~]:
30861 (a) shall set forth the facts on which he seeks to recover[~~,~~];
30862 (b) may set forth any circumstances of fraud, force, or violence which may have
30863 accompanied the alleged forcible entry, or forcible or unlawful detainer[~~,~~]; and
30864 (c) claim damages [~~therefor~~] or compensation for the occupation of the premises, or
30865 both.
30866 (2) If the unlawful detainer charged is after default in the payment of rent, the
30867 complaint shall state the amount of rent due.
30868 (3) A judge, court clerk, or plaintiff's counsel shall [~~indorse~~] endorse on the summons
30869 the number of days within which the defendant is required to appear and defend the action,
30870 which shall be three business days from the date of service, unless the court determines that the
30871 facts of the case should allow more time.
30872 (4) The court may authorize service by publication or mail for cause shown.

30873 (5) Service by publication is complete one week after publication.
30874 (6) Service by mail is complete three days after mailing.
30875 (7) The summons shall be changed in form to conform to the time of service as
30876 ordered, and shall be served as in other cases.
30877 Section 988. Section **78B-6-808**, which is renumbered from Section 78-36-8.5 is
30878 renumbered and amended to read:
30879 **[~~78-36-8.5~~]. 78B-6-808. Possession bond of plaintiff -- Alternative remedies.**
30880 (1) At any time between the filing of [~~his~~] the complaint and the entry of final
30881 judgment, the plaintiff may execute and file a possession bond. The bond may be in the form
30882 of a corporate bond, a cash bond, certified funds, or a property bond executed by two persons
30883 who own real property in the state and who are not parties to the action.
30884 (2) The court shall approve the bond in an amount [~~that~~] which is the probable amount
30885 of costs of suit and damages which may result to the defendant if the suit has been improperly
30886 instituted. The bond shall be payable to the clerk of the court for the benefit of the defendant
30887 for all costs and damages actually adjudged against the plaintiff.
30888 (3) The plaintiff shall notify the defendant [~~that he has filed a~~] of the possession bond.
30889 This notice shall be served in the same manner as service of summons and shall inform the
30890 defendant of all of the alternative remedies and procedures under Subsection [~~(2)~~] (4).
30891 [~~(2)~~] (4) The following are alternative remedies and procedures applicable to an action
30892 if the plaintiff files a possession bond under [~~Subsection~~] Subsections (1) through (3):
30893 (a) With respect to an unlawful detainer action based solely upon nonpayment of rent
30894 or other amounts due, the existing contract shall remain in force and the complaint shall be
30895 dismissed if the defendant, within three calendar days of the service of the notice of the
30896 possession bond, pays accrued rent, all other amounts due, and other costs, including attorney
30897 fees, as provided in the rental agreement.
30898 (b) (i) The defendant may remain in possession if he executes and files a counter bond
30899 in the form of a corporate bond, a cash bond, certified funds, or a property bond executed by
30900 two persons who own real property in the state and who are not parties to the action.
30901 (ii) The form of the bond is at the defendant's option.
30902 (iii) The bond shall be payable to the clerk of the court.
30903 (iv) The defendant shall file the bond prior to the later of the expiration of three

30904 business days from the date he is served with notice of the filing of plaintiff's possession bond
30905 or within 24 hours after the court sets the bond amount.
30906 (v) Notwithstanding Subsection [~~(2)~~] (4)(b)(iv), the court may allow a period of up to
30907 72 hours for the posting of the counter bond.
30908 (vi) The court shall approve the bond in an amount [~~that~~] which is the probable amount
30909 of costs of suit, including attorney fees and actual damages [~~that~~] which may result to the
30910 plaintiff if the defendant has improperly withheld possession.
30911 (vii) The court shall consider prepaid rent to the owner as a portion of the defendant's
30912 total bond.
30913 (c) If the defendant demands, within three days of being served with notice of the filing
30914 of plaintiff's possession bond, the defendant shall be granted a hearing within three days of the
30915 defendant's demand.
30916 [~~(3)~~] (5) If the defendant does not elect and comply with a remedy under Subsection
30917 [~~(2)~~] (4) within the required time, the plaintiff, upon ex parte motion, shall be granted an order
30918 of restitution. A constable or the sheriff of the county where the property is situated shall
30919 return possession of the property to the plaintiff promptly.
30920 [~~(4)~~] (6) If the defendant demands a hearing under Subsection [~~(2)~~] (4)(c), and if the
30921 court rules after the hearing that the plaintiff is entitled to possession of the property, the
30922 constable or sheriff shall promptly return possession of the property to the plaintiff. If at the
30923 hearing the court allows the defendant to remain in possession and further issues remain to be
30924 adjudicated between the parties, the court shall require the defendant to post a bond as required
30925 in Subsection [~~(2)~~] (4)(b) and shall expedite all further proceedings, including beginning the
30926 trial no later than 30 days from the posting of the plaintiff's bond, unless the parties otherwise
30927 agree.
30928 (7) If at the hearing the court rules that all issues between the parties can be adjudicated
30929 without further court proceedings, the court shall, upon adjudicating those issues, enter
30930 judgment on the merits.
30931 Section 989. Section **78B-6-809**, which is renumbered from Section 78-36-9 is
30932 renumbered and amended to read:
30933 **[~~78-36-9~~]. 78B-6-809. Proof required of plaintiff -- Defense.**
30934 (1) On the trial of any proceeding for any forcible entry or forcible detainer the plaintiff

30935 shall only be required to show, in addition to the forcible entry or forcible detainer complained
30936 of, that he was peaceably in the actual possession at the time of the forcible entry, or was
30937 entitled to the possession at the time of the forcible detainer. [~~The~~]
30938 (2) In defense, the defendant may show [~~in his defense~~] that he or his ancestors, or
30939 those whose interest in [~~such~~] the premises he claims, had been in the quiet possession
30940 [~~thereof~~] of the property for the space of one [~~whole~~] entire year continuously [~~next~~] before the
30941 commencement of the proceedings, and that his interest [~~therein~~] is not [~~then~~] ended or
30942 determined[~~;~~], and [~~such~~] that this showing is a bar to the proceedings.
30943 Section 990. Section **78B-6-810**, which is renumbered from Section 78-36-9.5 is
30944 renumbered and amended to read:
30945 **[~~78-36-9.5~~]. 78B-6-810. Court procedures.**
30946 (1) In an action under this chapter in which the tenant remains in possession of the
30947 property:
30948 (a) the court shall expedite the proceedings, including the resolution of motions and
30949 trial;
30950 (b) the court shall begin the trial within 60 days after the day on which the complaint is
30951 served, unless the parties agree otherwise; and
30952 (c) if this chapter requires a hearing to be held within a specified time, the time may be
30953 extended to the first date thereafter on which a judge is available to hear the case in a
30954 jurisdiction in which a judge is not always available.
30955 (2) (a) In an action for unlawful detainer where the claim is for nonpayment of rent, the
30956 court shall hold an evidentiary hearing, upon request of either party, within ten days after the
30957 day on which the defendant files the defendant's answer.
30958 (b) At the evidentiary hearing held in accordance with Subsection (2)(a):
30959 (i) the court shall determine who has the right of occupancy during the litigation's
30960 pendency; and
30961 (ii) if the court determines that all issues between the parties can be adjudicated
30962 without further proceedings, the court shall adjudicate those issues and enter judgment on the
30963 merits.
30964 (3) (a) In an action for unlawful detainer in which the claim is for nuisance and alleges
30965 an act that would be considered criminal under the laws of this state, the court shall hold an

30966 evidentiary hearing within ten days after the day on which the complaint is filed to determine
30967 whether the alleged act occurred.
30968 (b) The hearing required by Subsection (3)(a) shall be set at the time the complaint is
30969 filed and notice of the hearing shall be served upon the defendant with the summons at least
30970 three calendar days before the scheduled time of the hearing.
30971 (c) If the court, at an evidentiary hearing held in accordance with Subsection (3)(a),
30972 determines that it is more likely than not that the alleged act occurred, the court shall issue an
30973 order of restitution.
30974 (d) If an order of restitution is issued in accordance with Subsection (3)(c), a constable
30975 or the sheriff of the county where the property is situated shall return possession of the property
30976 to the plaintiff immediately.
30977 (e) The court may allow a period of up to 72 hours before restitution may be made
30978 under Subsection (3)(d) if the court determines the time is appropriate under the circumstances.
30979 (f) At the evidentiary hearing held in accordance with Subsection (3)(a), if the court
30980 determines that all issues between the parties can be adjudicated without further proceedings,
30981 the court shall adjudicate those issues and enter judgment on the merits.
30982 (g) "An act that would be considered criminal under the laws of this state" under
30983 Subsection (3)(a) includes only the following:
30984 (i) an act that would be considered a felony under the laws of this state;
30985 (ii) an act that would be considered criminal affecting the health or safety of a tenant,
30986 the landlord, the landlord's agent, or other person on the landlord's property;
30987 (iii) an act that would be considered criminal that causes damage or loss to any tenant's
30988 property or the landlord's property;
30989 (iv) a drug- or gang-related act that would be considered criminal;
30990 (v) an act or threat of violence against any tenant or other person on the premises, or
30991 against the landlord or the landlord's agent; and
30992 (vi) any other act that would be considered criminal that the court determines directly
30993 impacts the peaceful enjoyment of the premises by any tenant.
30994 (4) (a) At any hearing held in accordance with this chapter in which the tenant after
30995 receiving notice fails to appear, the court shall issue an order of restitution.
30996 (b) If an order of restitution is issued in accordance with Subsection (4)(a), a constable

30997 or the sheriff of the county where the property is situated shall return possession of the property
30998 to the plaintiff immediately.
30999 (5) A court adjudicating matters under this chapter may make other orders as are
31000 appropriate and proper.
31001 Section 991. Section **78B-6-811**, which is renumbered from Section 78-36-10 is
31002 renumbered and amended to read:
31003 **[~~78-36-10~~]. 78B-6-811. Judgment for restitution, damages, and rent --**
31004 **Immediate enforcement -- Treble damages.**
31005 (1) (a) A judgment may be entered upon the merits or upon default.
31006 (b) A judgment entered in favor of the plaintiff shall include an order for the restitution
31007 of the premises as provided in Section [~~78-36-10.5~~] 78B-6-812.
31008 (c) If the proceeding is for unlawful detainer after neglect or failure to perform any
31009 condition or covenant of the lease or agreement under which the property is held, or after
31010 default in the payment of rent, the judgment shall also declare the forfeiture of the lease or
31011 agreement.
31012 (d) (i) A forfeiture under Subsection (1)(c) does not release a defendant from any
31013 obligation for payments on a lease for the remainder of the lease's term.
31014 (ii) Subsection (1)(d)(i) does not change any obligation on either party to mitigate
31015 damages.
31016 (2) The jury or the court, if the proceeding is tried without a jury or upon the
31017 defendant's default, shall also assess the damages resulting to the plaintiff from any of the
31018 following:
31019 (a) forcible entry;
31020 (b) forcible or unlawful detainer;
31021 (c) waste of the premises during the defendant's tenancy, if waste is alleged in the
31022 complaint and proved at trial;
31023 (d) the amounts due under the contract, if the alleged unlawful detainer is after default
31024 in the payment of amounts due under the contract; and
31025 (e) the abatement of the nuisance by eviction as provided in Sections [~~78-38-9~~]
31026 78B-6-1107 through [~~78-38-16~~] 78B-6-1114.
31027 (3) The judgment shall be entered against the defendant for the rent, for three times the

31028 amount of the damages assessed under Subsections (2)(a) through (2)(e), and for reasonable
31029 attorney fees.
31030 (4) (a) If the proceeding is for unlawful detainer, execution upon the judgment shall be
31031 issued immediately after the entry of the judgment.
31032 (b) In all cases, the judgment may be issued and enforced immediately.
31033 Section 992. Section **78B-6-812**, which is renumbered from Section 78-36-10.5 is
31034 renumbered and amended to read:
31035 **[~~78-36-10.5~~]. 78B-6-812. Order of restitution -- Service -- Enforcement --**
31036 **Disposition of personal property -- Hearing.**
31037 (1) Each order of restitution shall:
31038 (a) direct the defendant to vacate the premises, remove his personal property, and
31039 restore possession of the premises to the plaintiff, or be forcibly removed by a sheriff or
31040 constable;
31041 (b) advise the defendant of the time limit set by the court for the defendant to vacate
31042 the premises, which shall be three calendar days following service of the order, unless the court
31043 determines that a longer or shorter period is appropriate under the circumstances; and
31044 (c) advise the defendant of the defendant's right to a hearing to contest the manner of
31045 its enforcement.
31046 (2) (a) A copy of the order of restitution and a form for the defendant to request a
31047 hearing as listed on the form shall be served in accordance with Section [~~78-36-6~~] 78B-6-805
31048 by a person authorized to serve process pursuant to Subsection [~~78-12a-2~~] 78B-8-302(1). If
31049 personal service is impossible or impracticable, service may be made by:
31050 (i) mailing a copy of the order and the form to the defendant's last-known address and
31051 posting a copy of the order and the form at a conspicuous place on the premises; or
31052 (ii) mailing a copy of the order and the form to the commercial tenant defendant's
31053 last-known place of business and posting a copy of the order and the form at a conspicuous
31054 place on the business premises.
31055 (b) A request for hearing by the defendant may not stay enforcement of the restitution
31056 order unless:
31057 (i) the defendant furnishes a corporate bond, cash bond, certified funds, or a property
31058 bond to the clerk of the court in an amount approved by the court according to the formula set

31059 forth in Subsection [~~78-36-8.5(2)(b)~~] 78B-6-808(4)(b); and
31060 (ii) the court orders that the restitution order be stayed.
31061 (c) The date of service, the name, title, signature, and telephone number of the person
31062 serving the order and the form shall be legibly endorsed on the copy of the order and the form
31063 served on the defendant.
31064 (d) The person serving the order and the form shall file proof of service in accordance
31065 with Rule 4(e), Utah Rules of Civil Procedure.
31066 (3) (a) If the defendant fails to comply with the order within the time prescribed by the
31067 court, a sheriff or constable at the plaintiff's direction may enter the premises by force using the
31068 least destructive means possible to remove the defendant.
31069 (b) Any personal property of the defendant may be removed from the premises by the
31070 sheriff or constable and transported to a suitable location for safe storage. The sheriff or
31071 constable may delegate responsibility for storage to the plaintiff, who shall store the personal
31072 property in a suitable place and in a reasonable manner.
31073 (c) The personal property removed and stored shall be inventoried by the sheriff or
31074 constable or the plaintiff who shall keep the original inventory and personally deliver or mail
31075 the defendant a copy of the inventory immediately after the personal property is removed.
31076 (4) (a) After demand made by the defendant within 30 days of removal of personal
31077 property from the premises, the sheriff or constable or the plaintiff shall promptly return all of
31078 the defendant's personal property upon payment of the reasonable costs incurred for its removal
31079 and storage.
31080 (b) The person storing the personal property may sell the property remaining in storage
31081 at a public sale if:
31082 (i) the defendant does not request a hearing or demand return of the personal property
31083 within 30 days of its removal from the premises; or
31084 (ii) the defendant fails to pay the reasonable costs incurred for the removal and storage
31085 of the personal property.
31086 (c) In advance of the sale, the person storing the personal property shall mail to the
31087 defendant's last-known address a written notice of the time and place of the sale.
31088 (d) If the defendant is present at the sale, he may specify the order in which the
31089 personal property shall be sold, and only so much personal property shall be sold as to satisfy

31090 the costs of removal, storage, advertising, and conducting the sale. The remainder of the
31091 personal property, if any, shall be released to the defendant. If the defendant is not present at
31092 the sale, the proceeds, after deduction of the costs of removal, storage, advertising, and
31093 conducting the sale shall be paid to the plaintiff up to the amount of any judgment the plaintiff
31094 obtained against the defendant. Any surplus shall be paid to the defendant, if the defendant's
31095 whereabouts are known. If the defendant's whereabouts are not known, any surplus shall be
31096 disposed of in accordance with Title 67, Chapter 4a, Unclaimed Property Act.
31097 (e) The plaintiff may donate the property to charity if:
31098 (i) the defendant does not request a hearing or demand return of the personal property
31099 within 30 days of its removal from the premises; or
31100 (ii) the defendant fails to pay the reasonable costs incurred for the removal and storage
31101 of the personal property; and
31102 (iii) the donation is a commercially reasonable alternative.
31103 (f) If the property belonging to a person who is not a defendant is removed and stored
31104 in accordance with this section, that person may claim the property by delivering a written
31105 demand for its release to the sheriff or constable or the plaintiff. If the claimant provides
31106 proper identification and evidence of ownership, the sheriff or constable or the plaintiff shall
31107 promptly release the property at no cost to the claimant.
31108 (5) In the event of a dispute concerning the manner of enforcement of the restitution
31109 order, the defendant or any person claiming to own stored personal property may file a request
31110 for a hearing. The court shall set the matter for hearing within ten calendar days from the filing
31111 of the request, or as soon thereafter as practicable, and shall mail notice of the hearing to the
31112 parties.
31113 (6) The Judicial Council shall draft the forms necessary to implement this section.
31114 Section 993. Section **78B-6-813**, which is renumbered from Section 78-36-11 is
31115 renumbered and amended to read:
31116 **[~~78-36-11~~]. 78B-6-813. Time for appeal.**
31117 (1) Except as provided in Subsection (2), either party may, within ten days, appeal from
31118 the judgment rendered.
31119 (2) In a nuisance action under Sections [~~78-38-9~~] 78B-6-1107 through [~~78-38-16~~]
31120 78B-6-1114, any party may appeal from the judgment rendered within three days.

31121 Section 994. Section **78B-6-814**, which is renumbered from Section 78-36-12 is
31122 renumbered and amended to read:
31123 **[~~78-36-12~~]. 78B-6-814. Exclusion of tenant without judicial process prohibited**
31124 **-- Abandoned premises excepted.**
31125 It is unlawful for an owner to willfully exclude a tenant from the tenant's premises in
31126 any manner except by judicial process, provided, an owner or his agent shall not be prevented
31127 from removing the contents of the leased premises under Subsection [~~78-36-12.6~~]
31128 78B-6-816(2) and retaking the premises and attempting to rent them at a fair rental value when
31129 the tenant has abandoned the premises.
31130 Section 995. Section **78B-6-815**, which is renumbered from Section 78-36-12.3 is
31131 renumbered and amended to read:
31132 **[~~78-36-12.3~~]. 78B-6-815. Abandonment.**
31133 [~~(1) "Willful exclusion" means preventing the tenant from entering into the premises~~
31134 ~~with intent to deprive the tenant of such entry.~~]
31135 [~~(2) "Owner" means the actual owner of the premises and shall also have the same~~
31136 ~~meaning as landlord under common law and the statutes of this state.~~]
31137 [~~(3)~~] "Abandonment" is presumed in either of the following situations:
31138 [~~(a)~~] (1) The tenant has not notified the owner that he or she will be absent from the
31139 premises, and the tenant fails to pay rent within 15 days after the due date, and there is no
31140 reasonable evidence other than the presence of the tenant's personal property that the tenant is
31141 occupying the premises[~~; or~~].
31142 [~~(b)~~] (2) The tenant has not notified the owner that he or she will be absent from the
31143 premises, and the tenant fails to pay rent when due and the tenant's personal property has been
31144 removed from the dwelling unit and there is no reasonable evidence that the tenant is
31145 occupying the premises.
31146 Section 996. Section **78B-6-816**, which is renumbered from Section 78-36-12.6 is
31147 renumbered and amended to read:
31148 **[~~78-36-12.6~~]. 78B-6-816. Abandoned premises -- Retaking and rerenting**
31149 **by owner -- Liability of tenant -- Personal property of tenant left on premises.**
31150 (1) In the event of abandonment, the owner may retake the premises and attempt to rent
31151 them at a fair rental value and the tenant who abandoned the premises shall be liable:

31152 (a) for the entire rent due for the remainder of the term; or
31153 (b) for rent accrued during the period necessary to rerent the premises at a fair rental
31154 value, plus the difference between the fair rental value and the rent agreed to in the prior rental
31155 agreement, plus a reasonable commission for the renting of the premises and the costs, if any,
31156 necessary to restore the rental unit to its condition when rented by the tenant less normal wear
31157 and tear. This Subsection (1) applies, if less than Subsection (1)(a), notwithstanding that the
31158 owner did not rerent the premises.
31159 (2) (a) If the tenant has abandoned the premises and has left personal property on the
31160 premises, the owner is entitled to remove the property from the dwelling, store it for the tenant,
31161 and recover actual moving and storage costs from the tenant.
31162 (b) (i) The owner shall make reasonable efforts to notify the tenant of the location of the
31163 personal property.
31164 (ii) If the property has been in storage for over 30 days and the tenant has made no
31165 reasonable effort to recover it, the owner may:
31166 (A) sell the property and apply the proceeds toward any amount the tenant owes; or
31167 (B) donate the property to charity if the donation is a commercially reasonable
31168 alternative.
31169 (c) Any money left over from the sale of the property shall be handled as specified in
31170 Title 67, Chapter 4a, Part 2, Standards for Determining When Property is Abandoned or
31171 Unclaimed.
31172 (d) Nothing contained in this act shall be in derogation of or alter the owner's rights
31173 under Title 38, Chapter 3, Lessors' Liens.
31174 Section 997. Section **78B-6-901**, which is renumbered from Section 78-37-1 is
31175 renumbered and amended to read:
31176 **Part 9. Mortgage Foreclosure**
31177 **[~~78-37-1~~]. 78B-6-901. Form of action -- Judgment -- Special execution.**
31178 [~~There can be but one action for the recovery of any debt or the enforcement of any~~
31179 ~~right secured solely by mortgage upon real estate which action must be in accordance with the~~
31180 ~~provisions of this chapter. Judgment shall be given adjudging~~]
31181 (1) Recovery and enforcement of rights secured by a mortgage on real property may
31182 only be pursued according to the provisions of this part.

31183 (2) A judgment shall include:
31184 (a) the amount due, with costs and disbursements[~~, and~~];
31185 (b) an order for the sale of mortgaged property, or [~~some part thereof,~~] a portion of it to
31186 satisfy [~~said~~] the amount and accruing costs[~~, and directing~~];
31187 (c) direction to the sheriff to proceed and sell the [~~same~~] property according to the
31188 provisions of law relating to sales on execution[~~;~~]; and
31189 (d) a special execution or order of sale shall be issued for that purpose.
31190 Section 998. Section **78B-6-902**, which is renumbered from Section 78-37-2 is
31191 renumbered and amended to read:
31192 **[~~78-37-2~~]. 78B-6-902. Deficiency judgment -- Execution.**
31193 If it appears [~~from the return of the officer making the sale~~] that the proceeds of the sale
31194 are insufficient and a balance still remains due, the judgment [~~therefor must then~~] shall be
31195 docketed by the clerk and execution may be issued for [~~such~~] the balance as in other cases[~~; but~~
31196 ~~no~~]. A general execution [~~shall issue~~] may not be issued until after the sale of the mortgaged
31197 property and the application of the amount realized [~~as aforesaid~~] to the preceding judgment.
31198 Section 999. Section **78B-6-903**, which is renumbered from Section 78-37-3 is
31199 renumbered and amended to read:
31200 **[~~78-37-3~~]. 78B-6-903. Necessary parties -- Unrecorded rights barred.**
31201 [~~No~~] A person holding a conveyance from or under the mortgagor [~~of the property~~
31202 ~~mortgaged,~~] or having a lien [~~thereon, which conveyance or lien does not appear of record~~] on
31203 the property, neither of which is properly documented or recorded in the proper office at the
31204 time of the commencement of the action, [~~need~~] is not required to be made a party to [~~such~~] the
31205 action[~~, and the judgment therein rendered, and the proceedings therein had, are as~~]. The
31206 proceedings and any judgment rendered are conclusive against the party holding [~~such~~] the
31207 unrecorded conveyance or lien as if [~~he~~] the person had been made a party to the action.
31208 Section 1000. Section **78B-6-904**, which is renumbered from Section 78-37-4 is
31209 renumbered and amended to read:
31210 **[~~78-37-4~~]. 78B-6-904. Sales -- Disposition of surplus moneys.**
31211 If there is surplus money remaining after payment of the amount due on the mortgage,
31212 lien or encumbrance, with costs, the court may [~~cause~~] order the [~~same to be~~] amount paid to
31213 the person entitled to it[~~, and in~~]. In the meantime the court may direct it to be deposited [~~in~~]

31214 with the court.
31215 Section 1001. Section **78B-6-905**, which is renumbered from Section 78-37-5 is
31216 renumbered and amended to read:
31217 **[~~78-37-5~~]. 78B-6-905. Sales -- When debt due in installments.**
31218 If the debt for which the mortgage, lien, or encumbrance is held is not all due, then as
31219 soon as sufficient of the property has been sold to pay the amount due, with costs, the sale must
31220 cease[~~, and afterwards, as~~]. As often as more becomes due on principal or interest, the court
31221 may, on motion, order more to be sold. [~~But if~~] If the property cannot be sold in portions
31222 without injury to the parties, the [~~whole~~] entire parcel may be ordered [~~to be~~] sold [~~in the first~~
31223 ~~instance,~~] and the entire debt and costs paid[~~, but there~~]. There shall be a rebate of interest
31224 where [~~such~~] a rebate is proper.
31225 Section 1002. Section **78B-6-906**, which is renumbered from Section 78-37-6 is
31226 renumbered and amended to read:
31227 **[~~78-37-6~~]. 78B-6-906. Right of redemption -- Sales by parcels -- Of land and**
31228 **water stock.**
31229 (1) Sales of real estate under judgments of foreclosure of mortgages and liens are
31230 subject to redemption as in case of sales under executions generally.
31231 (2) In all cases where the judgment directs the sale of land, together with shares of
31232 corporate stock evidencing title to a water right used [~~or~~], intended to be used, or suitable for
31233 use, on the land, the court shall equitably apportion [~~such~~] the water stock to the land[~~, or some~~
31234 ~~part thereof, in one or more parcels, as it may deem suitable for the sale thereof, and the~~]. If the
31235 court divides the land into individual parcels for sale, the water stock may also be divided and
31236 applied to each parcel. The land and water stock in each parcel shall be sold together, and for
31237 the purpose of [~~such~~] the sale shall be regarded as real estate and subject to redemption as
31238 [~~above~~] previously specified.
31239 (3) In all sales of real estate under foreclosure the court may determine the parcels and
31240 the order in which [~~such~~] the parcels of property shall be sold.
31241 Section 1003. Section **78B-6-907**, which is renumbered from Section 78-37-8 is
31242 renumbered and amended to read:
31243 **[~~78-37-8~~]. 78B-6-907. Restraining possessor from injuring property.**
31244 The court or judge may [~~by injunction, on~~] upon a showing of good cause [~~shown,~~

31245 ~~restrain~~] enjoin the party in possession of the property from doing any act to [~~the injury of real~~]
31246 injure the property during the foreclosure of a mortgage [~~thereon~~] on it, or after a sale on
31247 execution.
31248 Section 1004. Section **78B-6-908**, which is renumbered from Section 78-37-9 is
31249 renumbered and amended to read:
31250 **[~~78-37-9~~]. 78B-6-908. Attorney fees.**
31251 (1) In all cases of foreclosure when an attorney's fee is claimed by the plaintiff, the
31252 amount [~~thereof~~] shall be fixed by the court[~~, any stipulation to the contrary notwithstanding;~~
31253 ~~provided, no~~]. No other or greater amount shall be allowed or decreed than the sum which
31254 shall appear by the evidence to be actually charged by and to be paid to the attorney for the
31255 plaintiff.
31256 (2) If it shall appear that there is an agreement or understanding to divide [~~such~~] the
31257 fees between the plaintiff and his attorney, or between the attorney and any other person except
31258 an attorney associated with him in the cause, [~~only~~] the defendant shall only be ordered to pay
31259 the amount to be retained by the attorney or attorneys [~~shall be decreed as against the~~
31260 ~~defendant~~].
31261 Section 1005. Section **78B-6-909**, which is renumbered from Section 78-37-1.5 is
31262 renumbered and amended to read:
31263 **[~~78-37-1.5~~]. 78B-6-909. Environmental impairment to real property security**
31264 **interest -- Remedies of lender.**
31265 (1) As used in this section:
31266 (a) "Borrower" means:
31267 (i) the trustor under a deed of trust, or a mortgagor under a mortgage, when the deed of
31268 trust or mortgage encumbers real property security and secures the performance of the trustor
31269 or mortgagor under a loan, extension of credit, guaranty, or other obligation; and
31270 (ii) includes any successor-in-interest of the trustor or mortgagor to the real property
31271 security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed
31272 upon.
31273 (b) "Environmentally impaired" means the estimated costs to clean up and remediate a
31274 past or present release of any hazardous matter into, onto, beneath, or from the real property
31275 security exceed 25% of the higher of the aggregate fair market value of all security for the loan

31276 or extension of credit at the time:
31277 (i) of the making of the loan or extension of credit;
31278 (ii) of the discovery of the release or threatened release by the secured lender; or
31279 (iii) an action is brought under this section.
31280 (c) "Hazardous matter" means:
31281 (i) any hazardous substance or hazardous material as defined in Section 19-6-302; or
31282 (ii) any waste or pollutant as defined in Section 19-5-102.
31283 (d) "Real property security" means any real property and improvements other than real
31284 property that contains only one but not more than four dwelling units, and is solely used for
31285 either:
31286 (i) residential purposes; or
31287 (ii) if reasonably contemplated by the parties to the deed of trust or mortgage,
31288 residential purposes as well as limited agricultural or commercial purposes incidental to the
31289 residential purposes.
31290 (e) "Release" has the same meaning as in Section 19-6-302.
31291 (f) "Secured lender" means:
31292 (i) the trustee, the beneficiary, or both under a deed of trust against the real property
31293 security;
31294 (ii) the mortgagee under a mortgage against the real property security; and
31295 (iii) any successor-in-interest of the trustee, beneficiary, or mortgagee under the deed of
31296 trust or mortgage.
31297 (2) Under this section:
31298 (a) Estimated costs to clean up and remediate the contamination caused by the release
31299 include only those costs that would be incurred reasonably and in good faith.
31300 (b) Fair market value is determined without giving consideration to the release, and is
31301 exclusive of the amount of all liens and encumbrances against the security that are senior in
31302 priority to the lien of the secured lender.
31303 (c) Any real property security for any loan or extension of credit secured by a single
31304 parcel of real property is considered environmentally impaired if the property is:
31305 (i) included in or proposed for the National Priorities List under Section 42 U.S.C.
31306 9605;

31307 (ii) any list identifying leaking underground storage tanks under 42 U.S.C. 6991 et
31308 seq.; or
31309 (iii) in any list published by the Department of Environmental Quality under Section
31310 19-6-311.
31311 (3) A secured lender may elect between the following when the real property security is
31312 environmentally impaired and the borrower's obligations to the secured lender are in default:
31313 (a) (i) waiver of its lien against:
31314 (A) any parcel of real property security or any portion of that parcel that is
31315 environmentally impaired; and
31316 (B) all or any portion of the fixtures and personal property attached to the parcels; and
31317 (ii) exercise of:
31318 (A) the rights and remedies of an unsecured creditor, including reduction of its claim
31319 against the borrower to judgment; and
31320 (B) any other rights and remedies permitted by law; or
31321 (b) exercise of:
31322 (i) the rights and remedies of a creditor secured by a deed of trust or mortgage and, if
31323 applicable, a lien against fixtures or personal property attached to the real property security; and
31324 (ii) any other rights and remedies permitted by law, including the right to obtain a
31325 deficiency judgment.
31326 (c) The provisions of this subsection take precedence over Section [~~78-37-1~~]
31327 78B-6-901.
31328 (4) (a) Subsection (3) is applicable only if in conjunction with and at the time of the
31329 making, renewal, or modification of the loan, extension of credit, guaranty, or other obligation
31330 secured by the real property security, the secured lender:
31331 (i) did not know or have reason to know of a release of any hazardous matter into, onto,
31332 beneath, or from the real property security; and
31333 (ii) undertook all appropriate inquiry into the previous ownership and uses of the real
31334 property security consistent with good commercial or customary practice in an effort to
31335 minimize liability.
31336 (b) For the purposes of Subsection (4)(a)(ii), the court shall take into account:
31337 (i) any specialized knowledge or experience of the secured lender;

31338 (ii) the relationship of the purchase price to the value of the real property security if
31339 uncontaminated;
31340 (iii) commonly known or reasonably ascertainable information about the real property
31341 security;
31342 (iv) the obviousness of the presence or likely presence of contamination at the real
31343 property security; and
31344 (v) the ability to detect the contamination by appropriate inspection.
31345 (5) (a) Before the secured lender may waive its lien against any real property security
31346 under Subsection (3)(a) on the basis of environmental impairment the secured lender shall:
31347 (i) provide written notice of the default to the borrower; and
31348 (ii) bring a valuation and confirmation action against the borrower in a court of
31349 competent jurisdiction and obtain an order establishing the value of the subject real property
31350 security.
31351 (b) The complaint in an action under Subsection (5)(a)(ii) may include causes of action
31352 for a money judgment for all or part of the secured obligation, in which case the waiver of the
31353 secured lender's liens under Subsection (3)(a) may result only if a final money judgment is
31354 obtained against the borrower.
31355 (6) (a) If a secured lender elects the rights and remedies under Subsection (3)(a) and the
31356 borrower's obligations are also secured by other real property security, fixtures, or personal
31357 property, the secured lender shall first foreclose against the additional collateral to the extent
31358 required by applicable law.
31359 (b) Under this subsection the amount of the judgment of the secured lender under
31360 Subsection (3)(a) is limited to the remaining balance of the borrower's obligations after the
31361 application of the proceeds of the additional collateral.
31362 (c) The borrower may waive or modify the foreclosure requirements of this Subsection
31363 (6) if the waiver or modification is in writing and signed by the borrower after default.
31364 (7) This section does not affect any rights or obligations arising under contracts
31365 existing before July 1, 1993, and applies only to loans, extensions of credit, guaranties, or other
31366 obligations secured by real property security made, renewed, or modified on or after July 1,
31367 1993.
31368 Section 1006. Section **78B-6-1001**, which is renumbered from Section 78-38-2 is

31369 renumbered and amended to read:

31370 **Part 10. Waste**

31371 **[~~78-38-2~~]. 78B-6-1001. Right of action for waste -- Damages.**

31372 If a guardian, tenant for life or years, joint tenant, or tenant in common, of real property
31373 commits waste [~~thereon~~] on the property, any person aggrieved by the waste may bring an
31374 action against [~~him therefor, in which~~] the person. Judgment in the action [~~there~~] may [~~be a~~
31375 ~~judgment for~~] include treble damages.

31376 Section 1007. Section **78B-6-1002**, which is renumbered from Section 78-38-3 is
31377 renumbered and amended to read:

31378 **[~~78-38-3~~]. 78B-6-1002. Right of action for injuries to trees -- Damage.**

31379 Any person who without authority cuts down or carries off any wood or underwood,
31380 tree or timber, or girdles or otherwise injures any tree or timber on the land of another person,
31381 or on the street or highway in front of any person's house, town or city lot, or cultivated
31382 grounds, or on the commons or public grounds of any city or town, or on the street or highway
31383 in front [~~thereof~~], without lawful authority, is liable to the owner of such land, or to [~~such~~] the
31384 city or town, for treble the amount of damages which may be assessed [~~therefor~~] in a civil
31385 action.

31386 Section 1008. Section **78B-6-1003**, which is renumbered from Section 78-38-4 is
31387 renumbered and amended to read:

31388 **[~~78-38-4~~]. 78B-6-1003. Limited damages in certain cases.**

31389 Nothing in Section [~~78-38-3~~] 78B-6-1002 authorizes the recovery of more than the just
31390 value of the timber taken from uncultivated woodland for the repair of a public highway or
31391 bridge upon the land, or adjoining it.

31392 Section 1009. Section **78B-6-1101**, which is renumbered from Section 78-38-1 is
31393 renumbered and amended to read:

31394 **Part 11. Nuisance**

31395 **[~~78-38-1~~]. 78B-6-1101. Definitions -- Nuisance -- Right of action -- Judgment.**

31396 (1) A nuisance is anything which is injurious to health, indecent, offensive to the
31397 senses, or an obstruction to the free use of property, so as to interfere with the comfortable
31398 enjoyment of life or property. A nuisance may be the subject of an action.

31399 (2) A nuisance may include the following:

31400 (a) drug houses and drug dealing as provided in Section [~~78-38-9~~] 78B-6-1107;
31401 (b) gambling as provided in Title 76, Chapter 10, Part 11;
31402 (c) criminal activity committed in concert with two or more persons as provided in
31403 Section 76-3-203.1;
31404 (d) party houses which frequently create conditions defined in Subsection (1); and
31405 (e) prostitution as provided in Title 76, Chapter 10, Part 13.
31406 (3) A nuisance under this [~~section~~] part includes tobacco smoke that drifts into any
31407 residential unit a person rents, leases, or owns, from another residential or commercial unit and
31408 [~~this~~] the smoke:
31409 (a) drifts in more than once in each of two or more consecutive seven-day periods; and
31410 (b) creates any of the conditions under Subsection (1).
31411 (4) Subsection (3) does not apply to:
31412 (a) residential rental units available for temporary rental, such as for vacations, or
31413 available for only 30 or fewer days at a time; or
31414 (b) hotel or motel rooms.
31415 (5) Subsection (3) does not apply to any unit that is part of a timeshare [~~project~~]
31416 development, as defined in Section 57-19-2, or subject to a timeshare interest as defined in
31417 Section 57-19-2.
31418 (6) An action may be brought by any person whose property is injuriously affected, or
31419 whose personal enjoyment is lessened by the nuisance.
31420 [~~(7) Upon judgment, the nuisance may be enjoined or abated, and damages may be~~
31421 ~~recovered.~~]
31422 [~~(8) There is no cause of action for a nuisance under Subsection (3) if the rental, lease,~~
31423 ~~restrictive covenant, or purchase agreement for the unit states in writing that:~~]
31424 [~~(a) smoking is allowed in other units, either residential or commercial, and that~~
31425 ~~tobacco smoke from those units may drift into the unit that is subject of the agreement; and~~]
31426 [~~(b) by his signature the renter, lessee, or buyer acknowledges he has been informed~~
31427 ~~that tobacco smoke may drift into the unit he is renting, leasing, or purchasing, and he waives~~
31428 ~~any right to a cause of action for a nuisance under Subsection (3).~~]
31429 [~~(9) A cause of action for a nuisance under Subsection (3) may be brought against:~~]
31430 [~~(a) the individual generating the tobacco smoke;~~]

31431 [~~(b) the renter or lessee who permits or fails to control the generation of tobacco~~
31432 ~~smoke, in violation of the terms of his rental or lease agreement, on the premises he rents or~~
31433 ~~leases; or~~]
31434 [~~(c) the landlord, but only if:~~]
31435 [~~(i) the terms of the renter's or lessee's contract provide the unit will not be subject to~~
31436 ~~the nuisance of drifting tobacco smoke;~~]
31437 [~~(ii) the complaining renter or lessee has provided to the landlord a statement in writing~~
31438 ~~indicating that tobacco smoke is creating a nuisance in the renter's or lessee's unit; and~~]
31439 [~~(iii) the landlord knowingly allows the continuation of a nuisance under Subsection~~
31440 ~~(3) after receipt of written notice under Subsection (c)(ii), and in violation of the terms of the~~
31441 ~~rental or lease agreement under Subsection (c)(i).~~]
31442 (7) "Agricultural operation" means any facility for the production for commercial
31443 purposes of crops, livestock, poultry, livestock products, or poultry products.
31444 (8) "Manufacturing facility" means any factory, plant, or other facility including its
31445 appurtenances, where the form of raw materials, processed materials, commodities, or other
31446 physical objects is converted or otherwise changed into other materials, commodities, or
31447 physical objects or where such materials, commodities, or physical objects are combined to
31448 form a new material, commodity, or physical object.
31449 Section 1010. Section **78B-6-1102** is enacted to read:
31450 **78B-6-1102. Action.**
31451 (1) An action may be brought by any person whose property is injuriously affected, or
31452 whose personal enjoyment is lessened by the nuisance.
31453 (2) Upon judgment, the nuisance may be enjoined or abated, and damages may be
31454 recovered.
31455 Section 1011. Section **78B-6-1103**, which is renumbered from Section 78-38-5 is
31456 renumbered and amended to read:
31457 **[~~78-38-5~~]. 78B-6-1103. Manufacturing facility in operation over three years --**
31458 **Limited application of restrictions.**
31459 (1) Notwithstanding Sections [~~78-38-1 and 76-10-803, no~~] 76-10-803 and 78B-6-1101,
31460 a manufacturing facility or [~~the~~] operation [~~thereof shall~~] may not be or become a nuisance,
31461 private or public, by virtue of any changed conditions in and about [~~the locality thereof~~] its

31462 location after [~~the same~~] it has been in operation for more than three years [~~when such~~] if the
31463 manufacturing facility or [~~the~~] operation [~~thereof~~] was not a nuisance at the time [~~the~~] it began
31464 operation [~~thereof began; provided, the~~]. The manufacturing facility [~~does~~] may not increase
31465 the condition asserted to be a nuisance [~~and that the~~]. The provisions of this [~~subsection shall~~]
31466 Subsection (1) do not apply [~~whenever~~] if a nuisance results from the negligent or improper
31467 operation of [~~any such~~] a manufacturing facility.
31468 (2) The provisions of Subsection (1) [~~of this section shall~~] may not affect or defeat the
31469 right of any person to recover damages for any injuries or damage sustained [~~on account~~]
31470 because of any pollution of, or change in the condition of, the waters of any stream or [~~on~~
31471 ~~account of any~~] the overflow of the lands of any person.
31472 (3) Any and all ordinances now or hereafter adopted by any county or municipal
31473 corporation in which such manufacturing facility is located, which makes the operation thereof
31474 a nuisance or providing for an abatement thereof as a nuisance in the circumstances set forth in
31475 this section are null and void; provided, however, that the provisions of this subsection shall
31476 not apply whenever a nuisance results from the negligent or improper operation of any such
31477 manufacturing facility.
31478 Section 1012. Section **78B-6-1104**, which is renumbered from Section 78-38-7 is
31479 renumbered and amended to read:
31480 **[~~78-38-7~~]. 78B-6-1104. Agricultural operations -- Nuisance liability.**
31481 (1) Agricultural operations that are consistent with sound agricultural practices are
31482 presumed to be reasonable and do not constitute a nuisance unless the agricultural operation
31483 has a substantial adverse effect on the public health and safety.
31484 (2) Agricultural operations undertaken in conformity with federal, state, and local laws
31485 and regulations, including zoning ordinances, are presumed to be operating within sound
31486 agricultural practices.
31487 Section 1013. Section **78B-6-1105**, which is renumbered from Section 78-38-.5 is
31488 renumbered and amended to read:
31489 **[~~78-38-.5~~]. 78B-6-1105. Tobacco smoke -- Legislative intent.**
31490 (1) The Legislature finds:
31491 (a) the federal Environmental Protection Agency (EPA) has determined that
31492 environmental tobacco smoke is a Group A carcinogen, in the same category as other

31493 cancer-causing chemicals such as asbestos;
31494 (b) the EPA has determined that there is no acceptable level of exposure to Class A
31495 carcinogens; and
31496 (c) the EPA has determined that exposure to environmental tobacco smoke also causes
31497 an increase in respiratory diseases and disorders among exposed persons.
31498 (2) The Legislature finds that environmental tobacco smoke generated in a rental or
31499 condominium unit may drift into other units, exposing the occupants of those units to tobacco
31500 smoke, and that standard construction practices are not effective in preventing this drift of
31501 tobacco smoke.
31502 (3) The Legislature further finds that persons who desire to not be exposed to drifting
31503 environmental tobacco smoke should be able to determine in advance of entering into a rental,
31504 lease, or purchase agreement whether the subject unit may be exposed to environmental
31505 tobacco smoke.
31506 Section 1014. Section **78B-6-1106** is enacted to read:
31507 **78B-6-1106. Rental units -- Tobacco smoke.**
31508 (1) There is no cause of action for a nuisance under Subsection 78B-6-1101(3) if the
31509 rental, lease, restrictive covenant, or purchase agreement for the unit states in writing that:
31510 (a) smoking is allowed in other units, either residential or commercial, and that tobacco
31511 smoke from those units may drift into the unit that is subject to the agreement; and
31512 (b) by signing the agreement the renter, lessee, or buyer acknowledges he has been
31513 informed that tobacco smoke may drift into the unit he is renting, leasing, or purchasing, and he
31514 waives any right to a cause of action for a nuisance under Subsection 78B-6-1101(3).
31515 (2) A cause of action for a nuisance under Subsection 78B-6-1101(3) may be brought
31516 against:
31517 (a) the individual generating the tobacco smoke;
31518 (b) the renter or lessee who permits or fails to control the generation of tobacco smoke,
31519 in violation of the terms of the rental or lease agreement, on the premises he rents or leases; or
31520 (c) the landlord, but only if:
31521 (i) the terms of the renter's or lessee's contract provide the unit will not be subject to the
31522 nuisance of drifting tobacco smoke;
31523 (ii) the complaining renter or lessee has provided to the landlord a statement in writing

31524 indicating that tobacco smoke is creating a nuisance in the renter's or lessee's unit; and
31525 (iii) the landlord knowingly allows the continuation of a nuisance under Subsection
31526 78B-6-1101(3) after receipt of written notice under Subsection (2)(c)(ii), and in violation of the
31527 terms of the rental or lease agreement under Subsection (2)(c)(i).
31528 Section 1015. Section **78B-6-1107**, which is renumbered from Section 78-38-9 is
31529 renumbered and amended to read:
31530 **[~~78-38-9~~]. 78B-6-1107. Nuisance -- Right of action to abate nuisances -- Drug**
31531 **houses and drug dealing -- Gambling -- Group criminal activity -- Prostitution --**
31532 **Weapons.**
31533 (1) Every building or place is a nuisance where:
31534 (a) the unlawful sale, manufacture, service, storage, distribution, dispensing, or
31535 acquisition occurs of any controlled substance, precursor, or analog specified in Title 58,
31536 Chapter 37, Controlled Substances;
31537 (b) gambling is permitted to be played, conducted, or dealt upon as prohibited in Title
31538 76, Chapter 10, Part 11, Gambling, which creates the conditions of a nuisance as defined in
31539 Subsection [~~78-38-1~~] 78B-6-1101(1);
31540 (c) criminal activity is committed in concert with two or more persons as provided in
31541 Section 76-3-203.1;
31542 (d) parties occur frequently which create the conditions of a nuisance as defined in
31543 Subsection [~~78-38-1~~] 78B-6-1101(1);
31544 (e) prostitution or promotion of prostitution is regularly carried on by one or more
31545 persons as provided in Title 76, Chapter 10, Part 13, Prostitution; and
31546 (f) a violation of Title 76, Chapter 10, Part 5, Weapons, occurs on the premises.
31547 (2) It is a defense to nuisance under Subsection (1)(a) if the defendant can prove that
31548 the defendant is lawfully entitled to possession of a controlled substance.
31549 (3) Sections [~~78-38-10~~] 78B-6-1108 through [~~78-38-16~~] 78B-6-1114 govern only an
31550 abatement by eviction of the nuisance as defined in Subsection (1).
31551 Section 1016. Section **78B-6-1108**, which is renumbered from Section 78-38-10 is
31552 renumbered and amended to read:
31553 **[~~78-38-10~~]. 78B-6-1108. Nuisance -- Abatement by eviction.**
31554 (1) Whenever there is reason to believe that a nuisance under Sections [~~78-38-9~~]

31555 78B-6-1107 through [~~78-38-16~~] 78B-6-1114 is kept, maintained, or exists in any county, the
31556 county attorney of the county, the city attorney of any incorporated city, any citizen or citizens
31557 of the state residing in the county, or any corporation, partnership or business doing business in
31558 the county, in his or their own names, may maintain an action in a court of competent
31559 jurisdiction to abate the nuisance and obtain an order for the automatic eviction of the tenant.
31560 (2) The court may designate a spokesperson of any group of citizens who would
31561 otherwise have the right to maintain an action in their individual names against the defendant
31562 under this section.
31563 Section 1017. Section **78B-6-1109**, which is renumbered from Section 78-38-11 is
31564 renumbered and amended to read:
31565 **[~~78-38-11~~]. 78B-6-1109. Abatement by eviction order -- Grounds.**
31566 An order of abatement by eviction may issue only upon a showing by the applicant by a
31567 preponderance of the evidence that:
31568 (1) the applicant will suffer irreparable harm unless the order of abatement by eviction
31569 issues;
31570 (2) the threatened injury to the applicant outweighs whatever damage the proposed
31571 order of abatement by eviction may cause the party so ordered;
31572 (3) the order of abatement by eviction, if issued, would not be adverse to the public
31573 interest; and
31574 (4) there is a substantial likelihood that the applicant will prevail on the merits of the
31575 underlying claim, or the case presents serious issues on the merits which should be the subject
31576 of further litigation.
31577 Section 1018. Section **78B-6-1110**, which is renumbered from Section 78-38-12 is
31578 renumbered and amended to read:
31579 **[~~78-38-12~~]. 78B-6-1110. Prior acts of threats of violence -- Protection of**
31580 **witnesses.**
31581 At the time of application for abatement of the nuisance by eviction pursuant to
31582 Sections [~~78-38-10~~] 78B-6-1108 and [~~78-38-11~~] 78B-6-1109, if proof of the existence of the
31583 nuisance depends, in whole or in part, upon the affidavits of witnesses who are not peace
31584 officers, upon a showing of prior threats of violence or acts of violence by any defendant or
31585 other person, the court may issue orders to protect those witnesses, including, nondisclosure of

31586 the name, address, or any other information which may identify those witnesses.
31587 Section 1019. Section **78B-6-1111**, which is renumbered from Section 78-38-13 is
31588 renumbered and amended to read:
31589 **[~~78-38-13~~]. 78B-6-1111. Landlord, owner, or designated agent -- Necessary**
31590 **party -- Automatic eviction.**
31591 (1) A landlord, owner, or designated agent is a necessary party defendant in a nuisance
31592 action under Sections [~~78-38-9~~] 78B-6-1107 through [~~78-38-16~~] 78B-6-1114 for entry of an
31593 order to abate the nuisance by eviction where the acts complained of are those of third parties
31594 upon the premises of the landlord, owner, or designated agent.
31595 (2) In the presence of the applicant, the tenant and the landlord, owner, or designated
31596 agent at the court's hearing on the action to abate the nuisance by eviction, the court shall notify
31597 the necessary parties of its finding that:
31598 (a) a nuisance exists as defined in Section [~~78-38-9~~] 78B-6-1107; and
31599 (b) as a result, the court is issuing an order to evict the tenant subject to compliance
31600 with the security requirement in Section [~~78-38-14~~] 78B-6-1112.
31601 (3) In all cases, including default judgments, the order of abatement by eviction may be
31602 issued and enforced immediately.
31603 Section 1020. Section **78B-6-1112**, which is renumbered from Section 78-38-14 is
31604 renumbered and amended to read:
31605 **[~~78-38-14~~]. 78B-6-1112. Security requirement -- Amount not a limitation --**
31606 **Jurisdiction over surety.**
31607 (1) The court shall condition issuance of the order of abatement by eviction on the
31608 giving of security by the applicant, in such sum and form as the court determines proper, unless
31609 it appears that none of the parties will incur or suffer costs, attorney fees, or damage as the
31610 result of any wrongful order of abatement by eviction, or unless there exists some other
31611 substantial reason for dispensing with the requirement of security. No such security shall be
31612 required of the United States, the State of Utah, or of an officer, agency, or subdivision of
31613 either; nor shall it be required when it is prohibited by law.
31614 (2) The amount of security shall not establish or limit the amount of costs, including
31615 reasonable attorney fees incurred in connection with the order of abatement by eviction, or
31616 damages that may be awarded to a party who is found to have been wrongfully evicted.

31617 (3) A surety upon a bond or undertaking under this section submits to the jurisdiction
31618 of the court and irrevocably appoints the clerk of the court as agent upon whom any papers
31619 affecting the surety's liability on the bond or undertaking may be served. The surety's liability
31620 may be enforced on motion without the necessity of an independent action. The motion and
31621 such notice of the motion as the court prescribes may be served on the clerk of the court who
31622 shall immediately mail copies to the persons giving the security if their addresses are known.
31623 (4) The plaintiff, upon demand, shall be granted a hearing to be held prior to the
31624 expiration of three days from the date the defendant is served with notice of the plaintiff's
31625 giving of security as provided in Subsection [~~78-38-14~~] 78B-6-1112(1).
31626 Section 1021. Section **78B-6-1113**, which is renumbered from Section 78-38-15 is
31627 renumbered and amended to read:
31628 **[~~78-38-15~~]. 78B-6-1113. Evidence of nuisance.**
31629 In any action for abatement by eviction instituted pursuant to Sections [~~78-38-9~~]
31630 78B-6-1107 through [~~78-38-16~~] 78B-6-1114, all evidence otherwise authorized by law,
31631 including evidence of reputation in a community, is admissible to prove the existence of a
31632 nuisance by a preponderance of the evidence.
31633 Section 1022. Section **78B-6-1114**, which is renumbered from Section 78-38-16 is
31634 renumbered and amended to read:
31635 **[~~78-38-16~~]. 78B-6-1114. Award of costs and attorney fees.**
31636 (1) The court may award costs, including the costs of investigation and discovery, and
31637 reasonable [~~attorneys'~~] attorney fees, which are not compensated for pursuant to some other
31638 provision of law, to the prevailing party in any case in which a governmental agency, private
31639 citizen or citizens, corporation, partnership, or business seeks to abate the nuisance by eviction
31640 in or upon any building or place where the nuisance occurs as provided in Section [~~78-38-9~~]
31641 78B-6-1107.
31642 (2) The court may award costs, including the costs of investigation and discovery, and
31643 reasonable [~~attorneys'~~] attorney fees against a defendant landlord, owner, or designated agent
31644 only when the court finds that the defendant landlord, owner, or designated agent had actual
31645 notice of the nuisance action and willfully failed to take reasonable action within a reasonable
31646 time to abate the nuisance.
31647 Section 1023. Section **78B-6-1201** is enacted to read:

31648 **Part 12. Partition**

31649 **78B-6-1201. Partition -- By cotenants of real property.**

31650 A person who is a joint tenant or tenant in common with another of real property may
31651 bring an action to partition the property for the benefit of each tenant. An action for partition
31652 may require the sale of the property if it appears that the partition cannot be made without
31653 prejudice to the owners.

31654 Section 1024. Section **78B-6-1202**, which is renumbered from Section 78-39-2 is
31655 renumbered and amended to read:

31656 **[~~78-39-2~~]. 78B-6-1202. Complaint -- To set forth interests of all parties.**

31657 (1) The interests of all persons in the property, whether [~~such~~] the persons are known
31658 or unknown, [~~must~~] shall be set forth in the complaint, specifically and particularly, as far as
31659 known to the plaintiff[~~, and if~~].

31660 (2) If one or more of the parties, or the share or quantity of interest of any of the
31661 parties, is unknown to the plaintiff, [~~or is~~] uncertain or contingent, or the ownership of the
31662 inheritance depends upon an executory devise, or the remainder is a contingent remainder[~~, so~~
31663 ~~that such~~] making the parties [~~cannot be named~~] unknown, that fact must be set forth in the
31664 complaint.

31665 Section 1025. Section **78B-6-1203**, which is renumbered from Section 78-39-3 is
31666 renumbered and amended to read:

31667 **[~~78-39-3~~]. 78B-6-1203. Parties -- Only holders of recorded rights necessary.**

31668 [~~No~~] A person [~~having~~] who does not have a conveyance of, or [~~claiming~~] claim a lien
31669 on, the property, or some part of it, [~~need~~] is not required to be made a party to the action,
31670 unless [~~such~~] the conveyance or lien [~~appears of record~~] has been properly recorded.

31671 Section 1026. Section **78B-6-1204**, which is renumbered from Section 78-39-4 is
31672 renumbered and amended to read:

31673 **[~~78-39-4~~]. 78B-6-1204. Lis pendens required.**

31674 [~~Immediately after filing the complaint in the district court the plaintiff must file~~]

31675 (1) The plaintiff shall file a notice of the action with the [~~recorder~~] recorders of [~~the~~
31676 ~~county or of~~] all the [~~several~~] counties in which the property is situated[~~, either~~]. The notice
31677 shall contain:

31678 (a) a copy of such complaint; or

31679 (b) a notice of the pendency of the action, containing:
31680 (i) the names of [~~the~~] all known parties [~~so far as known,~~];
31681 (ii) the object of the action; and
31682 (iii) a description of the property [~~to be affected thereby. From the time of filing such~~
31683 ~~notice for record all persons shall be deemed~~] affected.
31684 (2) Once the notice is filed, all persons having an interest in the property shall be
31685 considered to have notice of the pendency of the action.
31686 Section 1027. Section **78B-6-1205**, which is renumbered from Section 78-39-5 is
31687 renumbered and amended to read:
31688 **[~~78-39-5~~]. 78B-6-1205. Summons -- To whom directed.**
31689 The summons [~~must~~] shall be directed to:
31690 (1) all [~~the~~] joint tenants[~~,~~];
31691 (2) tenants in common of all persons having any interest in, or [~~liens of record by~~
31692 ~~mortgage, judgment or otherwise~~] recorded liens upon[~~,~~] the property or any [~~particular~~]
31693 portion [~~thereof,~~] of the property; and [~~generally to all persons unknown who have or claim~~]
31694 (3) any other person claiming any interest in the property.
31695 Section 1028. Section **78B-6-1206**, which is renumbered from Section 78-39-6 is
31696 renumbered and amended to read:
31697 **[~~78-39-6~~]. 78B-6-1206. Service by publication.**
31698 If a party having a share or interest is unknown, or any one of the known parties resides
31699 out of the state or cannot be found [~~therein~~], the summons may be served [~~on such absent or~~
31700 ~~unknown party~~] upon them by publication [~~as~~] in [~~other cases~~] accordance with the Utah Rules
31701 of Civil Procedure.
31702 Section 1029. Section **78B-6-1207**, which is renumbered from Section 78-39-7 is
31703 renumbered and amended to read:
31704 **[~~78-39-7~~]. 78B-6-1207. Answer must set forth interests claimed.**
31705 [~~The defendants who have been personally served with the summons, or who have~~
31706 ~~appeared without such service, must~~]
31707 (1) All defendants shall set forth in their answers, fully and particularly, the origin,
31708 nature, and extent of their respective interests in the property[~~; and if such defendants claim~~].
31709 (2) If a defendant claims a lien on the property by mortgage, judgment, or otherwise,

31710 [~~they must~~] the defendant shall state the original amount and date of the [~~same, and the sum~~
31711 ~~remaining due thereon; also whether the same~~] mortgage or judgment, and the amounts
31712 remaining unpaid. The defendant shall also state whether the mortgage or judgment has been
31713 secured in any other way [~~or not~~], and if secured, the extent and nature of [~~such~~] the security[~~;~~
31714 ~~or they are deemed~~]. If this information is not provided, the defendant shall be considered to
31715 have waived [~~their~~] any rights to [~~such~~] the lien.
31716 Section 1030. Section **78B-6-1208**, which is renumbered from Section 78-39-8 is
31717 renumbered and amended to read:
31718 **[~~78-39-8~~]. 78B-6-1208. Right of all parties may be determined.**
31719 The rights of [~~the several~~] all parties[~~, plaintiff as well as defendant,~~] may be put in
31720 issue, tried, and determined by [~~such~~] the action[~~; and when~~]. If the court determines a sale of
31721 the premises is necessary, the title [~~must~~] shall be ascertained [~~by proof~~] to the satisfaction of
31722 the court before the judgment of sale can be made[~~; and where~~]. If service of the summons
31723 [~~has been~~] was made by publication [~~like proofs must be~~], similar proof is required [~~of~~]
31724 concerning the rights of [~~the~~] absent or unknown parties before [~~such~~] judgment is rendered[~~;~~
31725 ~~except that where~~]. If there are several unknown persons having an interest in the property,
31726 their rights may be considered together in the action[~~, and not severally among themselves~~].
31727 Section 1031. Section **78B-6-1209**, which is renumbered from Section 78-39-9 is
31728 renumbered and amended to read:
31729 **[~~78-39-9~~]. 78B-6-1209. Partial partition allowed -- When.**
31730 [~~Whenever from any cause it is, in the opinion of~~]
31731 (1) If the court[~~,~~] determines that it is impracticable or highly inconvenient to make a
31732 complete partition [~~in the first instance~~] among all the parties in interest, the court may first
31733 [~~ascertain and~~] determine the shares or interests respectively held by the original cotenants[~~;~~
31734 ~~and thereupon adjudge and cause a partition to be made as if such original cotenants were the~~
31735 ~~parties and sole parties in interest and~~] as if they were the only parties to the action[~~, and~~
31736 ~~thereafter~~].
31737 (2) After the initial partition, the court may [~~proceed in like manner to adjudge and~~
31738 ~~make~~] partition separately [~~of~~] each [~~share or~~] portion [~~so ascertained and~~] allotted [~~as~~] among
31739 those claiming under [~~the original tenant to whom the same shall have been so set apart, or may~~
31740 ~~allow them to remain~~] a specific tenant whose interest was determined in Subsection (1), unless

31741 the parties choose to remain as tenants in common [~~thereof, as they may desire~~].
31742 Section 1032. Section **78B-6-1210**, which is renumbered from Section 78-39-10 is
31743 renumbered and amended to read:
31744 **[~~78-39-10~~]. 78B-6-1210. When all holders of recorded rights are not made**
31745 **parties -- Procedure -- Reference.**
31746 If [~~it appears to the court that~~] there are outstanding liens or encumbrances of record
31747 upon [~~such real property, or any part or portion thereof, which existed and were of record at the~~
31748 ~~time of the commencement of the action, and~~] the property when the action is commenced, the
31749 persons holding [~~such~~] the liens [~~are not~~] shall be made parties to the action. If the persons are
31750 not made parties, the court [~~must~~] shall either order [~~such~~] the persons [~~to be~~] made parties to
31751 the action by an amendment or supplemental complaint, or appoint a referee to [~~ascertain~~]
31752 determine whether [~~or not such~~] the liens or encumbrances have been paid[~~, or, if not paid,~~
31753 ~~what amount remains due thereon, and their order among~~]. If the referee determines that
31754 amounts remain due, the referee shall determine whether the amounts are secured or unsecured
31755 and the order of precedence among all the liens or encumbrances [~~severally held by such~~
31756 ~~persons and the parties to said action, and whether the amount remaining due thereon has been~~
31757 ~~secured in any manner and, if secured, the nature and extent of the security~~] on the property.
31758 Section 1033. Section **78B-6-1211** is enacted to read:
31759 **78B-6-1211. Notice of appearance before referee -- Referee's report.**
31760 (1) The referee appointed in Section 78B-6-1210 shall set a date to hear from each
31761 person holding a lien on the property. The plaintiff shall have a notice and summons served on
31762 each person identified in Section 78B-6-1210 who is not a party to the action.
31763 (2) The summons shall state the specific time and place of the hearing and instruct the
31764 person to appear with proof of all amounts due.
31765 (3) If the person cannot be found, the court may direct service to be made by
31766 publication in accordance with the Utah Rules of Civil Procedure.
31767 (4) The referee shall provide a report to the court detailing his findings. The court shall
31768 confirm, modify, or set aside the findings. If the findings are set aside, a new referee may be
31769 appointed in accordance with Section 78B-6-1210.
31770 Section 1034. Section **78B-6-1212**, which is renumbered from Section 78-39-12 is
31771 renumbered and amended to read:

31772 **[~~78-39-12~~]. 78B-6-1212. If partition prejudicial, sale in lieu thereof -- Partition**
31773 **by referees.**
31774 [~~If it is alleged in the complaint and established by the evidence, or if it appears by the~~
31775 ~~evidence without such allegation in the complaint, to the satisfaction of the court,~~]
31776 (1) If the court determines that the property or any part of it [~~is so situated that the~~
31777 ~~partition cannot be made~~] cannot be partitioned without great prejudice to the owners, the court
31778 may order [~~a sale thereof; otherwise, upon the requisite proofs being made, it must~~] the
31779 property sold.
31780 (2) If the court determines that the property may be partitioned, it shall order a partition
31781 according to the respective rights of the parties [~~as ascertained~~] determined by the court[~~,~~] and
31782 appoint three referees [~~therefor, and must~~] to do the partition. The court shall also designate
31783 [~~the~~] a portion to remain undivided for the owners whose interests remain unknown or are not
31784 ascertained[~~; provided, however, that when~~].
31785 (3) If the action is for partition of a mining claim among the tenants in common, joint
31786 tenants, copartners, or parceners [~~thereof~~], the court, upon good cause shown by any party or
31787 parties in interest, may, instead of ordering partition to be made in the manner as [~~hereinbefore~~]
31788 provided, or a sale of the premises for cash, direct the referees to divide the claim in the manner
31789 [~~hereinafter~~] provided in Subsections 78B-6-1213(5) through (11).
31790 Section 1035. Section **78B-6-1213**, which is renumbered from Section 78-39-13 is
31791 renumbered and amended to read:
31792 **[~~78-39-13~~]. 78B-6-1213. Duties and powers of referees -- Procedure.**
31793 (1) In making the partition the referees must divide the property [~~and allot the several~~
31794 ~~portions thereof to the respective parties, quality and quantity relatively considered, according~~
31795 ~~to the respective rights of the~~] among the respective parties as determined by the court pursuant
31796 to the provisions of this [~~chapter, designating the several~~] part.
31797 (2) The referees may designate the portions by proper landmarks, and may employ a
31798 surveyor with the necessary assistants to aid them.
31799 (3) In all cases the court shall direct the referees [~~in~~] making the partition [~~of land~~] to:
31800 (a) allot the share of each of the parties owning an interest [~~in the whole or any part of~~
31801 ~~the premises sought to be partitioned,~~]; and [~~to~~]
31802 (b) locate the share of each cotenant, [~~so as to embrace as far as practicable~~] including,

31803 if possible, the improvements made by [~~such~~] the cotenant upon the property[~~; and the~~].
31804 (4) The value of the improvements made by [~~the~~] tenants in common [~~must~~] shall be
31805 excluded from the valuation in making allotments[~~, and the land must be valued without regard~~
31806 ~~to such improvements, in case the same~~] if it can be done without material injury to the rights
31807 and interests of the other tenants in common [~~owning such land; provided, however, that~~
31808 ~~when~~].
31809 (5) If the action is for partition of a mining claim [~~among the tenants in common, joint~~
31810 ~~tenants, copartners or parceners thereof~~], the court shall[~~, by~~] order[~~, fix the time for~~] the
31811 division of the claim by the referees[~~, which shall be~~] not less than [~~twenty~~] 20 nor more than
31812 [~~forty~~] 40 days from the [~~day of the making~~] date of the order, except by consent of all the
31813 parties in interest who have appeared in the action.
31814 (6) On the day designated in the order the referees shall go [~~upon~~] to the [~~claim~~]
31815 property to be divided and proceed to [~~make division of the same as hereinafter provided, and~~]
31816 divide the property. If the division requires more than one day to complete, the referees shall
31817 continue from day to day until the [~~same~~] division is completed.
31818 (7) Two or more of the tenants in common, joint tenants, copartners, or parceners may
31819 unite [~~together~~] for the purposes of [~~such~~] the division[~~, of which they~~]. The parties shall give
31820 the referees written notice of any unions before [~~they commence~~] the referees begin the
31821 division[~~; and all~~]. All who do not unite [~~as aforesaid,~~] or give notice of separate action, shall,
31822 for the purposes of division, be [~~deemed and held~~] considered to have united.
31823 (8) The referees [~~in their action~~] shall recognize:
31824 (a) those named in the court order [~~of the court, or~~], their agents and attorneys [~~in fact~~
31825 ~~duly appointed by instrument in writing, acknowledged as in cases of conveyances of real~~
31826 ~~estate,~~];
31827 (b) a guardian of a minor[~~,~~]; and
31828 (c) a guardian entitled to the custody and the management of the estate of an [~~insane~~
31829 ~~person or other person adjudged incapable of conducting his own affairs, and as to the interest~~
31830 ~~of each, shall be controlled entirely by the order of the court.~~] incompetent or incapacitated
31831 person.
31832 (9) At the time and place of division one of the referees[~~, to~~] shall be [~~elected by them,~~
31833 ~~shall~~] selected to conduct the proceedings in the manner of public auction [~~offer to the party or~~

31834 ~~parties who will take the least part or portion of such mining claim in proportion to the interest~~
31835 ~~he or they may have therein, the~~]. The privilege of selecting first [~~selecting the place at which~~
31836 ~~his portion shall be located, and upon closing the bids~~] shall be offered to the party who agrees
31837 to take the smallest portion of the claim in proportion to that party's interest in the claim. Once
31838 the bids are closed, the referees shall [~~proceed to~~] measure and mark off, by distinct metes and
31839 bounds, [~~to~~] the portion of the claim designated by the lowest bidder[~~, his or their portion of~~
31840 ~~such mining claim, at the place designated by him or them, according to the terms of his or~~
31841 ~~their bid. When~~].
31842 (10) Once the referees have marked off and set apart the interest of the lowest bidder,
31843 [~~as provided herein,~~] they shall offer to the remaining parties the privilege of selection as
31844 [~~herein mentioned and~~] provided, and shall upon closing the bids, proceed in the same manner
31845 to locate and mark off the portion of the lowest bidder[~~, and shall thereafter continue in the~~
31846 ~~same manner to receive bids and mark off~~].
31847 (11) The bidding shall continue and the interest of the lowest bidder [~~or bidders~~]
31848 marked off until [~~there shall remain but~~] only one party in interest[~~, or parties united forming~~
31849 ~~one interest~~] remains. The party [~~or parties~~] remaining shall become the owner [~~or owners, as~~]
31850 of the [~~case may be,~~] remainder of the [~~entire~~] claim not marked off and set apart [~~to other~~
31851 ~~parties as hereinbefore provided, in proportion to their respective interests in the claim~~] for the
31852 other parties.
31853 Section 1036. Section **78B-6-1214**, which is renumbered from Section 78-39-14 is
31854 renumbered and amended to read:
31855 **[~~78-39-14~~]. 78B-6-1214. Report of referees.**
31856 The referees [~~must make a~~] shall provide a written report of their proceedings,
31857 specifying [~~therein~~] the manner in which they executed their trust, [~~and~~] describing the property
31858 divided, and the shares allotted to each party, with a particular description of each share.
31859 Section 1037. Section **78B-6-1215**, which is renumbered from Section 78-39-15 is
31860 renumbered and amended to read:
31861 **[~~78-39-15~~]. 78B-6-1215. Confirmation, modification, or vacation by court --**
31862 **Effect of death of party before judgment.**
31863 (1) The court may confirm, change, modify, or set aside the report, and if necessary,
31864 appoint new referees. Upon the report being confirmed judgment must be rendered that [~~such~~]

31865 the partition be effectual forever[~~, which~~] . The judgment [~~is~~] shall be binding and conclusive[~~:~~
31866 ~~(a)~~] on all persons:
31867 (a) named as parties to the action[~~,~~] and their legal representatives, who have at the
31868 time any interest in the property [~~divided or any part thereof~~], whether as:
31869 (i) owners in fee[~~, or as~~];
31870 (ii) tenants for life or for years[~~,~~]; or [~~as~~]
31871 (iii) entitled to the reversion, remainder, or the inheritance of [~~such~~] the property or of
31872 any [~~part thereof~~] portion after the determination of a particular estate [~~therein, and~~] in it;
31873 (b) who by any contingency may be entitled to a beneficial interest in the property, or
31874 who have an interest in any undivided share thereof as tenants for years or for life;
31875 [~~(b) on all persons~~] (c) interested in the property who may be unknown, to whom
31876 notice of the action for partition has been given by publications; and
31877 [~~(c) on all other persons~~] (d) claiming from [~~such~~] any parties or persons[~~, or either of~~
31878 ~~them~~] in Subsection (1)(c).
31879 (2) [~~No~~] A judgment is not invalid by reason of the death of any party before final
31880 judgment or decree[~~;~~], but [~~such~~] the judgment or decree is as conclusive against the heirs,
31881 legal representatives, or assigns of [~~such~~] the decedent as if it had been entered before [~~his~~] the
31882 person's death.
31883 Section 1038. Section **78B-6-1216**, which is renumbered from Section 78-39-16 is
31884 renumbered and amended to read:
31885 **[~~78-39-16~~]. 78B-6-1216. Tenant for years, less than ten, not affected by**
31886 **judgment.**
31887 The judgment does not affect tenants for years, less than ten, of the whole of the
31888 property which is the subject of the partition.
31889 Section 1039. Section **78B-6-1217**, which is renumbered from Section 78-39-17 is
31890 renumbered and amended to read:
31891 **[~~78-39-17~~]. 78B-6-1217. Referees' expenses and fees -- Apportionment.**
31892 The expenses of the referees, including those of the surveyor and his assistants [~~when~~]
31893 if employed, must be [~~ascertained~~] determined and allowed by the court, and the amount
31894 [~~thereof~~], together with the fees allowed by the court in its discretion to the referees, [~~must~~]
31895 shall be apportioned equitably among the different parties to the action [~~equitably~~].

31896 Section 1040. Section **78B-6-1218**, which is renumbered from Section 78-39-18 is
31897 renumbered and amended to read:
31898 **[~~78-39-18~~]. 78B-6-1218. Liens on undivided interests -- Apportionment.**
31899 [~~When a~~] A lien [~~is~~] on an undivided interest or estate of any of the parties[~~, such lien,~~
31900 ~~if a partition is made,~~] shall [~~thenceforth~~] only be a charge [~~only~~] on the share assigned to
31901 [~~such~~] the party[~~, but such~~] after the share [~~must be first~~] is charged with its just proportion of
31902 the costs of the partition in preference to [~~such~~] the lien.
31903 Section 1041. Section **78B-6-1219**, which is renumbered from Section 78-39-19 is
31904 renumbered and amended to read:
31905 **[~~78-39-19~~]. 78B-6-1219. Setoff of estate for life or for years.**
31906 [~~When a part only of the property is ordered to be sold, if~~] If there is an estate for life or
31907 years in an undivided share of the whole property[~~, such~~] and only a portion of the property is
31908 ordered to be sold, the estate may be set off in any part of the property not ordered to be sold.
31909 Section 1042. Section **78B-6-1220**, which is renumbered from Section 78-39-20 is
31910 renumbered and amended to read:
31911 **[~~78-39-20~~]. 78B-6-1220. Proceeds of sale of encumbered property -- Disposition**
31912 **of.**
31913 The proceeds of the sale of [~~the~~] encumbered property [~~must~~] shall be applied under the
31914 direction of the court, as follows:
31915 (1) to pay its just proportion of the general costs of the action;
31916 (2) to pay the costs of the reference;
31917 (3) to satisfy and cancel [~~of record the several~~] all recorded liens in their order of
31918 priority, by payment of the sums due and to become due; the amount due to be verified by
31919 affidavit at the time of payment;
31920 (4) the residue among the owners of the property sold according to their respective
31921 shares therein.
31922 Section 1043. Section **78B-6-1221**, which is renumbered from Section 78-39-21 is
31923 renumbered and amended to read:
31924 **[~~78-39-21~~]. 78B-6-1221. Lienholders required to exhaust other security first.**
31925 [~~Whenever any~~] Any party to the action, who holds a lien upon the property or any [~~part~~
31926 ~~thereof,~~] portion of it and has other securities for the payment of the amount of [~~such lien, the~~

31927 ~~court may, in its discretion, order such securities to be exhausted~~] the lien may be required by
31928 the court to exhaust the other securities before a distribution of the proceeds of sale[~~, or~~]. The
31929 court may also order a just reduction to be made from the amount of the lien on the property
31930 [~~on account thereof~~] in the amount of the securities.
31931 Section 1044. Section **78B-6-1222**, which is renumbered from Section 78-39-22 is
31932 renumbered and amended to read:
31933 **[~~78-39-22~~]. 78B-6-1222. Distribution of proceeds or securities.**
31934 The proceeds of sale and the securities taken by the referees[~~, or any part thereof, must~~]
31935 shall be distributed by [~~them~~] the referees to the persons entitled [~~thereto,~~] to them whenever
31936 the court [~~so~~] directs. [~~But in case~~] If no direction for distribution is given, all of [~~such~~] the
31937 proceeds and securities must be paid into [~~court, or deposited therein, as directed by~~] the court.
31938 Section 1045. Section **78B-6-1223**, which is renumbered from Section 78-39-23 is
31939 renumbered and amended to read:
31940 **[~~78-39-23~~]. 78B-6-1223. Determination of adverse claims.**
31941 When the proceeds of the sale of any share or parcel belonging to persons who are
31942 parties to the action, and who are known or unknown, are paid into court, the action may [~~be~~
31943 ~~continued as~~] continue between [~~such~~] the parties for the determination of their respective
31944 claims [~~thereto, which must be ascertained and adjudged by the court~~]. Further evidence may
31945 be taken [~~in~~] by the court or [~~by~~] a referee at the discretion of the court, and the court may, if
31946 necessary, require [~~such~~] the parties to present the facts or law in controversy by pleadings as in
31947 an original action.
31948 Section 1046. Section **78B-6-1224**, which is renumbered from Section 78-39-24 is
31949 renumbered and amended to read:
31950 **[~~78-39-24~~]. 78B-6-1224. Sales at public auction -- Notice.**
31951 All sales of real property made by referees under this [~~chapter must~~] part shall be made
31952 at public auction to the highest bidder, upon notice published in the manner required for the
31953 sale of real property on execution. The notice [~~must~~] shall state the terms of sale, and if the
31954 property or any part of it is to be sold subject to a prior estate, charge, or lien, that fact [~~must~~]
31955 shall be stated [~~in the notice~~] also.
31956 Section 1047. Section **78B-6-1225**, which is renumbered from Section 78-39-25 is
31957 renumbered and amended to read:

31958 **[~~78-39-25~~]. 78B-6-1225. Sales on credit -- Order for.**
31959 The court [~~must~~] shall, in the order of sale, direct the terms of credit which may be
31960 allowed for the purchase money of any portion of the premises [~~of which it may direct a sale on~~
31961 ~~credit, and for~~]. For that portion of which the purchase money is required, [~~by~~] the [~~provisions~~
31962 ~~hereinafter contained,~~] court shall also order it to be invested for the benefit of unknown
31963 owners, minors or parties out of the state.
31964 Section 1048. Section **78B-6-1226**, which is renumbered from Section 78-39-26 is
31965 renumbered and amended to read:
31966 **[~~78-39-26~~]. 78B-6-1226. Security for payment.**
31967 The referees may take separate mortgages and other securities[~~,~~];
31968 (1) for the whole or convenient portions of the purchase money[~~,~~];
31969 (2) on [~~such parts~~] any part of the property [~~as are~~] directed by the court to be sold on
31970 credit[~~,~~];
31971 (3) for the shares of any known owner of full age, in the name of [~~such~~] the owner[~~,~~];
31972 (4) for the shares of a minor, in the name of the guardian of [~~such~~] the minor[~~,~~]; and
31973 (5) for other shares, in the name of the clerk of the court and his successors in office.
31974 Section 1049. Section **78B-6-1227**, which is renumbered from Section 78-39-27 is
31975 renumbered and amended to read:
31976 **[~~78-39-27~~]. 78B-6-1227. Compensation for interest of tenant for life or years.**
31977 [~~The~~] A person entitled to a tenancy for life or years[~~,~~] whose estate has been sold, is
31978 entitled to receive [~~such~~] a sum as [~~may be deemed a~~] reasonable [~~satisfaction~~] compensation
31979 for [~~such~~] the estate[~~, or which the person so entitled may~~]. The person's consent to accept [~~in~~
31980 ~~lieu thereof, by an instrument~~] the sum shall be filed in writing[~~, filed~~] with the clerk of the
31981 court. Upon the filing of [~~such~~] the consent, the clerk [~~must~~] shall enter [~~the same~~] it in the
31982 minutes of the court.
31983 Section 1050. Section **78B-6-1228**, which is renumbered from Section 78-39-28 is
31984 renumbered and amended to read:
31985 **[~~78-39-28~~]. 78B-6-1228. Court determines reasonable compensation for tenant.**
31986 If consent is not given, filed, and entered as provided in Section [~~78-39-27~~] 78B-6-1227
31987 before a judgment of sale is rendered, the court [~~must ascertain and~~] shall determine what
31988 proportion of the proceeds of the sale, after deducting expenses, will be a just and reasonable

31989 sum to be allowed on account of [~~such~~] the estate, and [~~must~~] order the [~~same to be~~] amount
31990 paid to [~~such~~] the party, or deposited in the court for [~~him~~] the person, as the case may require.
31991 Section 1051. Section **78B-6-1229**, which is renumbered from Section 78-39-29 is
31992 renumbered and amended to read:
31993 **[~~78-39-29~~]. 78B-6-1229. If tenant unknown.**
31994 If persons entitled to [~~such~~] the estate for life or years are unknown, the court [~~must~~]
31995 shall provide for the protection of their rights in the same manner[~~, as far as may be,~~] as if they
31996 were known and had appeared.
31997 Section 1052. Section **78B-6-1230**, which is renumbered from Section 78-39-30 is
31998 renumbered and amended to read:
31999 **[~~78-39-30~~]. 78B-6-1230. Protection of vested, contingent, or future rights.**
32000 In all cases of sales [~~when~~] if it appears that any person has a vested [~~or~~], contingent, or
32001 future right or estate in any of the property sold, the court [~~must~~] shall ascertain and settle the
32002 proportionate value of [~~such~~] the contingent or vested right or estate, and [~~must~~] direct [~~such~~]
32003 the proportion of the proceeds of the sale to be invested, secured, or paid over in [~~such~~] a
32004 manner [~~as will~~] that would protect the rights and interests of the parties.
32005 Section 1053. Section **78B-6-1231**, which is renumbered from Section 78-39-31 is
32006 renumbered and amended to read:
32007 **[~~78-39-31~~]. 78B-6-1231. Terms of sales -- Separate sale of distinct parcels.**
32008 In all cases of sales of property the terms [~~must~~] shall be made known at the time, and if
32009 the premises consist of distinct farms or lots, they [~~must~~] shall be sold separately.
32010 Section 1054. Section **78B-6-1232**, which is renumbered from Section 78-39-32 is
32011 renumbered and amended to read:
32012 **[~~78-39-32~~]. 78B-6-1232. Who may not be purchaser.**
32013 [~~None of the referees nor~~] (1) A referee or any person for the referee's benefit [~~of either~~
32014 ~~of them can~~] may not be interested in any purchase[~~; nor can a~~].
32015 (2) A guardian of a minor party may not be interested in the purchase of any real
32016 property[~~, being~~] which is the subject of [~~the~~] an action[~~,~~] under this part except for the benefit
32017 of the minor.
32018 (3) All sales contrary to the provisions of this section are void.
32019 Section 1055. Section **78B-6-1233**, which is renumbered from Section 78-39-33 is

32020 renumbered and amended to read:
32021 **[~~78-39-33~~]. 78B-6-1233. Report of referees to the courts of sales.**
32022 [~~After completing a~~] (1) Once the sale of the property or any [~~part thereof~~] portion
32023 ordered to be sold is complete, the referees [~~must~~] shall file a report [~~the same to~~] with the
32024 court[~~, with~~].
32025 (2) The report shall include:
32026 (a) a description of the different parcels of land sold to each purchaser[~~,~~];
32027 (b) the name of the purchaser[~~,~~];
32028 (c) the price paid or secured[~~,~~];
32029 (d) the terms and conditions of the sale[~~,~~]; and
32030 (e) the securities, if any, taken.
32031 (3) The report [~~must~~] shall be filed in the office of the clerk of the court.
32032 Section 1056. Section **78B-6-1234**, which is renumbered from Section 78-39-34 is
32033 renumbered and amended to read:
32034 **[~~78-39-34~~]. 78B-6-1234. Referees' deed on confirmation -- Disposition of**
32035 **proceeds.**
32036 If the sale is confirmed by the court, an order [~~must~~] shall be entered directing the
32037 referees to execute conveyances and authorizing them to take [~~such~~] securities pursuant to
32038 [~~such~~] sale [~~as they are hereby authorized to do. Such~~]. The order may also give directions [~~to~~
32039 ~~them respecting~~] directing the disposition of the proceeds of the sale.
32040 Section 1057. Section **78B-6-1235**, which is renumbered from Section 78-39-35 is
32041 renumbered and amended to read:
32042 **[~~78-39-35~~]. 78B-6-1235. Allowance on purchase price -- When interested party**
32043 **is purchaser.**
32044 [~~When~~] If a party entitled to a share of the property, or [~~an encumbrancer~~] a lienholder
32045 entitled to have his lien paid out of the sale, becomes a purchaser, the referees may take his
32046 receipt for so much of the proceeds of the sale as belongs to him.
32047 Section 1058. Section **78B-6-1236**, which is renumbered from Section 78-39-36 is
32048 renumbered and amended to read:
32049 **[~~78-39-36~~]. 78B-6-1236. Conveyance to be recorded -- Operates as a bar.**
32050 (1) The conveyances [~~must~~] shall be recorded in the county where the [~~premises are~~

32051 ~~situated, and~~] property is located.
32052 (2) The recording shall be a bar against:
32053 (a) all persons interested in the property in any way, who have been named as parties in
32054 the action[~~, and against~~];
32055 (b) all [~~such~~] parties or persons [~~as~~] who were unknown, if the summons was served by
32056 publication, and [~~against~~] all persons claiming under them [~~or either of them,~~]; and [~~against~~]
32057 (c) all persons having unrecorded deeds or liens at the commencement of the action.
32058 Section 1059. Section **78B-6-1237**, which is renumbered from Section 78-39-37 is
32059 renumbered and amended to read:
32060 **[~~78-39-37~~]. 78B-6-1237. Investment of sale proceeds for nonresidents or**
32061 **unknown parties.**
32062 When there are proceeds of a sale belonging to an unknown owner or to a person
32063 [~~without~~] outside the state who has no legal representative [~~within it~~] inside the state, the [~~same~~
32064 ~~must~~] proceeds shall be invested in bonds of the United States, [~~of~~] this state, or [~~of some~~] a
32065 political subdivision [~~thereof~~] of the state for the benefit of the persons entitled [~~thereto~~] the
32066 proceeds.
32067 Section 1060. Section **78B-6-1238**, which is renumbered from Section 78-39-38 is
32068 renumbered and amended to read:
32069 **[~~78-39-38~~]. 78B-6-1238. Clerk of court to be custodian.**
32070 [~~When~~] If the security of the proceeds of the sale is taken, or when an investment of any
32071 proceeds is made, it [~~must~~] shall be done, except as [~~herein~~] otherwise provided, in the name of
32072 the clerk of the district court [~~and his successors in office, who must~~]. The clerk of the court
32073 shall hold the [~~same~~] security for the use and benefit of the parties interested, subject to [~~the~~] an
32074 order of the court.
32075 Section 1061. Section **78B-6-1239**, which is renumbered from Section 78-39-39 is
32076 renumbered and amended to read:
32077 **[~~78-39-39~~]. 78B-6-1239. Distribution of securities to parties entitled.**
32078 [~~When~~] If security is taken by the referees on a sale, and the parties interested in [~~such~~]
32079 the security, by an instrument in writing [~~under their hands~~] delivered to the referees, agree
32080 upon the shares and proportions to which they are respectively entitled, or when shares and
32081 proportions have been previously adjudged by the court, [~~such~~] the securities [~~must~~] shall be

32082 taken in the names of, and payable to, the parties respectively entitled [~~thereto~~], and [~~must~~]
32083 shall be delivered to [~~such~~] the parties upon their receipt [~~therefor. Such~~]. The agreement and
32084 receipt [~~must~~] shall be filed with the clerk of the court.
32085 Section 1062. Section **78B-6-1240**, which is renumbered from Section 78-39-40 is
32086 renumbered and amended to read:
32087 **[~~78-39-40~~]. 78B-6-1240. Investment of securities by court clerk -- Accounting.**
32088 The clerk of the court in whose name a security is taken or by whom an investment is
32089 made, and his successors in office, [~~must~~] shall receive the interest and principal as it becomes
32090 due, and apply and invest the same as the court may direct[~~, and must~~]. The clerk shall also
32091 deposit with the county treasurer all securities taken, and keep an account, in a book provided
32092 and kept for that purpose in the clerk's office, free to inspection by all persons, of investments
32093 and moneys received [~~by him thereon~~] and [~~the~~] their disposition [~~thereof~~].
32094 Section 1063. Section **78B-6-1241**, which is renumbered from Section 78-39-41 is
32095 renumbered and amended to read:
32096 **[~~78-39-41~~]. 78B-6-1241. Equalization.**
32097 [~~When it appears that~~] (1) If a partition cannot be made equally among the parties
32098 according to their respective rights without prejudice to the rights and interests of some of
32099 them, and a partition is ordered, the courts may [~~adjudge~~] order compensation [~~to be~~] made by
32100 one party to another on account of the inequality[~~; but such compensation shall~~].
32101 (2) Compensation may not be required to be made to others by unknown owners
32102 [~~unknown, nor by~~] or a minor, unless [~~it appears that such~~] the court determines that the minor
32103 has sufficient personal property [~~sufficient for that purpose~~] to make the payment and the
32104 minor's and [~~that his~~] the minor's interest will not be [~~promoted thereby. And~~] negatively
32105 affected.
32106 (3) The court has the power in all cases [~~the court has power~~] to make compensatory
32107 adjustment among the parties according to the principles of equity.
32108 Section 1064. Section **78B-6-1242**, which is renumbered from Section 78-39-42 is
32109 renumbered and amended to read:
32110 **[~~78-39-42~~]. 78B-6-1242. Interests of minor -- Payment to guardian.**
32111 [~~When~~] If the share of a minor is sold, the court may order the proceeds of the sale
32112 [~~may~~] to be paid by the referee making the sale to [~~his~~] the minor's general guardian or to the

32113 special guardian appointed for [~~him~~] the minor in the action[~~, upon giving the security required~~
32114 ~~by law or directed by order of the court~~].
32115 Section 1065. Section **78B-6-1243**, which is renumbered from Section 78-39-45 is
32116 renumbered and amended to read:
32117 **[~~78-39-45~~]. 78B-6-1243. Partition -- Payment of costs -- Enforcement of**
32118 **judgment.**
32119 (1) The costs of partition, including reasonable [~~attorneys'~~] attorney fees, expended by
32120 the plaintiff or [~~either~~] any of the defendants for the common benefit, fees of referees and other
32121 disbursements [~~must~~] shall be paid by the parties entitled to share in the lands divided, in
32122 proportion to their respective interests [~~therein~~], and may be included and specified in the
32123 judgment. [~~In that case they~~] The costs shall be a lien on the several shares, and the judgment
32124 may be enforced by execution against [~~such~~] the shares and against other property held by the
32125 respective parties. [~~When, however,~~]
32126 (2) If litigation arises between some of the parties [~~only~~], the court may require the
32127 expenses of [~~such~~] the litigation to be paid by the parties [~~thereto or any of them~~] to the
32128 litigation.
32129 Section 1066. Section **78B-6-1244**, which is renumbered from Section 78-39-46 is
32130 renumbered and amended to read:
32131 **[~~78-39-46~~]. 78B-6-1244. One referee instead of three allowed by consent.**
32132 The court, with the consent of the parties, may appoint a single referee instead of three
32133 referees in the proceedings under the provisions of this [~~chapter~~] part, and the single referee
32134 [~~when thus appointed~~] has all the powers, and may perform all the duties, required of the three
32135 referees.
32136 Section 1067. Section **78B-6-1245**, which is renumbered from Section 78-39-47 is
32137 renumbered and amended to read:
32138 **[~~78-39-47~~]. 78B-6-1245. Lien for costs and expenses advanced by one for**
32139 **benefit of all.**
32140 [~~If it appears that~~] (1) The court shall allow expenses incurred, including attorney fees,
32141 in prosecuting or defending other actions or proceedings [~~have been necessarily prosecuted or~~
32142 ~~defended~~] by any one of the tenants in common for the protection, confirmation or perfecting of
32143 the title, or setting the boundaries, or making a survey or surveys of the estate partitioned[~~, the~~

32144 ~~court shall allow to the parties to the action who have paid the expenses of such litigation or~~
32145 ~~other proceedings all the expenses necessarily incurred therein, including attorneys' fees, which~~
32146 ~~shall have accrued to the common benefit of the other tenants in common, with interest thereon~~
32147 ~~from the date of making such expenditures, and the same must be~~] to be recovered by the party
32148 incurring the expenses.
32149 (2) The court shall determine the amounts with interest from the date the expenditures
32150 occurred.
32151 (3) The costs shall be:
32152 (a) pleaded and allowed by the court [~~and~~];
32153 (b) included in the final judgment[~~, and shall be~~];
32154 (c) a lien upon the share of each tenant, in proportion to [~~his~~] the tenant's interest[~~,~~];
32155 and [~~shall be~~]
32156 (d) enforced in the same manner as taxable costs of partition are taxed and collected.
32157 Section 1068. Section **78B-6-1246**, which is renumbered from Section 78-39-48 is
32158 renumbered and amended to read:
32159 **[~~78-39-48~~]. 78B-6-1246. Abstract of title -- Costs and inspection.**
32160 (1) If [~~it appears to~~] the court determines that it was necessary to have [~~made~~] an
32161 abstract of the title to the property to be partitioned created and [~~such~~] the abstract has been
32162 procured by [~~the plaintiff, or if the plaintiff has failed to have the same made before the~~
32163 ~~commencement of the action and any one of the defendants shall have such abstract afterwards~~
32164 ~~made~~] a party to the proceeding, the cost of the abstract, with interest [~~thereon~~] from the [~~time~~
32165 ~~the same is subject to the~~] date if its creation and availability for inspection [~~of~~] by the
32166 respective parties to the action, [~~must~~] shall be allowed and taxed. [~~Whenever such~~]
32167 (2) If the abstract is procured by the plaintiff before the commencement of the action
32168 [~~he must~~] the plaintiff shall file a notice with [~~his~~] the complaint [~~a notice~~] that an abstract of
32169 the title has been made and is [~~subject to~~] available for the inspection and use of all the parties
32170 to the action[~~, designating therein~~]. The notice shall state where the abstract will be [~~kept~~]
32171 available for inspection. [~~But if~~]
32172 (3) If the plaintiff [~~has failed to~~] did not procure [~~such~~] an abstract before commencing
32173 the action, and [~~any~~] a defendant [~~shall procure the same to be made, he~~] procures an abstract,
32174 the defendant shall, as soon as [~~he~~] it has been directed it to be made, file a notice [~~thereof~~] in

32175 the action with the clerk of the court, stating who is making the [~~same~~] abstract and where it
32176 will be kept when finished. [~~The court, or the judge thereof, may direct, from time to time~~
32177 ~~during the progress of the action, who shall~~]
32178 (4) The court may direct who may have custody of the abstract.
32179 Section 1069. Section **78B-6-1247**, which is renumbered from Section 78-39-49 is
32180 renumbered and amended to read:
32181 **[~~78-39-49~~]. 78B-6-1247. Interest on advances to be allowed.**
32182 [~~Whenever during the progress of the action for partition any~~] Any disbursement [~~shall~~
32183 ~~have been~~] made[~~,~~] by a party under the direction of the court [~~or the judge thereof, by a party~~
32184 ~~thereto, interest must be allowed thereon from the time of making the same~~] during the action
32185 shall accrue interest from the date it is made.
32186 Section 1070. Section **78B-6-1301** is enacted to read:
32187 **Part 13. Quiet Title**
32188 **78B-6-1301. Quiet title -- Action to determine adverse claim to property.**
32189 A person may bring an action against another person to determine rights, interests, or
32190 claims to or in personal or real property.
32191 Section 1071. Section **78B-6-1302** is enacted to read:
32192 **78B-6-1302. Definitions.**
32193 As used in this part:
32194 (1) "Claimant" means a person who files a notice.
32195 (2) "Guarantee" means an agreement by a claimant to pay an amount of damages:
32196 (a) specified by the court;
32197 (b) suffered as a result of the maintenance of a notice;
32198 (c) to a person with an interest in the real property that is the subject of the notice; and
32199 (d) if the requirements of Subsection 78B-6-1304(5) are met.
32200 (3) "Notice" means a notice of the pendency of an action filed under Section
32201 78B-6-1303.
32202 Section 1072. Section **78B-6-1303** is enacted to read:
32203 **78B-6-1303. Lis pendens -- Notice.**
32204 (1) Either party to an action affecting the title to, or the right of possession of, real
32205 property may file a notice of the pendency of the action with the county recorder in the county

32206 where the property or any portion of the property is located.
32207 (2) The notice shall contain:
32208 (a) the names of the parties;
32209 (b) the object of the action or defense; and
32210 (c) a description of the property affected in that county.
32211 (3) From the time of filing the notice, a purchaser or encumbrancer of the property who
32212 may be affected by the action is considered to have constructive notice of the pendency of the
32213 action.
32214 Section 1073. Section **78B-6-1304** is enacted to read:
32215 **78B-6-1304. Motions related to a notice of the pendency of an action.**
32216 (1) Any time after a notice has been recorded pursuant to Section 78B-6-1303, any of
32217 the following may make a motion to the court in which the action is pending to release the
32218 notice:
32219 (a) a party to the action; or
32220 (b) a person with an interest in the real property affected by the notice.
32221 (2) A court shall order a notice released if:
32222 (a) the court receives a motion to release under Subsection (1); and
32223 (b) the court finds that the claimant has not established by a preponderance of the
32224 evidence the probable validity of the real property claim that is the subject of the notice.
32225 (3) If a court releases a notice pursuant to this section, the claimant may not record
32226 another notice with respect to the same property without approval of the court in which the
32227 action is pending.
32228 (4) Upon a motion by any person with an interest in the real property that is the subject
32229 of a notice, a court may require the claimant to give the moving party a guarantee as a condition
32230 of maintaining the notice:
32231 (a) any time after a notice has been recorded; and
32232 (b) regardless of whether the court has received an application to release under
32233 Subsection (1).
32234 (5) A person who receives a guarantee under Subsection (4) may recover an amount
32235 not to exceed the amount of the guarantee upon a showing that:
32236 (a) the claimant did not prevail on the real property claim; and

32237 (b) the person seeking the guarantee suffered damages as a result of the maintenance of
32238 the notice.
32239 (6) A court shall award costs and attorney fees to a prevailing party on any motion
32240 under this section unless the court finds that:
32241 (a) the nonprevailing party acted with substantial justification; or
32242 (b) other circumstances make the imposition of attorney fees and costs unjust.
32243 Section 1074. Section **78B-6-1305**, which is renumbered from Section 78-40-3 is
32244 renumbered and amended to read:
32245 **[~~78-40-3~~]. 78B-6-1305. Disclaimer or default by defendant -- Costs.**
32246 The plaintiff may not recover costs of the action if:
32247 [~~If~~] (1) the defendant [~~in such action~~] disclaims in his answer any interest or estate in
32248 the property[~~,~~]; or [~~suffers~~]
32249 (2) allows judgment to be taken against him [~~without~~] by refusing to answer[~~, the~~
32250 ~~plaintiff cannot recover costs~~].
32251 Section 1075. Section **78B-6-1306**, which is renumbered from Section 78-40-4 is
32252 renumbered and amended to read:
32253 **[~~78-40-4~~]. 78B-6-1306. Termination of title pending action -- Judgment --**
32254 **Damages.**
32255 If the plaintiff [~~shows~~] demonstrates a right to recover at the time the action [~~was~~
32256 ~~commenced~~] is brought, but [~~it appears that~~] his right [~~has terminated~~] terminates during the
32257 pendency of the action, the verdict and judgment [~~must~~] shall be according to the fact, and the
32258 plaintiff may recover damages for withholding the property.
32259 Section 1076. Section **78B-6-1307**, which is renumbered from Section 78-40-5 is
32260 renumbered and amended to read:
32261 **[~~78-40-5~~]. 78B-6-1307. Setoff or counterclaim for improvements made.**
32262 [~~When damages are claimed for withholding the property recovered, upon which~~] If
32263 permanent improvements have been made by a defendant, or [~~those~~] persons under whom [~~he~~]
32264 the defendant claims[~~, holding under color of title adversely to the claims of the plaintiff,~~] in
32265 good faith, the value of [~~such~~] the improvements, except improvements made upon mining
32266 property, [~~must~~] shall be allowed as a setoff or counterclaim against [~~such~~] the damages
32267 recovered for withholding the property.

32268 Section 1077. Section **78B-6-1308**, which is renumbered from Section 78-40-6 is
32269 renumbered and amended to read:
32270 **[~~78-40-6~~]. 78B-6-1308. Right of entry pending action for purposes of action.**
32271 The court in which an action is pending [~~for the recovery of real property,~~] under this
32272 part or for damages for an injury [~~thereto, or to quiet title or to determine adverse claims~~
32273 ~~thereto, or a judge of such court, may, on motion, upon notice by~~] to property may, on motion
32274 and upon notice to either party, for good cause shown, [~~grant~~] issue an order allowing [~~to such~~]
32275 a party the right to enter [~~upon~~] the property and [~~make survey and measurement thereof , and~~
32276 ~~of~~] take surveys and measurements including any tunnels, shafts, or drifts [~~thereon for the~~
32277 ~~purpose of the action~~], even though entry [~~for such purpose has to~~] must be made through other
32278 lands belonging to parties to the action.
32279 Section 1078. Section **78B-6-1309**, which is renumbered from Section 78-40-7 is
32280 renumbered and amended to read:
32281 **[~~78-40-7~~]. 78B-6-1309. Order for entry -- Liability for injuries.**
32282 The order [~~must~~] shall describe the property, and a copy [~~thereof must be~~] served on the
32283 owner or occupant[~~, and thereupon such~~]. The party may enter [~~upon~~] the property with
32284 necessary surveyors and assistants, and may [~~make such survey and measurement; but if~~] take
32285 surveys and measurements. The party shall be liable for any unnecessary injury [~~is~~] done to the
32286 property[~~, he is liable therefor~~].
32287 Section 1079. Section **78B-6-1310**, which is renumbered from Section 78-40-8 is
32288 renumbered and amended to read:
32289 **[~~78-40-8~~]. 78B-6-1310. Mortgage not considered a conveyance -- Foreclosure**
32290 **necessary.**
32291 A mortgage of real property [~~shall~~] may not be [~~deemed~~] considered a conveyance[~~;~~
32292 ~~whatever its terms, so as to~~] which would enable the owner of the mortgage to recover
32293 possession of the real property without a foreclosure and sale.
32294 Section 1080. Section **78B-6-1311**, which is renumbered from Section 78-40-9 is
32295 renumbered and amended to read:
32296 **[~~78-40-9~~]. 78B-6-1311. Alienation pending action not to prejudice recovery.**
32297 An action for the recovery of real property against a person in possession cannot be
32298 prejudiced by any alienation made by [~~such~~] the person, either before or after the

32299 commencement of the action.
32300 Section 1081. Section **78B-6-1312**, which is renumbered from Section 78-40-10 is
32301 renumbered and amended to read:
32302 **[~~78-40-10~~]. 78B-6-1312. Actions respecting mining claims -- Proof of customs**
32303 **and usage admissible.**
32304 In actions respecting mining claims proof must be admitted of the customs, usages, or
32305 regulations established and in force in the district, bar, diggings, or camp [~~embracing such~~
32306 ~~claim; and such~~] in which the claim is located. The customs, usages, or regulations, [~~when~~] if
32307 not in conflict with the laws of this state or of the United States, [~~must~~] shall govern [~~the~~] any
32308 decision [~~of~~] in the action.
32309 Section 1082. Section **78B-6-1313** is enacted to read:
32310 **78B-6-1313. Temporary injunction in actions involving title to mining claims.**
32311 (1) The court may grant a postponement if:
32312 (a) the court is satisfied that the delay is necessary for either or both parties to
32313 adequately prepare for trial; and
32314 (b) the party requesting the postponement is not guilty of laches and is acting in good
32315 faith.
32316 (2) The court may provide, as part of its order, that the party obtaining the
32317 postponement may not remove from the property which is the subject of the action any
32318 valuable quartz, rock, earth, or ores. The court may vacate the postponement order or hold the
32319 party in contempt if the order is violated.
32320 Section 1083. Section **78B-6-1314**, which is renumbered from Section 78-40-12 is
32321 renumbered and amended to read:
32322 **[~~78-40-12~~]. 78B-6-1314. Service of summons and conclusiveness of judgment.**
32323 [~~Where~~] If service of process is made upon unknown defendants by publication, the
32324 action shall proceed against [~~such~~] the unknown persons in the same manner as against the
32325 defendants who are named and upon whom service is made by publication[~~, and any such~~]. Any
32326 unknown person who has or claims to have any right, title, estate, lien, or interest in the
32327 [~~said~~] property, which is a cloud on the title [~~thereto,~~] and adverse to the plaintiff, [~~at the time~~
32328 ~~of the commencement of the action,~~] who has been [~~duly~~] served as [~~aforesaid~~] above, and
32329 anyone claiming under him, shall be concluded by [~~the~~] any judgment in [~~such~~] the action [~~as~~

32330 ~~effectually as if the action were brought against such person by his or her name,~~
32331 ~~notwithstanding such~~] even though the unknown person may be under a legal disability.
32332 Section 1084. Section **78B-6-1315**, which is renumbered from Section 78-40-13 is
32333 renumbered and amended to read:
32334 **[~~78-40-13~~]. 78B-6-1315. Judgment on default -- Court must require evidence --**
32335 **Conclusiveness of judgment.**
32336 [~~When~~] (1) If the summons has been served and the time for answering has expired, the
32337 court shall proceed to hear the cause as in other cases[~~, and shall have jurisdiction to~~].
32338 (2) The court may examine [~~into~~] and determine the legality of the plaintiff's title and
32339 [~~of~~] the title and claims of all the defendants and [~~of~~] all unknown persons[~~, and to that end~~
32340 ~~must~~].
32341 (3) The court may not enter any judgment by default against unknown defendants, but
32342 [~~must~~] in all cases shall require evidence of plaintiff's title and possession and hear [~~such~~] the
32343 evidence [~~as may be~~] offered respecting the claims and title of any of the defendants[~~, and must~~
32344 ~~thereafter~~]. The court may enter judgment in accordance with the evidence and the law only
32345 after hearing all the evidence.
32346 (4) The judgment shall be conclusive against all the persons named in the summons
32347 and complaint who have been served and against all [~~such~~] unknown persons as stated in the
32348 complaint and summons who have been served by publication.
32349 Section 1085. Section **78B-6-1401**, which is renumbered from Section 78-58-101 is
32350 renumbered and amended to read:
32351 **Part 14 Citizen Participation in Government Act**
32352 **[~~78-58-101~~]. 78B-6-1401. Title.**
32353 This [~~chapter~~] part is known as the "Citizen Participation in Government Act."
32354 Section 1086. Section **78B-6-1402**, which is renumbered from Section 78-58-102 is
32355 renumbered and amended to read:
32356 **[~~78-58-102~~]. 78B-6-1402. Definitions.**
32357 As used in this [~~chapter~~] part:
32358 (1) "Action involving public participation in the process of government" means any
32359 lawsuit, cause of action, claim, cross-claim, counterclaim, or other judicial pleading or filing
32360 requesting relief to which this act applies.

32361 (2) "Government" includes a branch, department, agency, instrumentality, official,
32362 employee, agent, or other person acting under color of law of the United States, a state, or
32363 subdivision of a state or other public authority.
32364 (3) "Moving party" means any person on whose behalf the motion is filed.
32365 (4) "Person" means the same as defined in Section 68-3-12.
32366 (5) "Process of government" means the mechanisms and procedures by which the
32367 legislative and executive branches of government make decisions, and the activities leading up
32368 to the decisions, including the exercise by a citizen of the right to influence those decisions
32369 under the First Amendment to the U.S. Constitution.
32370 (6) "Responding party" means any person against whom the motion described in
32371 Section [~~78-58-103~~] 78B-6-1403 is filed.
32372 (7) "State" means the same as defined in Section 68-3-12.
32373 Section 1087. Section **78B-6-1403**, which is renumbered from Section 78-58-103 is
32374 renumbered and amended to read:
32375 **[~~78-58-103~~]. 78B-6-1403. Applicability.**
32376 (1) A defendant in an action who believes that the action is primarily based on, relates
32377 to, or is in response to an act of the defendant while participating in the process of government
32378 and is done primarily to harass the defendant, may file:
32379 (a) an answer supported by an affidavit of the defendant detailing his belief that the
32380 action is designed to prevent, interfere with, or chill public participation in the process of
32381 government, and specifying in detail the conduct asserted to be the participation in the process
32382 of government believed to give rise to the complaint; and
32383 (b) a motion for judgment on the pleadings in accordance with the Utah Rules of Civil
32384 Procedure Rule 12(c).
32385 (2) Affidavits detailing activity not adequately detailed in the answer may be filed with
32386 the motion.
32387 Section 1088. Section **78B-6-1404**, which is renumbered from Section 78-58-104 is
32388 renumbered and amended to read:
32389 **[~~78-58-104~~]. 78B-6-1404. Procedures.**
32390 (1) On the filing of a motion for judgment on the pleadings:
32391 (a) all discovery shall be stayed pending resolution of the motion unless the court

32392 orders otherwise;
32393 (b) the trial court shall hear and determine the motion as expeditiously as possible with
32394 the moving party providing by clear and convincing evidence that the primary reason for the
32395 filing of the complaint was to interfere with the first amendment right of the defendant; and
32396 (c) the moving party shall have a right to seek interlocutory appeal from a trial court
32397 order denying the motion or from a trial court failure to rule on the motion in expedited
32398 fashion.
32399 (2) The court shall grant the motion and dismiss the action upon a finding that the
32400 primary purpose of the action is to prevent, interfere with, or chill the moving party's proper
32401 participation in the process of government.
32402 (3) Any government body to which the moving party's acts were directed or the
32403 attorney general may intervene to defend or otherwise support the moving party.
32404 Section 1089. Section **78B-6-1405**, which is renumbered from Section 78-58-105 is
32405 renumbered and amended to read:
32406 **[~~78-58-105~~]. 78B-6-1405. Counter actions -- Attorney fees -- Damages.**
32407 (1) A defendant in an action involving public participation in the process of
32408 government may maintain an action, claim, cross-claim, or counterclaim to recover:
32409 (a) costs and reasonable [~~attorney's~~] attorney fees, upon a demonstration that the action
32410 involving public participation in the process of government was commenced or continued
32411 without a substantial basis in fact and law and could not be supported by a substantial argument
32412 for the extension, modification, or reversal of existing law; and
32413 (b) other compensatory damages upon an additional demonstration that the action
32414 involving public participation in the process of government was commenced or continued for
32415 the purpose of harassing, intimidating, punishing, or otherwise maliciously inhibiting the free
32416 exercise of rights granted under the First Amendment to the U.S. Constitution.
32417 (2) Nothing in this section shall affect or preclude the right of any party to any recovery
32418 otherwise authorized by law.
32419 Section 1090. Section **78B-6-1501**, which is renumbered from Section 78-59-101 is
32420 renumbered and amended to read:
32421 **Part 15. Structured Settlement Protection Act**
32422 **[~~78-59-101~~]. 78B-6-1501. Title.**

32423 This [~~chapter~~] part is known as the "Structured Settlement Protection Act."
32424 Section 1091. Section **78B-6-1502**, which is renumbered from Section 78-59-102 is
32425 renumbered and amended to read:
32426 **[~~78-59-102~~]. 78B-6-1502. Definitions.**
32427 For purposes of this [~~chapter~~] part:
32428 (1) "Annuity issuer" means an insurer that has issued a contract to fund periodic
32429 payments under a structured settlement.
32430 (2) "Dependents" include:
32431 (a) a payee's spouse;
32432 (b) a payee's minor children; and
32433 (c) all other persons for whom the payee is legally obligated to provide support,
32434 including alimony.
32435 (3) "Discounted present value" means the present value of future payments determined
32436 by discounting the payments to the present using the most recently published Applicable
32437 Federal Rate for determining the present value of an annuity, as issued by the United States
32438 Internal Revenue Service.
32439 (4) "Gross advance amount" means the sum payable to the payee or for the payee's
32440 account as consideration for a transfer of structured settlement payment rights before any
32441 reductions for transfer expenses or other deductions to be made from the consideration.
32442 (5) "Independent professional advice" means advice of an attorney, certified public
32443 accountant, actuary, or other licensed professional adviser.
32444 (6) "Interested parties" means, with respect to any structured settlement:
32445 (a) the payee;
32446 (b) any beneficiary irrevocably designated under the annuity contract to receive
32447 payments following the payee's death;
32448 (c) the annuity issuer;
32449 (d) the structured settlement obligor; and
32450 (e) any other party that has continuing rights or obligations under the structured
32451 settlement.
32452 (7) "Net advance amount" means the gross advance amount less the aggregate amount
32453 of the actual and estimated transfer expenses required to be disclosed under Subsection

32454 [~~78-59-103~~] 78B-6-1503(5).
32455 (8) "Payee" means an individual who:
32456 (a) is receiving tax free payments under a structured settlement; and
32457 (b) proposes to make a transfer of payment rights under the settlement.
32458 (9) "Periodic payments" includes both recurring payments and scheduled future lump
32459 sum payments.
32460 (10) "Qualified assignment agreement" means an agreement providing for a qualified
32461 assignment within the meaning of Section 130 of the United States Internal Revenue Code.
32462 (11) "Responsible administrative authority" means, with respect to a structured
32463 settlement, any government authority vested by law with exclusive jurisdiction over the settled
32464 claim resolved by the structured settlement.
32465 (12) "Settled claim" means the original tort claim resolved by a structured settlement.
32466 (13) "Structured settlement" means an arrangement for periodic payment of damages
32467 for personal injuries or sickness established by settlement or judgment in resolution of a tort
32468 claim.
32469 (14) "Structured settlement agreement" means the agreement, judgment, stipulation, or
32470 release embodying the terms of a structured settlement.
32471 (15) "Structured settlement obligor" means, with respect to any structured settlement,
32472 the party that has the continuing obligation to make periodic payments to the payee under a
32473 structured settlement agreement or a qualified assignment agreement.
32474 (16) "Structured settlement payment rights" means rights to receive periodic payments
32475 under a structured settlement, whether from the structured settlement obligor or the annuity
32476 issuer if:
32477 (a) (i) the payee is domiciled in this state; or
32478 (ii) the domicile or principal place of business of the structured settlement obligor or
32479 the annuity issuer is located in this state;
32480 (b) the structured settlement agreement is approved by a court in this state; or
32481 (c) the structured settlement agreement is expressly governed by the laws of this state.
32482 (17) "Terms of the structured settlement" include, with respect to any structured
32483 settlement, the terms of:
32484 (a) the structured settlement agreement;

32485 (b) the annuity contract;
32486 (c) any qualified assignment agreement; and
32487 (d) any order or other approval of any court or other government authority that
32488 authorized or approved the structured settlement.
32489 (18) (a) Subject to Subsection (18)(b), "transfer" means any sale, assignment, pledge,
32490 hypothecation, or other alienation or encumbrance of structured settlement payment rights
32491 made by a payee for consideration.
32492 (b) "Transfer" does not include the creation or perfection of a security interest in
32493 structured settlement payment rights under a blanket security agreement entered into with an
32494 insured depository institution, in the absence of any action to:
32495 (i) redirect the structured settlement payments to:
32496 (A) the insured depository institution; or
32497 (B) an agent or successor in interest to the insured depository institution; or
32498 (ii) otherwise enforce a blanket security interest against the structured settlement
32499 payment rights.
32500 (19) "Transfer agreement" means the agreement providing for a transfer of structured
32501 settlement payment rights.
32502 (20) (a) Subject to Subsection (20)(b), "transfer expenses" means all expenses of a
32503 transfer that are required under the transfer agreement to be paid by the payee or deducted from
32504 the gross advance amount, including:
32505 (i) court filing fees;
32506 (ii) attorney fees;
32507 (iii) escrow fees;
32508 (iv) lien recordation fees;
32509 (v) judgment and lien search fees;
32510 (vi) finders' fees;
32511 (vii) commissions; and
32512 (viii) other payments to a broker or other intermediary.
32513 (b) "Transfer expenses" do not include preexisting obligations of the payee payable for
32514 the payee's account from the proceeds of a transfer.
32515 (21) "Transferee" means a party acquiring or proposing to acquire structured settlement

32516 payment rights through a transfer.
32517 Section 1092. Section **78B-6-1503**, which is renumbered from Section 78-59-103 is
32518 renumbered and amended to read:
32519 **[~~78-59-103~~]. 78B-6-1503. Required disclosures to payee.**
32520 Not less than three days prior to the date on which a payee signs a transfer agreement,
32521 the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller
32522 than 14 point, setting forth:
32523 (1) the amounts and due dates of the structured settlement payments to be transferred;
32524 (2) the aggregate amount of the payments;
32525 (3) the discounted present value of the payments to be transferred, which shall be
32526 identified as the "calculation of current value of the transferred structured settlement payments
32527 under federal standards for valuing annuities," and the amount of the Applicable Federal Rate
32528 used in calculating the discounted present value;
32529 (4) the gross advance amount;
32530 (5) an itemized listing of all applicable transfer expenses, other than [~~attorneys'~~]
32531 attorney fees and related disbursements payable in connection with the transferee's application
32532 for approval of the transfer, and the transferee's best estimate of the amount of any of the fees
32533 and disbursements;
32534 (6) the net advance amount;
32535 (7) the amount of any penalties or liquidated damages payable by the payee in the event
32536 of any breach of the transfer agreement by the payee; and
32537 (8) a statement that the payee has the right to cancel the transfer agreement, without
32538 penalty or further obligation, not later than the third business day after the date the agreement is
32539 signed by the payee.
32540 Section 1093. Section **78B-6-1504**, which is renumbered from Section 78-59-104 is
32541 renumbered and amended to read:
32542 **[~~78-59-104~~]. 78B-6-1504. Approval of transfers of structured settlement**
32543 **payment rights.**
32544 Direct or indirect transfer of structured settlement payment rights may not be effective
32545 and a structured settlement obligor or annuity issuer may not be required to make any payment
32546 directly or indirectly to any transferee of structured settlement payment rights unless the

32547 transfer has been approved in advance in a final court order based on express findings by the
32548 court that:
32549 (1) the transfer is in the best interest of the payee, taking into account the welfare and
32550 support of the payee's dependents;
32551 (2) the payee has been advised in writing by the transferee to seek independent
32552 professional advice regarding the transfer and has either received such advice or knowingly
32553 waived such advice in writing; and
32554 (3) the transfer does not contravene any applicable statute or the order of any court or
32555 other government authority.
32556 Section 1094. Section **78B-6-1505**, which is renumbered from Section 78-59-105 is
32557 renumbered and amended to read:
32558 **[~~78-59-105~~]. 78B-6-1505. Effects of transfer of structured settlement**
32559 **payment rights.**
32560 Following a transfer of structured settlement payment rights under this chapter:
32561 (1) The structured settlement obligor and the annuity issuer shall, as to all parties
32562 except the transferee, be discharged and released from any and all liability for the transferred
32563 payments.
32564 (2) The transferee shall be liable to the structured settlement obligor and the annuity
32565 issuer:
32566 (a) if the transfer contravenes the terms of the structured settlement, for any taxes
32567 incurred by the parties as a consequence of the transfer; and
32568 (b) for any other liabilities or costs, including reasonable costs and [~~attorneys'~~] attorney
32569 fees, arising from compliance by the parties with the order of the court or arising as a
32570 consequence of the transferee's failure to comply with this [~~chapter~~] part.
32571 (3) Neither the annuity issuer nor the structured settlement obligor may be required to
32572 divide any periodic payment between the payee and any transferee or assignee or between two
32573 or more transferees or assignees.
32574 (4) Any further transfer of structured settlement payment rights by the payee may be
32575 made only after compliance with all of the requirements of this [~~chapter~~] part.
32576 Section 1095. Section **78B-6-1506**, which is renumbered from Section 78-59-106 is
32577 renumbered and amended to read:

32578 **[~~78-59-106~~]. 78B-6-1506. Procedure for approval of transfers.**
32579 (1) An application under this [~~chapter~~] part for approval of a transfer of structured
32580 settlement payment rights shall be made by the transferee and may be brought in the county in
32581 which the payee resides, in the county in which the structured settlement obligor or the annuity
32582 issuer maintains its principal place of business, or in any court which approved the structured
32583 settlement agreement.
32584 (2) Not less than 20 days prior to the scheduled hearing on any application for approval
32585 of a transfer of structured settlement payment rights under Section [~~78-59-104~~] 78B-6-1504,
32586 the transferee shall file with the court and serve on all interested parties a notice of the
32587 proposed transfer and the application for its authorization, including with the notice:
32588 (a) a copy of the transferee's application;
32589 (b) a copy of the transfer agreement;
32590 (c) a copy of the disclosure statement required under Section [~~78-59-103~~] 78B-6-1503;
32591 (d) a listing of each of the payee's dependents, together with each dependent's age;
32592 (e) notification that any interested party is entitled to support, oppose, or otherwise
32593 respond to the transferee's application, either in person or by counsel, by submitting written
32594 comments to the court or responsible administrative authority or by participating in the hearing;
32595 and
32596 (f) notification of the time and place of the hearing and notification of the manner in
32597 which and the time by which written responses to the application must be filed, which shall be
32598 not less than 15 days after service of the transferee's notice, in order to be considered by the
32599 court or responsible administrative authority.
32600 Section 1096. Section **78B-6-1507**, which is renumbered from Section 78-59-107 is
32601 renumbered and amended to read:
32602 **[~~78-59-107~~]. 78B-6-1507. General provisions -- Construction.**
32603 (1) The provisions of this [~~chapter~~] part may not be waived by any payee.
32604 (2) (a) Any transfer agreement entered into on or after May 6, 2002 by a payee who
32605 resides in this state shall provide that disputes under the transfer agreement, including any
32606 claim that the payee has breached the agreement, shall be determined in and under the laws of
32607 this state.
32608 (b) A transfer agreement may not authorize the transferee or any other party to confess

32609 judgment or consent to entry of judgment against the payee.
32610 (3) The transfer of structured settlement payment rights may not extend to any
32611 payments that are life-contingent unless, before the date on which the payee signs the transfer
32612 agreement, the transferee establishes and agrees to maintain procedures reasonably satisfactory
32613 to the annuity issuer and the structured settlement obligor for:
32614 (a) periodically confirming the payee's survival; and
32615 (b) giving the annuity issuer and the structured settlement obligor prompt written
32616 notice in the event of the payee's death.
32617 (4) A payee who proposes to make a transfer of structured settlement payment rights
32618 may not incur any of the following on the basis of a failure of the transfer to satisfy the
32619 requirements of this [~~chapter~~] <u>part</u>:
32620 (a) a penalty;
32621 (b) a forfeiture of any application fee or other payment; or
32622 (c) any liability to the proposed transferee or any assignee based on any failure of the
32623 transfer to satisfy the requirements of this [~~chapter~~] <u>part</u>.
32624 (5) (a) This [~~chapter~~] <u>part</u> may not be construed to authorize any transfer of structured
32625 settlement payment rights in contravention of any law or to imply that any transfer under a
32626 transfer agreement entered into before May 6, 2002 is valid or invalid.
32627 (b) This [~~chapter~~] <u>part</u> does not apply to a transfer of payment rights under workers'
32628 compensation, as defined in Section 34A-2-422, that takes effect on or after April 30, 2007.
32629 (6) Compliance with Section [~~78-59-103~~] <u>78B-6-1503</u> and fulfillment of the conditions
32630 set forth in Section [~~78-59-104~~] <u>78B-6-1504</u> shall be solely the responsibility of the transferee
32631 in any transfer of structured settlement payment rights, and neither the structured settlement
32632 obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from,
32633 noncompliance with the requirements or failure to fulfill the conditions.
32634 Section 1097. Section **78B-6-1508**, which is renumbered from Section 78-59-108 is
32635 renumbered and amended to read:
32636 **[~~78-59-108~~]. <u>78B-6-1508.</u> Effective date.**
32637 This [~~act~~] <u>part</u> shall apply to any transfer of structured settlement payment rights under
32638 a transfer agreement entered into on or after May 6, 2002; provided, however, that nothing
32639 contained in this [~~chapter~~] <u>part</u> shall imply that any transfer under a transfer agreement reached

32640 prior to that date is either effective or ineffective.
32641 Section 1098. Section **78B-7-101** is enacted to read:
32642 **CHAPTER 7. PROTECTIVE ORDERS**
32643 **Part 1. Cohabitant Abuse Act**
32644 **78B-7-101. Title.**
32645 This part is known and may be cited as the "Cohabitant Abuse Act."
32646 Section 1099. Section **78B-7-102**, which is renumbered from Section 30-6-1 is
32647 renumbered and amended to read:
32648 **[~~30-6-1~~]. 78B-7-102. Definitions.**
32649 As used in this chapter:
32650 (1) "Abuse" means intentionally or knowingly causing or attempting to cause a
32651 cohabitant physical harm or intentionally or knowingly placing a cohabitant in reasonable fear
32652 of imminent physical harm.
32653 (2) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person
32654 who is 16 years of age or older who:
32655 (a) is or was a spouse of the other party;
32656 (b) is or was living as if a spouse of the other party;
32657 (c) is related by blood or marriage to the other party;
32658 (d) has one or more children in common with the other party;
32659 (e) is the biological parent of the other party's unborn child; or
32660 (f) resides or has resided in the same residence as the other party.
32661 (3) Notwithstanding Subsection (2), "cohabitant" does not include:
32662 (a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or
32663 (b) the relationship between natural, adoptive, step, or foster siblings who are under 18
32664 years of age.
32665 (4) "Court clerk" means a district court clerk.
32666 (5) "Domestic violence" means the same as that term is defined in Section 77-36-1.
32667 (6) "Ex parte protective order" means an order issued without notice to the defendant in
32668 accordance with this chapter.
32669 (7) "Foreign protection order" is as defined in Section [~~30-6a-102~~] 78B-7-302.
32670 (8) "Law enforcement unit" or "law enforcement agency" means any public agency

32671 having general police power and charged with making arrests in connection with enforcement
32672 of the criminal statutes and ordinances of this state or any political subdivision.
32673 (9) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace
32674 Officer Classifications.
32675 (10) "Protective order" means an order issued pursuant to this chapter subsequent to a
32676 hearing on the petition, of which the petitioner and respondent have been given notice in
32677 accordance with this chapter.
32678 Section 1100. Section **78B-7-103**, which is renumbered from Section 30-6-2 is
32679 renumbered and amended to read:
32680 **[~~30-6-2~~]. 78B-7-103. Abuse or danger of abuse -- Protective orders.**
32681 (1) Any cohabitant who has been subjected to abuse or domestic violence, or to whom
32682 there is a substantial likelihood of abuse or domestic violence, may seek an ex parte protective
32683 order or a protective order in accordance with this chapter, whether or not that person has left
32684 the residence or the premises in an effort to avoid further abuse.
32685 (2) A petition for a protective order may be filed under this chapter regardless of
32686 whether an action for divorce between the parties is pending.
32687 (3) A petition seeking a protective order may not be withdrawn without approval of the
32688 court.
32689 Section 1101. Section **78B-7-104**, which is renumbered from Section 30-6-3 is
32690 renumbered and amended to read:
32691 **[~~30-6-3~~]. 78B-7-104. Venue of action.**
32692 (1) The district court has jurisdiction of any action brought under this chapter.
32693 (2) An action brought pursuant to this chapter shall be filed in the county where either
32694 party resides or in which the action complained of took place.
32695 Section 1102. Section **78B-7-105**, which is renumbered from Section 30-6-4 is
32696 renumbered and amended to read:
32697 **[~~30-6-4~~]. 78B-7-105. Forms for petitions and protective orders -- Assistance.**
32698 (1) (a) The offices of the court clerk shall provide forms and nonlegal assistance to
32699 persons seeking to proceed under this chapter.
32700 (b) The Administrative Office of the Courts shall develop and adopt uniform forms for
32701 petitions and orders for protection in accordance with the provisions of this chapter [~~on or~~

32702 ~~before September 1, 1995~~]. That office shall provide the forms to the clerk of each court
32703 authorized to issue protective orders. The forms shall include:
32704 (i) a statement notifying the petitioner for an ex parte protective order that knowing
32705 falsification of any statement or information provided for the purpose of obtaining a protective
32706 order may subject the petitioner to felony prosecution;
32707 (ii) a separate portion of the form for those provisions, the violation of which is a
32708 criminal offense, and a separate portion for those provisions, the violation of which is a civil
32709 violation, as provided in Subsection [~~30-6-4.2~~] 78B-7-106(5);
32710 (iii) language in the criminal provision portion stating violation of any criminal
32711 provision is a class A misdemeanor, and language in the civil portion stating violation of or
32712 failure to comply with a civil provision is subject to contempt proceedings;
32713 (iv) a space for information the petitioner is able to provide to facilitate identification
32714 of the respondent, such as social security number, driver license number, date of birth, address,
32715 telephone number, and physical description;
32716 (v) a space for the petitioner to request a specific period of time for the civil provisions
32717 to be in effect, not to exceed 150 days, unless the petitioner provides in writing the reason for
32718 the requested extension of the length of time beyond 150 days;
32719 (vi) a statement advising the petitioner that when a minor child is included in an ex
32720 parte protective order or a protective order, as part of either the criminal or the civil portion of
32721 the order, the petitioner may provide a copy of the order to the principal of the school where the
32722 child attends; and
32723 (vii) a statement advising the petitioner that if the respondent fails to return custody of
32724 a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from
32725 the court a writ of assistance.
32726 (2) If the person seeking to proceed under this chapter is not represented by an attorney,
32727 it is the responsibility of the court clerk's office to provide:
32728 (a) the forms adopted pursuant to Subsection (1);
32729 (b) all other forms required to petition for an order for protection including, but not
32730 limited to, forms for service;
32731 (c) clerical assistance in filling out the forms and filing the petition, in accordance with
32732 Subsection (1)(a). A court clerk's office may designate any other entity, agency, or person to

32733 provide that service, but the court clerk's office is responsible to see that the service is
32734 provided;
32735 (d) information regarding the means available for the service of process;
32736 (e) a list of legal service organizations that may represent the petitioner in an action
32737 brought under this chapter, together with the telephone numbers of those organizations; and
32738 (f) written information regarding the procedure for transporting a jailed or imprisoned
32739 respondent to the protective order hearing, including an explanation of the use of transportation
32740 order forms when necessary.
32741 (3) No charges may be imposed by a court clerk, constable, or law enforcement agency
32742 for:
32743 (a) filing a petition under this chapter;
32744 (b) obtaining an ex parte protective order;
32745 (c) obtaining copies, either certified or not certified, necessary for service or delivery to
32746 law enforcement officials; or
32747 (d) fees for service of a petition, ex parte protective order, or protective order.
32748 (4) A petition for an order of protection shall be in writing and verified.
32749 (5) (a) All orders for protection shall be issued in the form adopted by the
32750 Administrative Office of the Courts pursuant to Subsection (1).
32751 (b) Each protective order issued, except orders issued ex parte, shall include the
32752 following language:
32753 "Respondent was afforded both notice and opportunity to be heard in the hearing that
32754 gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322,
32755 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United States, the District of
32756 Columbia, tribal lands, and United States territories. This order complies with the Uniform
32757 Interstate Enforcement of Domestic Violence Protection Orders Act."
32758 Section 1103. Section **78B-7-106**, which is renumbered from Section 30-6-4.2 is
32759 renumbered and amended to read:
32760 **[~~30-6-4.2~~]. 78B-7-106. Protective orders -- Ex parte protective orders --**
32761 **Modification of orders -- Service of process -- Duties of the court.**
32762 (1) If it appears from a petition for an order for protection or a petition to modify an
32763 order for protection that domestic violence or abuse has occurred or a modification of an order

32764 for protection is required, a court may:
32765 (a) without notice, immediately issue an order for protection ex parte or modify an
32766 order for protection ex parte as it considers necessary to protect the petitioner and all parties
32767 named to be protected in the petition; or
32768 (b) upon notice, issue an order for protection or modify an order after a hearing,
32769 whether or not the respondent appears.
32770 (2) A court may grant the following relief without notice in an order for protection or a
32771 modification issued ex parte:
32772 (a) enjoin the respondent from threatening to commit or committing domestic violence
32773 or abuse against the petitioner and any designated family or household member;
32774 (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise
32775 communicating with the petitioner, directly or indirectly;
32776 (c) order that the respondent is excluded from the petitioner's residence and its
32777 premises, and order the respondent to stay away from the residence, school, or place of
32778 employment of the petitioner, and the premises of any of these, or any specified place
32779 frequented by the petitioner and any designated family or household member;
32780 (d) upon finding that the respondent's use or possession of a weapon may pose a
32781 serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or
32782 possessing a firearm or other weapon specified by the court;
32783 (e) order possession and use of an automobile and other essential personal effects, and
32784 direct the appropriate law enforcement officer to accompany the petitioner to the residence of
32785 the parties to ensure that the petitioner is safely restored to possession of the residence,
32786 automobile, and other essential personal effects, or to supervise the petitioner's or respondent's
32787 removal of personal belongings;
32788 (f) grant to the petitioner temporary custody of any minor children of the parties;
32789 (g) order any further relief that the court considers necessary to provide for the safety
32790 and welfare of the petitioner and any designated family or household member; and
32791 (h) if the petition requests child support or spousal support, at the hearing on the
32792 petition order both parties to provide verification of current income, including year-to-date pay
32793 stubs or employer statements of year-to-date or other period of earnings, as specified by the
32794 court, and complete copies of tax returns from at least the most recent year.

32795 (3) A court may grant the following relief in an order for protection or a modification
32796 of an order after notice and hearing, whether or not the respondent appears:
32797 (a) grant the relief described in Subsection (2); and
32798 (b) specify arrangements for parent-time of any minor child by the respondent and
32799 require supervision of that parent-time by a third party or deny parent-time if necessary to
32800 protect the safety of the petitioner or child.
32801 (4) Following the protective order hearing, the court shall:
32802 (a) as soon as possible, deliver the order to the county sheriff for service of process;
32803 (b) make reasonable efforts to ensure that the order for protection is understood by the
32804 petitioner, and the respondent, if present;
32805 (c) transmit, by the end of the next business day after the order is issued, a copy of the
32806 order for protection to the local law enforcement agency or agencies designated by the
32807 petitioner; and
32808 (d) transmit a copy of the order to the statewide domestic violence network described
32809 in Section [~~30-6-8~~] 78B-7-113.
32810 (5) (a) Each protective order shall include two separate portions, one for provisions, the
32811 violation of which are criminal offenses, and one for provisions, the violation of which are civil
32812 violations, as follows:
32813 (i) criminal offenses are those under Subsections (2)(a) through (e), and under
32814 Subsection (3)(a) as it refers to Subsections (2)(a) through (e); and
32815 (ii) civil offenses are those under Subsections (2)(f) through (h), and Subsection (3)(a)
32816 as it refers to Subsections (2)(f) through (h).
32817 (b) The criminal provision portion shall include a statement that violation of any
32818 criminal provision is a class A misdemeanor.
32819 (c) The civil provision portion shall include a notice that violation of or failure to
32820 comply with a civil provision is subject to contempt proceedings.
32821 (6) The protective order shall include:
32822 (a) a designation of a specific date, determined by the court, when the civil portion of
32823 the protective order either expires or is scheduled for review by the court, which date may not
32824 exceed 150 days after the date the order is issued, unless the court indicates on the record the
32825 reason for setting a date beyond 150 days;

32826 (b) information the petitioner is able to provide to facilitate identification of the
32827 respondent, such as Social Security number, driver license number, date of birth, address,
32828 telephone number, and physical description; and
32829 (c) a statement advising the petitioner that:
32830 (i) after two years from the date of issuance of the protective order, a hearing may be
32831 held to dismiss the criminal portion of the protective order;
32832 (ii) the petitioner should, within the 30 days prior to the end of the two-year period,
32833 advise the court of the petitioner's current address for notice of any hearing; and
32834 (iii) the address provided by the petitioner will not be made available to the respondent.
32835 (7) Child support and spouse support orders issued as part of a protective order are
32836 subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income
32837 Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non
32838 IV-D Cases, except when the protective order is issued ex parte.
32839 (8) (a) The county sheriff that receives the order from the court, pursuant to Subsection
32840 (5)(a), shall provide expedited service for orders for protection issued in accordance with this
32841 chapter, and shall transmit verification of service of process, when the order has been served, to
32842 the statewide domestic violence network described in Section [~~30-6-8~~] 78B-7-113.
32843 (b) This section does not prohibit any law enforcement agency from providing service
32844 of process if that law enforcement agency:
32845 (i) has contact with the respondent and service by that law enforcement agency is
32846 possible; or
32847 (ii) determines that under the circumstances, providing service of process on the
32848 respondent is in the best interests of the petitioner.
32849 (9) (a) When an order is served on a respondent in a jail or other holding facility, the
32850 law enforcement agency managing the facility shall make a reasonable effort to provide notice
32851 to the petitioner at the time the respondent is released from incarceration.
32852 (b) Notification of the petitioner shall consist of a good faith reasonable effort to
32853 provide notification, including mailing a copy of the notification to the last-known address of
32854 the victim.
32855 (10) A court may modify or vacate an order of protection or any provisions in the order
32856 after notice and hearing, except that the criminal provisions of a protective order may not be

32857 vacated within two years of issuance unless the petitioner:
32858 (a) is personally served with notice of the hearing as provided in Rules 4 and 5, Utah
32859 Rules of Civil Procedure, and the petitioner personally appears before the court and gives
32860 specific consent to the vacation of the criminal provisions of the protective order; or
32861 (b) submits a verified affidavit, stating agreement to the vacation of the criminal
32862 provisions of the protective order.
32863 (11) A protective order may be modified without a showing of substantial and material
32864 change in circumstances.
32865 (12) Insofar as the provisions of this chapter are more specific than the Utah Rules of
32866 Civil Procedure, regarding protective orders, the provisions of this chapter govern.
32867 Section 1104. Section **78B-7-107**, which is renumbered from Section 30-6-4.3 is
32868 renumbered and amended to read:
32869 **[~~30-6-4.3~~]. 78B-7-107. Hearings on ex parte orders.**
32870 (1) (a) When a court issues an ex parte protective order the court shall set a date for a
32871 hearing on the petition within 20 days after the ex parte order is issued.
32872 (b) If at that hearing the court does not issue a protective order, the ex parte protective
32873 order shall expire, unless it is otherwise extended by the court.
32874 (c) If at that hearing the court issues a protective order, the ex parte protective order
32875 remains in effect until service of process of the protective order is completed.
32876 (d) A protective order issued after notice and a hearing is effective until further order of
32877 the court.
32878 (e) If the hearing on the petition is heard by a commissioner, either the petitioner or
32879 respondent may file an objection within ten days of the entry of the recommended order and the
32880 assigned judge shall hold a hearing within 20 days of the filing of the objection.
32881 (2) Upon a hearing under this section, the court may grant any of the relief described in
32882 Section [~~30-6-4.2~~] 78B-7-106.
32883 (3) When a court denies a petition for an ex parte protective order or a petition to
32884 modify an order for protection ex parte, the court shall set the matter for hearing upon notice to
32885 the respondent.
32886 (4) A respondent who has been served with an ex parte protective order may seek to
32887 vacate the ex parte protective order prior to the hearing scheduled pursuant to Subsection (1)(a)

32888 by filing a verified motion to vacate. The respondent's verified motion to vacate and a notice of
32889 hearing on that motion shall be personally served on the petitioner at least two days prior to the
32890 hearing on the motion to vacate.
32891 Section 1105. Section **78B-7-108**, which is renumbered from Section 30-6-4.5 is
32892 renumbered and amended to read:
32893 **[~~30-6-4.5~~]. 78B-7-108. Mutual protective orders prohibited.**
32894 (1) A court may not grant a mutual order or mutual orders for protection to opposing
32895 parties, unless each party:
32896 (a) has filed an independent petition against the other for a protective order, and both
32897 petitions have been served;
32898 (b) makes a showing at a due process protective order hearing of abuse or domestic
32899 violence committed by the other party; and
32900 (c) demonstrates the abuse or domestic violence did not occur in self-defense.
32901 (2) If the court issues mutual protective orders, the circumstances justifying those
32902 orders shall be documented in the case file.
32903 Section 1106. Section **78B-7-109**, which is renumbered from Section 30-6-4.1 is
32904 renumbered and amended to read:
32905 **[~~30-6-4.1~~]. 78B-7-109. Continuing duty to inform court of other proceedings --**
32906 **Effect of other proceedings.**
32907 (1) At any hearing in a proceeding to obtain an order for protection, each party has a
32908 continuing duty to inform the court of each proceeding for an order for protection, any civil
32909 litigation, each proceeding in juvenile court, and each criminal case involving either party,
32910 including the case name, the file number, and the county and state of the proceeding, if that
32911 information is known by the party.
32912 (2) (a) An order for protection issued pursuant to this chapter is in addition to and not
32913 in lieu of any other available civil or criminal proceeding.
32914 (b) A petitioner is not barred from seeking a protective order because of other pending
32915 proceedings.
32916 (c) A court may not delay granting relief under this chapter because of the existence of
32917 a pending civil action between the parties.
32918 (3) A petitioner may omit his or her address from all documents filed with the court

32919 under this chapter, but shall separately provide the court with a mailing address that is not to be
32920 made part of the public record, but that may be provided to a peace officer or entity for service
32921 of process.
32922 Section 1107. Section **78B-7-110**, which is renumbered from Section 30-6-4.4 is
32923 renumbered and amended to read:
32924 **[~~30-6-4.4~~]. 78B-7-110. No denial of relief solely because of lapse of time.**
32925 The court may not deny a petitioner relief requested pursuant to this chapter solely
32926 because of a lapse of time between an act of domestic violence or abuse and the filing of the
32927 petition for an order of protection.
32928 Section 1108. Section **78B-7-111**, which is renumbered from Section 30-6-4.6 is
32929 renumbered and amended to read:
32930 **[~~30-6-4.6~~]. 78B-7-111. Prohibition of court-ordered or court-referred**
32931 **mediation.**
32932 In any case brought under the provisions of this chapter, the court may not order the
32933 parties into mediation for resolution of the issues in a petition for an order for protection.
32934 Section 1109. Section **78B-7-112**, which is renumbered from Section 30-6-11 is
32935 renumbered and amended to read:
32936 **[~~30-6-11~~]. 78B-7-112. Division of Child and Family Services -- Development**
32937 **and assistance of volunteer network.**
32938 (1) The Division of Child and Family Services within the Department of Human
32939 Services shall, either directly or by contract:
32940 (a) develop a statewide network of volunteers and community resources to support,
32941 assist, and advocate on behalf of victims of domestic violence;
32942 (b) train volunteers to provide clerical assistance to persons seeking orders for
32943 protection under this chapter;
32944 (c) coordinate the provision of volunteer services with Utah Legal Services and the
32945 Legal Aid Society; and
32946 (d) assist local government officials in establishing community based support systems
32947 for victims of domestic violence.
32948 (2) Volunteers shall provide additional nonlegal assistance to victims of domestic
32949 violence, including providing information on the location and availability of shelters and other

32950 community resources.
32951 Section 1110. Section **78B-7-113**, which is renumbered from Section 30-6-8 is
32952 renumbered and amended to read:
32953 **[~~30-6-8~~]. 78B-7-113. Statewide domestic violence network -- Peace officers'**
32954 **duties -- Prevention of abuse in absence of order -- Limitation of liability.**
32955 (1) (a) [~~On or before January 1, 1996, law~~] Law enforcement units, the Department of
32956 Public Safety, and the Administrative Office of the Courts shall utilize statewide procedures to
32957 ensure that peace officers at the scene of an alleged violation of a protective order have
32958 immediate access to information necessary to verify the existence and terms of that order, and
32959 other orders of the court required to be made available on the network by the provisions of this
32960 chapter or Title 77, Chapter 36, Cohabitant Abuse Procedures Act. Those officers shall use
32961 every reasonable means to enforce the court's order, in accordance with the requirements and
32962 procedures of this chapter and Title 77, Chapter 36.
32963 (b) The Administrative Office of the Courts, in cooperation with the Department of
32964 Public Safety and the Criminal Investigations and Technical Services Division, established in
32965 Section 53-10-103, shall provide for a single, statewide network containing:
32966 (i) all orders for protection issued by a court of this state; and
32967 (ii) all other court orders or reports of court action that are required to be available on
32968 the network under this chapter and Title 77, Chapter 36.
32969 (c) The entities described in Subsection (b) may utilize the same mechanism as the
32970 statewide warrant system, described in Section 53-10-208.
32971 (d) All orders and reports required to be available on the network shall be available
32972 within 24 hours after court action. If the court that issued the order is not part of the state court
32973 computer system, the orders and reports shall be available on the network within 72 hours.
32974 (e) The information contained in the network shall be available to a court, law
32975 enforcement officer, or agency upon request.
32976 (2) When any peace officer has reason to believe a cohabitant or child of a cohabitant
32977 is being abused, or that there is a substantial likelihood of immediate danger of abuse,
32978 although no protective order has been issued, that officer shall use all reasonable means to
32979 prevent the abuse, including:
32980 (a) remaining on the scene as long as it reasonably appears there would otherwise be

32981 danger of abuse;
32982 (b) making arrangements for the victim to obtain emergency medical treatment;
32983 (c) making arrangements for the victim to obtain emergency housing or shelter care;
32984 (d) explaining to the victim his or her rights in these matters;
32985 (e) asking the victim to sign a written statement describing the incident of abuse; or
32986 (f) arresting and taking into physical custody the abuser in accordance with the
32987 provisions of Title 77, Chapter 36.
32988 (3) No person or institution may be held criminally or civilly liable for the performance
32989 of, or failure to perform, any duty established by this chapter, so long as that person acted in
32990 good faith and without malice.
32991 Section 1111. Section **78B-7-114**, which is renumbered from Section 30-6-14 is
32992 renumbered and amended to read:
32993 **[~~30-6-14~~]. 78B-7-114. Authority to prosecute class A misdemeanor violations.**
32994 Alleged class A misdemeanor violations of this chapter may be prosecuted by city
32995 attorneys.
32996 Section 1112. Section **78B-7-115**, which is renumbered from Section 30-6-15 is
32997 renumbered and amended to read:
32998 **[~~30-6-15~~]. 78B-7-115. Dismissal of protective order when divorce is final.**
32999 When a protective order exists and a divorce proceeding is pending between the same
33000 parties named in the protective order, the protective order shall be dismissed when the court
33001 issues a decree of divorce for the parties if the petitioner in the protective order action is
33002 present or has been given notice in both the divorce and protective order action of the hearing,
33003 and the court specifically finds that the order need not continue. If the court dismisses the
33004 protective order, the court shall immediately issue an order of dismissal to be filed in the
33005 protective order action and transmit a copy of the order of dismissal to the statewide domestic
33006 violence network as described in Section [~~30-6-8~~] 78B-7-113.
33007 Section 1113. Section **78B-7-116**, which is renumbered from Section 30-6-12 is
33008 renumbered and amended to read:
33009 **[~~30-6-12~~]. 78B-7-116. Full faith and credit for foreign protection orders.**
33010 (1) A foreign protection order is enforceable in this state as provided in Title [~~30~~] 78B,
33011 Chapter [~~6a,~~] 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection

33012 Orders Act.
33013 (2) (a) A person entitled to protection under a foreign protection order may file the
33014 order in any district court by filing with the court a certified copy of the order. A filing fee may
33015 not be required.
33016 (b) The person filing the foreign protection order shall swear under oath in an affidavit,
33017 that to the best of the person's knowledge the order is presently in effect as written and the
33018 respondent was personally served with a copy of the order.
33019 (c) The affidavit described in Subsection (2)(b) shall be in the form adopted by the
33020 Administrative Office of the Courts, consistent with its responsibilities to develop and adopt
33021 forms under Section [~~30-6-4~~] 78B-7-105.
33022 (d) The court where a foreign protection order is filed shall transmit a copy of the order
33023 to the statewide domestic violence network described in Section [~~30-6-8~~] 78B-7-113.
33024 (e) Upon inquiry by a law enforcement agency, the clerk of the district court shall make
33025 a copy of the foreign protection order available.
33026 (f) After a foreign protection order is filed, the district court shall furnish a certified
33027 copy of the order to the person who filed the order.
33028 (g) A filed foreign protection order that is inaccurate or is not currently in effect shall
33029 be corrected or removed from the statewide domestic violence network described in Section
33030 [~~30-6-8~~] 78B-7-113.
33031 (3) Law enforcement personnel may:
33032 (a) rely upon a certified copy of any foreign protection order which has been provided
33033 to the peace officer by any source;
33034 (b) rely on the statement of the person protected by the order that the order is in effect
33035 and the respondent was personally served with a copy of the order; or
33036 (c) consider other information in determining whether there is probable cause to
33037 believe that a valid foreign protection order exists.
33038 (4) A violation in Utah of a foreign protection order is subject to the same penalties as
33039 the violation of a protective order issued in Utah.
33040 Section 1114. Section **78B-7-201**, which is renumbered from Section 78-3h-101 is
33041 renumbered and amended to read:
33042 **Part 2. Child Protective Orders**

33043 **[~~78-3h-101~~]. 78B-7-201. Definitions.**
33044 As used in this chapter:
33045 (1) "Abuse" means physical abuse or sexual abuse.
33046 (2) "Court" means the district court or juvenile court.
33047 (3) All other terms have the same meaning as defined in Section [~~78-3a-103~~]
33048 78A-6-105.
33049 Section 1115. Section **78B-7-202**, which is renumbered from Section 78-3h-102 is
33050 renumbered and amended to read:
33051 **[~~78-3h-102~~]. 78B-7-202. Petition -- Ex parte determination -- Guardian ad**
33052 **litem -- Referral to division.**
33053 (1) Any interested person may file a petition for a protective order on behalf of a child
33054 who is being abused or is in imminent danger of being abused. The petitioner shall first make a
33055 referral to the division.
33056 (2) Upon the filing of a petition, the clerk of the court shall:
33057 (a) review the records of the juvenile court, the district court, and the management
33058 information system of the division to find any petitions, orders, or investigations related to the
33059 child or the parties to the case;
33060 (b) request the records of any law enforcement agency identified by the petitioner as
33061 having investigated abuse of the child; and
33062 (c) identify and obtain any other background information that may be of assistance to
33063 the court.
33064 (3) Upon the filing of a petition, the court shall immediately determine, based on the
33065 evidence and information presented, whether the minor is being abused or is in imminent
33066 danger of being abused. If so, the court shall enter an ex parte child protective order.
33067 (4) The court may appoint an attorney guardian ad litem for the child who is the subject
33068 of the petition.
33069 Section 1116. Section **78B-7-203**, which is renumbered from Section 78-3h-103 is
33070 renumbered and amended to read:
33071 **[~~78-3h-103~~]. 78B-7-203. Hearing.**
33072 (1) The court shall schedule a hearing within 20 days after the ex parte determination.
33073 (2) The petition, ex parte child protective order, and notice of hearing shall be served

33074 on the respondent, the minor's parent or guardian, and, if appointed, the guardian ad litem. The
33075 notice shall contain:
33076 (a) the name and address of the person to whom it is directed;
33077 (b) the date, time, and place of the hearing;
33078 (c) the name of the minor on whose behalf a petition is being brought; and
33079 (d) a statement that a person is entitled to have an attorney present at the hearing.
33080 (3) The court shall provide an opportunity for any person having relevant knowledge to
33081 present evidence or information. The court may hear statements by counsel.
33082 (4) An agent of the division served with a subpoena in compliance with the Utah Rules
33083 of Civil Procedure shall testify in accordance with the Utah Rules of Evidence.
33084 (5) If the court determines, based on a preponderance of the evidence, that the minor is
33085 being abused or is in imminent danger of being abused, the court shall enter a child protective
33086 order. With the exception of the provisions of Section [~~78-3a-320~~] 78A-6-323, a child
33087 protective order does not constitute an adjudication of abuse, neglect, or dependency under
33088 Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part 3, Abuse Neglect and Dependency Proceedings.
33089 Section 1117. Section **78B-7-204**, which is renumbered from Section 78-3h-104 is
33090 renumbered and amended to read:
33091 **[~~78-3h-104~~]. 78B-7-204. Content of order.**
33092 (1) A child protective order or an ex parte child protective order may contain the
33093 following provisions the violation of which is a class A misdemeanor under Section 77-36-2.4:
33094 (a) enjoin the respondent from threatening to commit or committing abuse of the
33095 minor;
33096 (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise
33097 communicating with the minor, directly or indirectly;
33098 (c) prohibit the respondent from entering or remaining upon the residence, school, or
33099 place of employment of the minor and the premises of any of these or any specified place
33100 frequented by the minor;
33101 (d) upon finding that the respondent's use or possession of a weapon may pose a
33102 serious threat of harm to the minor, prohibit the respondent from purchasing, using, or
33103 possessing a firearm or other specified weapon; and
33104 (e) determine ownership and possession of personal property and direct the appropriate

33105 law enforcement officer to attend and supervise the petitioner's or respondent's removal of
33106 personal property.
33107 (2) A child protective order or an ex parte child protective order may contain the
33108 following provisions the violation of which is contempt of court:
33109 (a) determine temporary custody of a minor who is the subject of the petition;
33110 (b) determine parent-time with a minor who is the subject of the petition, including
33111 denial of parent-time if necessary to protect the safety of the minor, and require supervision of
33112 parent-time by a third party;
33113 (c) determine support in accordance with Title [~~78~~] 78B, Chapter [~~45~~] 12, [~~Uniform~~
33114 ~~Civil Liability for~~] Utah Child Support Act; and
33115 (d) order any further relief the court considers necessary to provide for the safety and
33116 welfare of the minor.
33117 (3) A child protective order and an ex parte child protective order shall include:
33118 (a) a statement that violation of a criminal provision is a class A misdemeanor and
33119 violation of a civil provision is contempt of court; and
33120 (b) information the petitioner is able to provide to facilitate identification of the
33121 respondent, such as Social Security number, driver license number, date of birth, address,
33122 telephone number, and physical description.
33123 (4) A child protective order shall include:
33124 (a) a statement that:
33125 (i) two years from entry of the order, the respondent may petition to dismiss the
33126 criminal portion of the order;
33127 (ii) the petitioner should, within the 30 days prior to the end of the two-year period,
33128 advise the court of the petitioner's address for notice of any hearing; and
33129 (iii) the address provided by the petitioner will not be made available to the respondent;
33130 (b) the date when the civil portion of the order will expire or be reviewed; and
33131 (c) the following statement: "Respondent was afforded notice and opportunity to be
33132 heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act
33133 of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C.A. 2265, this order is valid in all the United
33134 States, the District of Columbia, tribal lands, and United States territories. This order complies
33135 with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act."

33136 Section 1118. Section **78B-7-205**, which is renumbered from Section 78-3h-105 is
33137 renumbered and amended to read:
33138 **[~~78-3h-105~~]. 78B-7-205. Service -- Income withholding -- Expiration.**
33139 (1) If the court enters an ex parte child protective order or a child protective order, the
33140 court shall:
33141 (a) make reasonable efforts to ensure that the order is understood by the petitioner and
33142 the respondent, if present;
33143 (b) as soon as possible transmit the order to the county sheriff for service; and
33144 (c) by the end of the next business day after the order is entered transmit a copy of the
33145 order to any law enforcement agency designated by the petitioner and to the statewide domestic
33146 violence network described in Section [~~30-6-8~~] 78B-7-113.
33147 (2) The county sheriff shall serve the order and transmit verification of service to the
33148 statewide domestic violence network described in Section [~~30-6-8~~] 78B-7-113 in an
33149 expeditious manner. Any law enforcement agency may serve the order and transmit
33150 verification of service to the statewide domestic violence network if the law enforcement
33151 agency has contact with the respondent or if service by that law enforcement agency is in the
33152 best interests of the child.
33153 (3) When an order is served on a respondent in a jail, prison, or other holding facility,
33154 the law enforcement agency managing the facility shall notify the petitioner of the respondent's
33155 release. Notice to the petitioner consists of a prompt, good faith effort to provide notice,
33156 including mailing the notice to the petitioner's last-known address.
33157 (4) Child support orders issued as part of a child protective order are subject to
33158 mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in
33159 IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.
33160 (5) After notice and hearing a court may modify or vacate a child protective order
33161 without a showing of substantial and material change in circumstances, except that the criminal
33162 provisions of the child protective order may not be vacated within two years of issuance unless
33163 the petitioner:
33164 (a) is personally served with notice of the hearing as provided in Rule 4, Utah Rules of
33165 Civil Procedure, and the petitioner personally appears before the court and gives specific
33166 consent to the vacation of the criminal provisions of the protective order; or

33167 (b) submits a verified affidavit, stating agreement to the vacation of the criminal
33168 provisions of the protective order.
33169 (6) The civil provisions of the child protective order expire 150 days after the date of
33170 the order unless a different date is set by the court. The court may not set a date more than 150
33171 days after the date of the order without a finding of good cause. The court may review and
33172 extend the expiration date, but may not extend it to more than 150 days after the date of the
33173 order without a finding of good cause.
33174 (7) Notwithstanding Subsections (5) and (6), unless the judge orders otherwise all child
33175 protective orders expire when the subject of the order is 18 years of age, unless the judge
33176 vacates the order earlier.
33177 Section 1119. Section **78B-7-206**, which is renumbered from Section 78-3h-106 is
33178 renumbered and amended to read:
33179 **[~~78-3h-106~~]. 78B-7-206. Statewide domestic violence network.**
33180 The Administrative Office of the Courts, in cooperation with the Department of Public
33181 Safety and the Criminal Investigations and Technical Services Division, shall post ex parte
33182 child protective orders, child protective orders, and any modifications to them on the statewide
33183 network established in Section [~~30-6-8~~] 78B-7-113.
33184 Section 1120. Section **78B-7-207**, which is renumbered from Section 78-3h-107 is
33185 renumbered and amended to read:
33186 **[~~78-3h-107~~]. 78B-7-207. Forms and assistance -- No fees.**
33187 (1) The Administrative Office of the Courts shall adopt and make available uniform
33188 forms for petitions and orders conforming to this part. The forms shall notify the petitioner
33189 that:
33190 (a) a knowing falsehood in any statement under oath may subject the petitioner to
33191 felony prosecution;
33192 (b) the petitioner may provide a copy of the order to the principal of the minor's school;
33193 and
33194 (c) the petitioner may enforce a court order through the court if the respondent violates
33195 or fails to comply with a provision of the order.
33196 (2) If the petitioner is not represented, the clerk of the court shall provide, directly or
33197 through an agent:

33198 (a) the forms adopted pursuant to Subsection (1);
33199 (b) clerical assistance in completing the forms and filing the petition;
33200 (c) information regarding means for service of process;
33201 (d) a list of organizations with telephone numbers that may represent the petitioner; and
33202 (e) information regarding the procedure for transporting a jailed or imprisoned
33203 respondent to hearings, including transportation order forms when necessary.
33204 (3) No fee may be imposed by a court, constable, or law enforcement agency for:
33205 (a) filing a petition under this chapter;
33206 (b) obtaining copies necessary for service or delivery to law enforcement officials; or
33207 (c) service of a petition, ex parte child protective order, or child protective order.
33208 Section 1121. Section **78B-7-301**, which is renumbered from Section 30-6a-101 is
33209 renumbered and amended to read:
33210 **Part 3. Uniform Interstate Enforcement of Domestic Violence Protection Orders Act**
33211 **[~~30-6a-101~~]. 78B-7-301. Title.**
33212 This [~~chapter~~] part is known as the "Uniform Interstate Enforcement of Domestic
33213 Violence Protection Orders Act."
33214 Section 1122. Section **78B-7-302**, which is renumbered from Section 30-6a-102 is
33215 renumbered and amended to read:
33216 **[~~30-6a-102~~]. 78B-7-302. Definitions.**
33217 As used in this chapter:
33218 (1) "Foreign protection order" means a protection order issued by a tribunal of another
33219 state.
33220 (2) "Issuing state" means the state whose tribunal issues a protection order.
33221 (3) "Mutual foreign protection order" means a foreign protection order that includes
33222 provisions in favor of both the protected individual seeking enforcement of the order and the
33223 respondent.
33224 (4) "Protected individual" means an individual protected by a protection order.
33225 (5) "Protection order" means an injunction or other order, issued by a tribunal under the
33226 domestic violence, family-violence, or anti-stalking laws of the issuing state, to prevent an
33227 individual from engaging in violent or threatening acts against, harassment of, contact or
33228 communication with, or physical proximity to, another individual.

33229 (6) "Respondent" means the individual against whom enforcement of a protection order
33230 is sought.
33231 (7) "State" means a state of the United States, the District of Columbia, Puerto Rico,
33232 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
33233 of the United States. The term includes an Indian tribe or band that has jurisdiction to issue
33234 protection orders.
33235 (8) "Tribunal" means a court, agency, or other entity authorized by law to issue or
33236 modify a protection order.
33237 Section 1123. Section **78B-7-303**, which is renumbered from Section 30-6a-103 is
33238 renumbered and amended to read:
33239 **[~~30-6a-103~~]. 78B-7-303. Judicial enforcement of order.**
33240 (1) A person authorized by the law of this state to seek enforcement of a protection
33241 order may seek enforcement of a valid foreign protection order in a tribunal of this state. The
33242 tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal
33243 of this state would lack power to provide but for this section. The tribunal shall enforce the
33244 order, whether the order was obtained by independent action or in another proceeding, if it is an
33245 order issued in response to a complaint, petition, or motion filed by or on behalf of an
33246 individual seeking protection. In a proceeding to enforce a foreign protection order, the
33247 tribunal shall follow the procedures of this state for the enforcement of protection orders.
33248 (2) A tribunal of this state may not enforce a foreign protection order issued by a
33249 tribunal of a state that does not recognize the standing of a protected individual to seek
33250 enforcement of the order.
33251 (3) A tribunal of this state shall enforce the provisions of a valid foreign protection
33252 order which govern custody and visitation, if the order was issued in accordance with the
33253 jurisdictional requirements governing the issuance of custody and visitation orders in the
33254 issuing state.
33255 (4) A foreign protection order is valid if it:
33256 (a) identifies the protected individual and the respondent;
33257 (b) is currently in effect;
33258 (c) was issued by a tribunal that had jurisdiction over the parties and subject matter
33259 under the law of the issuing state; and

33260 (d) was issued after the respondent was given reasonable notice and had an opportunity
33261 to be heard before the tribunal issued the order or, in the case of an order ex parte, the
33262 respondent was given notice and has had or will have an opportunity to be heard within a
33263 reasonable time after the order was issued, in a manner consistent with the rights of the
33264 respondent to due process.
33265 (5) A foreign protection order valid on its face is prima facie evidence of its validity.
33266 (6) Absence of any of the criteria for validity of a foreign protection order is an
33267 affirmative defense in an action seeking enforcement of the order.
33268 (7) A tribunal of this state may enforce provisions of a mutual foreign protection order
33269 which favor a respondent only if:
33270 (a) the respondent filed a written pleading seeking a protection order from the tribunal
33271 of the issuing state; and
33272 (b) the tribunal of the issuing state made specific findings in favor of the respondent.
33273 (8) (a) The juvenile court has jurisdiction to enforce foreign protection orders under
33274 this section over which the juvenile court would have had jurisdiction if the order had been
33275 originally sought in this state.
33276 (b) The district court has jurisdiction to enforce foreign protection orders under this
33277 section:
33278 (i) over which the district court would have had jurisdiction if the order had been
33279 originally sought in this state; or
33280 (ii) that are not under the jurisdiction of the juvenile court under Subsection (8)(a).
33281 Section 1124. Section **78B-7-304**, which is renumbered from Section 30-6a-104 is
33282 renumbered and amended to read:
33283 **[~~30-6a-104~~]. 78B-7-304. Nonjudicial enforcement of order.**
33284 (1) A law enforcement officer of this state, upon determining that there is probable
33285 cause to believe that a valid foreign protection order exists and that the order has been violated,
33286 shall enforce the order as if it were the order of a tribunal of this state. Presentation of a
33287 protection order that identifies both the protected individual and the respondent and, on its face,
33288 is currently in effect constitutes probable cause to believe that a valid foreign protection order
33289 exists. For the purposes of this section, the protection order may be inscribed on a tangible
33290 medium or may have been stored in an electronic or other medium if it is retrievable in

33291 perceivable form. Presentation of a certified copy of a protection order is not required for
33292 enforcement.
33293 (2) If a foreign protection order is not presented, a law enforcement officer of this state
33294 may consider other information in determining whether there is probable cause to believe that a
33295 valid foreign protection order exists.
33296 (3) If a law enforcement officer of this state determines that an otherwise valid foreign
33297 protection order cannot be enforced because the respondent has not been notified or served
33298 with the order, the officer shall inform the respondent of the order, make a reasonable effort to
33299 serve the order upon the respondent, and allow the respondent a reasonable opportunity to
33300 comply with the order before enforcing the order.
33301 (4) Registration or filing of an order in this state is not required for the enforcement of
33302 a valid foreign protection order pursuant to this chapter.
33303 Section 1125. Section **78B-7-305**, which is renumbered from Section 30-6a-105 is
33304 renumbered and amended to read:
33305 **[~~30-6a-105~~]. 78B-7-305. Registration of order.**
33306 Any individual may register a foreign protection order in this state under Section
33307 [~~30-6-12~~] 78B-7-116.
33308 Section 1126. Section **78B-7-306**, which is renumbered from Section 30-6a-106 is
33309 renumbered and amended to read:
33310 **[~~30-6a-106~~]. 78B-7-306. Immunity.**
33311 This state or a local governmental agency, or a law enforcement officer, prosecuting
33312 attorney, clerk of court, or any state or local governmental official acting in an official capacity,
33313 is immune from civil and criminal liability for an act or omission arising out of the registration
33314 or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a
33315 foreign protection order if the act or omission was done in good faith in an effort to comply
33316 with this chapter.
33317 Section 1127. Section **78B-7-307**, which is renumbered from Section 30-6a-107 is
33318 renumbered and amended to read:
33319 **[~~30-6a-107~~]. 78B-7-307. Other remedies.**
33320 A protected individual who pursues remedies under this chapter is not precluded from
33321 pursuing other legal or equitable remedies against the respondent.

33322 Section 1128. Section **78B-7-308**, which is renumbered from Section 30-6a-108 is
33323 renumbered and amended to read:
33324 **[~~30-6a-108~~]. 78B-7-308. Uniformity of application and construction.**
33325 In applying and construing this uniform act, consideration must be given to the need to
33326 promote uniformity of the law with respect to its subject matter among states that enact it.
33327 Section 1129. Section **78B-7-309**, which is renumbered from Section 30-6a-109 is
33328 renumbered and amended to read:
33329 **[~~30-6a-109~~]. 78B-7-309. Severability clause.**
33330 If any provision of this chapter or its application to any person or circumstance is held
33331 invalid, the invalidity does not affect other provisions or applications of this chapter which can
33332 be given effect without the invalid provision or application, and to this end the provisions of
33333 this chapter are severable.
33334 Section 1130. Section **78B-7-310**, which is renumbered from Section 30-6a-111 is
33335 renumbered and amended to read:
33336 **[~~30-6a-111~~]. 78B-7-310. Transitional provision.**
33337 This chapter applies to protection orders issued before July 1, 2006 and to continuing
33338 actions for enforcement of foreign protection orders commenced before July 1, 2006. A
33339 request for enforcement of a foreign protection order made on or after July 1, 2006 for
33340 violations of a foreign protection order occurring before July 1, 2006 is governed by this
33341 chapter.
33342 Section 1131. Section **78B-8-101** is enacted to read:
33343 **CHAPTER 8. MISCELLANEOUS**
33344 **Part 1. Foster Care Citizen Review Board**
33345 **78B-8-101. Title.**
33346 This part is known as the Foster Care Citizen Review Board.
33347 Section 1132. Section **78B-8-102**, which is renumbered from Section 78-3g-101 is
33348 renumbered and amended to read:
33349 **[~~78-3g-101~~]. 78B-8-102. Definitions.**
33350 As used in this [~~chapter~~] part:
33351 (1) "Board" means a foster care citizen review board created in accordance with
33352 Section [~~78-3g-103~~] 78B-8-108.

33353 (2) "Committee" means the Foster Care Citizen Review Board Steering Committee
33354 created in accordance with Section [~~78-3g-102~~] 78B-8-103.
33355 (3) "Division" means the Division of Child and Family Services within the Department
33356 of Human Services.
33357 (4) "Plan" means the same as that term is defined in Subsection [~~78-3a-403~~]
33358 78A-6-502(3).
33359 Section 1133. Section **78B-8-103**, which is renumbered from Section 78-3g-102 is
33360 renumbered and amended to read:
33361 **[~~78-3g-102~~]. 78B-8-103. Foster Care Citizen Review Board Steering**
33362 **Committee -- Membership -- Chair -- Duties.**
33363 (1) There is created within state government the Foster Care Citizen Review Board
33364 Steering Committee composed of the following members:
33365 (a) a member of the Board of Child and Family Services, within the Department of
33366 Human Services, appointed by the chair of that board;
33367 (b) the director of the division, or his designee;
33368 (c) a juvenile court judge, appointed by the presiding officer of the Judicial Council;
33369 (d) a juvenile court administrator, appointed by the administrator of the courts;
33370 (e) a representative of the Utah Foster Parents Association, appointed by the president
33371 of that organization;
33372 (f) a representative of a statewide advocacy organization for children, appointed by the
33373 chair of the committee;
33374 (g) a representative of an agency or organization that provides services to children who
33375 have been adjudicated to be under the jurisdiction of the juvenile court, appointed by the chair
33376 of the committee;
33377 (h) the guardian ad litem director, appointed pursuant to Section [~~78-3a-911~~]
33378 78A-6-901, or the director's designee;
33379 (i) the director or chief of the child protection unit within the Office of the Attorney
33380 General, or his designee;
33381 (j) one person from each region who is a member of a board, appointed by the chair of
33382 the committee; and
33383 (k) a private citizen, appointed by the chair of the committee.

33384 (2) The [~~persons described in Subsection (1)~~] members of the committee shall annually
33385 elect a chair [~~of the committee~~] from among themselves.
33386 (3) A majority of the members of the committee constitutes a quorum. The action of
33387 the majority of a quorum represents the action of the committee.
33388 [~~(4) (a) Members of the committee who are not government employees shall receive no~~
33389 ~~compensation or benefits for their services, but may receive per diem and expenses incurred in~~
33390 ~~the performance of the member's official duties at the rates established by the Division of~~
33391 ~~Finance under Sections 63A-3-106 and 63A-3-107.~~]
33392 [~~(b) State government officer and employee members who do not receive salary, per~~
33393 ~~diem, or expenses from their agency for their service may receive per diem and expenses~~
33394 ~~incurred in the performance of their official duties from the board at the rates established by the~~
33395 ~~Division of Finance under Sections 63A-3-106 and 63A-3-107.~~]
33396 [~~(c) Local government members who do not receive salary, per diem, or expenses from~~
33397 ~~the entity that they represent for their service may receive per diem and expenses incurred in~~
33398 ~~the performance of their official duties at the rates established by the Division of Finance under~~
33399 ~~Sections 63A-3-106 and 63A-3-107.~~]
33400 [~~(d) Members of the committee may decline to receive per diem and expenses for their~~
33401 ~~services.~~]
33402 [~~(5)~~] (4) The committee shall:
33403 (a) within appropriations from the Legislature, appoint members [~~of~~] to boards [~~in each~~
33404 ~~juvenile court district~~] established in accordance with Section 78B-8-108;
33405 (b) supervise the recruitment, training, and retention of board members;
33406 (c) supervise and evaluate the boards; and
33407 (d) establish and approve policies for the boards[~~; and~~].
33408 [~~(e) submit a report detailing the results of the boards to the Child Welfare Legislative~~
33409 ~~Oversight Panel, the Judiciary Interim Committee, and the Board of Juvenile Court Judges on~~
33410 ~~or before December 31 of each year.~~]
33411 [~~(6) (a)~~] (5) The Department of Human Services shall provide fiscal management
33412 services, including payroll and accounting services, to the committee.
33413 [~~(b)~~] (6) Within appropriations from the Legislature, the committee may hire
33414 professional and clerical staff as it considers necessary and appropriate.

33415 [~~(7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,~~
33416 ~~the committee may make rules necessary for:~~]
33417 [~~(a) recruitment, appointment, and training of board members;~~]
33418 [~~(b) supervision and evaluation of boards; and~~]
33419 [~~(c) establishment of policy for boards.~~]
33420 [~~(8) The committee may receive gifts, grants, devises, and donations. If the donor~~
33421 ~~designates a specific purpose or use for the gift, grant, devise, or donation, it shall be used~~
33422 ~~solely for that purpose. Undesignated gifts, grants, devises, and donations shall be used for~~
33423 ~~foster care citizen review boards in accordance with the requirements and provisions of this~~
33424 ~~chapter.~~]
33425 Section 1134. Section **78B-8-104** is enacted to read:
33426 **78B-8-104. Compensation -- Expenses -- Per Diem.**
33427 (1) Members of the committee who are not government employees shall receive no
33428 compensation or benefits for their services, but may receive per diem and expenses incurred in
33429 the performance of the member's official duties at the rates established by the Division of
33430 Finance under Sections 63A-3-106 and 63A-3-107.
33431 (2) State government officer and employee members who do not receive salary, per
33432 diem, or expenses from their agency for their service may receive per diem and expenses
33433 incurred in the performance of their official duties from the board at the rates established by the
33434 Division of Finance under Sections 63A-3-106 and 63A-3-107.
33435 (3) Local government members who do not receive salary, per diem, or expenses from
33436 the entity that they represent for their service may receive per diem and expenses incurred in
33437 the performance of their official duties at the rates established by the Division of Finance under
33438 Sections 63A-3-106 and 63A-3-107.
33439 (4) Members of the committee may decline to receive per diem and expenses for their
33440 services.
33441 Section 1135. Section **78B-8-105** is enacted to read:
33442 **78B-8-105. Rulemaking.**
33443 In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
33444 committee may make rules necessary for:
33445 (1) recruitment, appointment, and training of board members;

33446 (2) supervision and evaluation of boards; and
33447 (3) establishment of policy for boards.
33448 Section 1136. Section **78B-8-106** is enacted to read:
33449 **78B-8-106. Reports.**
33450 On or before December 31 of each year, the committee shall submit a report detailing
33451 the results of the boards' reviews to the Child Welfare Legislative Oversight Panel, the
33452 Judiciary Interim Committee, and the Board of Juvenile Court Judges.
33453 Section 1137. Section **78B-8-107** is enacted to read:
33454 **78B-8-107. Gifts -- Grants -- Donations.**
33455 (1) The committee or any board may receive gifts, grants, devises, and donations.
33456 (2) If the donor designates a specific purpose or use for the gift, grant, devise, or
33457 donation, it shall be used solely for that purpose.
33458 (3) Undesignated gifts, grants, devises, and donations shall be used for foster care
33459 citizen review boards in accordance with the requirements and provisions of this part.
33460 Section 1138. Section **78B-8-108** is enacted to read:
33461 **78B-8-108. Foster care citizen review boards -- Membership -- Procedures --**
33462 **Division responsibilities.**
33463 (1) Within appropriations from the Legislature, the committee shall establish foster
33464 care citizen review boards in each juvenile court district in the state. The boards shall act as
33465 panels in accordance with 42 U.S.C. Sections 675(5) and (6) and conduct periodic reviews of
33466 children in the division's custody in the absence of court reviews.
33467 (2) (a) The committee shall appoint seven members to each board.
33468 (b) Five members of each board shall be parents.
33469 (c) Five members of a board constitute a quorum, and an action by a majority of a
33470 quorum constitutes the action of the board.
33471 (d) A board member may not be an employee of the division or the juvenile court.
33472 (e) Board members shall be representative of the ethnic, cultural, religious,
33473 socio-economic, and professional diversity found in the community.
33474 (f) A board may elect officers, including:
33475 (i) a chair;
33476 (ii) a vice chair; and

33477 (iii) other officers as it considers appropriate.
33478 (g) The division may designate a representative to provide technical advice to the board
33479 regarding division policy and procedure.
33480 (3) (a) Except as provided in Subsection (3)(b), a member of a board may not receive:
33481 (i) financial compensation or benefits for the member's services; or
33482 (ii) per diem or expenses for the member's service.
33483 (b) Notwithstanding Subsection (3)(a), a member may be:
33484 (i) reimbursed for mileage on days that the member is involved in training, at rates
33485 established by the Division of Finance; and
33486 (ii) provided with a meal on days that the member serves on a board.
33487 (4) With regard to each child in its custody, the division shall:
33488 (a) provide the appropriate board with access to all records maintained by the division;
33489 and
33490 (b) ensure that each appropriate board is provided with the entire case file regarding
33491 each of its pertinent cases.
33492 Section 1139. Section **78B-8-109** is enacted to read:
33493 **78B-8-109. Periodic reviews -- Notice -- Participants.**
33494 (1) In districts or areas where foster care citizen review boards are established, a
33495 periodic review shall be conducted by the court or a board with regard to each child in the
33496 division's custody:
33497 (a) no less frequently than once every six months, in accordance with:
33498 (i) Section 78A-6-315; and
33499 (ii) 42 U.S.C. Sections 675(5) and (6); and
33500 (b) until the court terminates the division's custody of the child.
33501 (2) In cases where the court has conducted a six month review hearing, a board shall
33502 also conduct a review within 18 months from the date of the child's removal from the child's
33503 home.
33504 (3) In accordance with federal law and with Subsection 78A-6-317(1), a periodic
33505 review conducted by a board shall be open to the participation of the child's:
33506 (a) natural parents;
33507 (b) foster parents;

33508 (c) preadoptive parents; and
33509 (d) any relative providing care for the child.
33510 (4) Notice of the periodic review described in this section shall be provided to each
33511 person described in Subsection (3) pursuant to Subsection 78A-6-317(1).
33512 (5) At each periodic review, the board shall:
33513 (a) provide opportunities for separate interviews with parents and foster parents in each
33514 case; and
33515 (b) conduct an individual interview with each affected child who is old enough to
33516 participate in an interview, unless the child affirmatively chooses not to participate.
33517 (6) A child who is interviewed under Subsection (5)(b) may, at the child's request, be
33518 accompanied by a support person of the child's choice, provided that the support person is not
33519 an alleged perpetrator.
33520 (7) Boards may review additional abuse, neglect, or dependency cases or plans at the
33521 request of the court.
33522 (8) In a district or area where a board has not been established, either the court or the
33523 Division of Child and Family Services shall conduct the reviews in accordance with the
33524 provisions of this section and Section 78A-6-315.
33525 Section 1140. Section **78B-8-110** is enacted to read:
33526 **78B-8-110. Dispositional report.**
33527 (1) Following the periodic review described in Section 78B-8-109, the board shall
33528 prepare a dispositional report regarding the child's case and plan. The periodic review and the
33529 dispositional report shall:
33530 (a) be consistent with:
33531 (i) Title 62A, Chapter 4a, Child and Family Services; and
33532 (ii) Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings; and
33533 (b) include at least the following considerations:
33534 (i) the extent to which the plan's objectives are implemented or accomplished by the:
33535 (A) parent;
33536 (B) child; and
33537 (C) division;
33538 (ii) (A) whether revisions to the plan are needed; and

33539 (B) if revisions are needed, how the plan should be revised;
33540 (iii) the extent to which the division has provided the services and interventions
33541 described in the plan;
33542 (iv) whether the services and interventions described in Subsection (5)(b)(iii) are
33543 assisting, or will assist, the parent and child to achieve the plan's objectives within the statutory
33544 time limitations;
33545 (v) the extent to which the parent and child have willingly and actively participated in
33546 the interventions described in the plan;
33547 (vi) the continuing necessity for and appropriateness of the child's placement;
33548 (vii) the extent of progress made toward alleviating or mitigating the causes
33549 necessitating the child's removal or continued placement;
33550 (viii) the primary permanency goal for the child;
33551 (ix) the concurrent permanency goal for the child;
33552 (x) if a final permanency plan has been established, an opinion regarding the
33553 appropriateness of that permanency plan;
33554 (xi) a determination regarding whether the statutory time limitations described in Title
33555 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings, are met, including
33556 whether the 12 month limitation on reunification services required by Section 78A-6-312 is
33557 complied with; and
33558 (xii) the board's opinion regarding when it estimates that the child will achieve
33559 permanency.
33560 (2) (a) Within 30 days after a case is reviewed by the board, the board shall submit the
33561 dispositional report to:
33562 (i) the court;
33563 (ii) the division; and
33564 (iii) all parties to an action.
33565 (b) The dispositional report shall be filed with the court, and made a part of the court's
33566 legal file.
33567 (c) The dispositional report:
33568 (i) shall be received and reviewed by the court in the same manner as the court receives
33569 and reviews the reports described in Section 78A-6-605;

33570 (ii) if determined to be an ex parte communication with a judge, shall be considered a
33571 communication authorized by law; and
33572 (iii) may be:
33573 (A) received as evidence; and
33574 (B) considered by the court along with other evidence.
33575 (d) The court may require any person who participated in the dispositional report to
33576 appear as a witness if the person is reasonably available.
33577 (e) (i) For cases subject to review by a board pursuant to this section, the committee
33578 shall have access to the following court records:
33579 (A) findings;
33580 (B) orders;
33581 (C) other determinations; and
33582 (D) records regarding the time and purpose of hearings.
33583 (ii) The committee shall provide to the appropriate board the information obtained
33584 under Subsection (2)(e)(i) that is relevant to a review conducted by the board.
33585 Section 1141. Section **78B-8-201**, which is renumbered from Section 78-18-1 is
33586 renumbered and amended to read:
33587 **Part 2. Punitive Damages**
33588 **[~~78-18-1~~]. 78B-8-201. Basis for punitive damages awards -- Section**
33589 **inapplicable to DUI cases -- Division of award with state.**
33590 (1) (a) Except as otherwise provided by statute, punitive damages may be awarded only
33591 if compensatory or general damages are awarded and it is established by clear and convincing
33592 evidence that the acts or omissions of the tortfeasor are the result of willful and malicious or
33593 intentionally fraudulent conduct, or conduct that manifests a knowing and reckless indifference
33594 toward, and a disregard of, the rights of others.
33595 (b) The limitations, standards of evidence, and standards of conduct of Subsection
33596 (1)(a) do not apply to any claim for punitive damages arising out of the tortfeasor's operation of
33597 a motor vehicle or motorboat while voluntarily intoxicated or under the influence of any drug
33598 or combination of alcohol and drugs as prohibited by Section 41-6a-502.
33599 (c) The award of a penalty under Section [~~78-11-15 or 78-11-16~~] 78B-3-108 regarding
33600 shoplifting is not subject to the prior award of compensatory or general damages under

33601 Subsection (1)(a) whether or not restitution has been paid to the merchant prior to or as a part
33602 of a civil action under Section [~~78-11-15 or 78-11-16~~] 78B-3-108.
33603 (2) Evidence of a party's wealth or financial condition shall be admissible only after a
33604 finding of liability for punitive damages has been made.
33605 (a) Discovery concerning a party's wealth or financial condition may only be allowed
33606 after the party seeking punitive damages has established a prima facie case on the record that an
33607 award of punitive damages is reasonably likely against the party about whom discovery is
33608 sought and, if disputed, the court is satisfied that the discovery is not sought for the purpose of
33609 harassment.
33610 (b) Subsection (2)(a) does not apply to any claim for punitive damages arising out of
33611 the tortfeasor's operation of a motor vehicle or motorboat while voluntarily intoxicated or under
33612 the influence of any drug or combination of alcohol and drugs as prohibited by Section
33613 41-6a-502.
33614 (3) (a) In any case where punitive damages are awarded, the judgment shall provide
33615 that 50% of the amount of the punitive damages in excess of $20,000 shall, after an allowable
33616 deduction for the payment of [~~attorneys'~~] attorney fees and costs, be remitted by the judgment
33617 debtor to the state treasurer for deposit into the General Fund.
33618 (b) For the purposes of this Subsection (3), an "allowable deduction for the payment of
33619 [~~attorneys'~~] attorney fees and costs" shall equal the amount of actual and reasonable [~~attorneys'~~]
33620 attorney fees and costs incurred by the judgment creditor minus the amount of any separate
33621 judgment awarding [~~attorneys'~~] attorney fees and costs to the judgment creditor.
33622 (c) The state shall have all rights due a judgment creditor until the judgment is
33623 satisfied, and stand on equal footing with the judgment creditor of the original case in securing
33624 a recovery.
33625 (d) Unless all affected parties, including the state, expressly agree otherwise or the
33626 application is contrary to the terms of the judgment, any payment on the judgment by or on
33627 behalf of any judgment debtor, whether voluntary or by execution or otherwise, shall be applied
33628 in the following order:
33629 (i) compensatory damages, and any applicable [~~attorneys~~] attorney fees and costs;
33630 (ii) the initial $20,000 punitive damages; and
33631 (iii) the balance of the punitive damages.

33632 Section 1142. Section **78B-8-202**, which is renumbered from Section 78-18-1.5 is
33633 renumbered and amended to read:
33634 **[~~78-18-1.5~~]. 78B-8-202. Punitive damages -- Notification procedure.**
33635 (1) Whenever it appears from a return of a jury verdict in any court jury trial or from
33636 entry of a finding or order in any court bench trial, that punitive damages have been awarded to
33637 the plaintiff in a court action, the clerk of the court shall immediately notify the attorney
33638 general and state treasurer of the verdict, finding, or order. The notice shall contain:
33639 (a) the names of both parties to the action, and their attorneys;
33640 (b) the case number; and
33641 (c) the location of the court.
33642 (2) In addition to the notice required in Subsection (1) of this section, the clerk of the
33643 court shall notify the attorney general and the state treasurer within five days after entry of a
33644 judgment award of punitive damages. The notice shall contain:
33645 (a) the name of the party and his attorney, against whom the judgment was ordered;
33646 (b) the amount of the judgment; and
33647 (c) the date on which the judgment was entered.
33648 Section 1143. Section **78B-8-203**, which is renumbered from Section 78-18-2 is
33649 renumbered and amended to read:
33650 **[~~78-18-2~~]. 78B-8-203. Drug exception.**
33651 (1) Punitive damages may not be awarded if a drug causing the claimant's harm:
33652 (a) received premarket approval or licensure by the Federal Food and Drug
33653 Administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq.
33654 or the Public Health Service Act, 42 U.S.C. Section 201 et seq.;
33655 (b) is generally recognized as safe and effective under conditions established by the
33656 Federal Food and Drug Administration and applicable regulations, including packaging and
33657 labeling regulations.
33658 (2) This limitation on liability for punitive damages does not apply if it is shown by
33659 clear and convincing evidence that the drug manufacturer knowingly withheld or
33660 misrepresented information required to be submitted to the Federal Food and Drug
33661 Administration under its regulations, which information was material and relevant to the
33662 claimant's harm.

33663 Section 1144. Section **78B-8-301**, which is renumbered from Section 78-12a-1 is
33664 renumbered and amended to read:
33665 **Part 3. Process Server Act**
33666 **[~~78-12a-1~~]. 78B-8-301. Title.**
33667 This [~~chapter~~] part is known as the "Process Server Act."
33668 Section 1145. Section **78B-8-302**, which is renumbered from Section 78-12a-2 is
33669 renumbered and amended to read:
33670 **[~~78-12a-2~~]. 78B-8-302. Process servers.**
33671 (1) [~~Persons who are not peace officers, constables, sheriffs, or lawfully appointed~~
33672 ~~deputies of such officers, or authorized state investigators may not serve any forms of civil or~~
33673 ~~criminal process other than complaints,~~] Complaints, summonses, and subpoenas may be
33674 served by any person 18 years of age or older at the time of service, and who is not a party to
33675 the action or a party's attorney.
33676 (2) The following persons may serve all process issued by the courts of this state
33677 [~~except as otherwise limited by Subsection (1)~~]:
33678 (a) a peace officer employed by any political subdivision of the state acting within the
33679 scope and jurisdiction of his employment;
33680 (b) a sheriff or appointed deputy sheriff employed by any county of the state;
33681 (c) a constable, or the constable's deputy, serving in compliance with applicable law;
33682 and
33683 (d) an investigator employed by the state and authorized by law to serve civil process.
33684 (3) Private investigators licensed in accordance with Title 53, Chapter 9, Private
33685 Investigator Regulation Act, may only serve the following forms of process:
33686 (a) petitions;
33687 (b) complaints;
33688 (c) summonses;
33689 (d) supplemental orders;
33690 (e) orders to show cause;
33691 (f) notices;
33692 (g) small claims affidavits;
33693 (h) small claims orders;

33694 (i) writs of garnishment;
33695 (j) garnishee orders; and
33696 (k) subpoenas duces tecum.
33697 (4) Other persons may serve process as prescribed by Subsection (1).
33698 (5) A person serving process shall legibly document the date and time of service and
33699 his name and address on the return of service.
33700 Section 1146. Section **78B-8-303**, which is renumbered from Section 78-12a-3 is
33701 renumbered and amended to read:
33702 **[~~78-12a-3~~]. 78B-8-303. Recoverable rates.**
33703 If the rates charged by private process servers exceed the rates established by law for
33704 service of process by persons under Subsection [~~78-12a-2~~] 78B-8-302 (1), the excess charge
33705 may be recovered as costs of an action only if the court determines the service and charge were
33706 justifiable under the circumstances.
33707 Section 1147. Section **78B-8-304**, which is renumbered from Section 78-12a-4 is
33708 renumbered and amended to read:
33709 **[~~78-12a-4~~]. 78B-8-304. Violations of service of process authority.**
33710 (1) It is a class A misdemeanor for a person serving process to falsify a return of
33711 service.
33712 (2) It is a class C misdemeanor for a person to bill falsely for process service.
33713 Section 1148. Section **78B-8-401**, which is renumbered from Section 78-29-101 is
33714 renumbered and amended to read:
33715 **Part 4. Disease Testing for Public Safety Officers and Volunteers**
33716 **[~~78-29-101~~]. 78B-8-401. Definitions.**
33717 For purposes of this chapter:
33718 (1) "Blood or contaminated body fluids" includes blood, amniotic fluid, pericardial
33719 fluid, peritoneal fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen, and vaginal
33720 secretions, and any body fluid visibly contaminated with blood.
33721 (2) "Disease" means Human Immunodeficiency Virus infection, acute or chronic
33722 Hepatitis B infection, Hepatitis C infection, and any other infectious disease specifically
33723 designated by the Labor Commission in consultation with the Department of Health for the
33724 purposes of this chapter.

33725 (3) "Emergency medical services provider" means an individual certified under Section
33726 26-8a-302, a public safety officer, local fire department personnel, or personnel employed by
33727 the Department of Corrections or by a county jail, who provide prehospital emergency medical
33728 care for an emergency medical services provider either as an employee or as a volunteer.
33729 (4) "First aid volunteer" means a person who provides voluntary emergency assistance
33730 or first aid medical care to an injured person prior to the arrival of an emergency medical
33731 services provider or public safety officer.
33732 (5) "Public safety officer" means a peace officer as defined in Title 53, Chapter 13,
33733 Peace Officer Classifications.
33734 (6) "Significant exposure" and "significantly exposed" mean:
33735 (a) exposure of the body of one person to the blood or body fluids of another person by:
33736 (i) percutaneous injury, including a needle stick or cut with a sharp object or
33737 instrument; or
33738 (ii) contact with an open wound, mucous membrane, or nonintact skin because of a cut,
33739 abrasion, dermatitis, or other damage; or
33740 (b) exposure that occurs by any other method of transmission defined by the
33741 Department of Health as a significant exposure.
33742 Section 1149. Section **78B-8-402**, which is renumbered from Section 78-29-102 is
33743 renumbered and amended to read:
33744 **[~~78-29-102~~]. 78B-8-402. Petition -- Disease testing -- Notice -- Payment for**
33745 **testing.**
33746 (1) An emergency medical services provider, or first aid volunteer who is significantly
33747 exposed during the course of performing the emergency medical services provider's duties or
33748 during the course of performing emergency assistance or first aid may:
33749 (a) request that the person to whom he was significantly exposed voluntarily submit to
33750 testing; or
33751 (b) petition the district court for an order requiring that the person to whom he was
33752 significantly exposed submit to testing to determine the presence of a disease, as defined in
33753 Section [~~78-29-101~~] 78B-8-401, and that the results of that test be disclosed to the petitioner by
33754 the Department of Health.
33755 (2) (a) The petitioner shall file a petition with the district court seeking an order to

33756 submit to testing and to disclose the results in accordance with the provisions of this section.
33757 (b) The petition shall be sealed upon filing and made accessible only to the petitioner,
33758 the subject of the petition, and their attorneys, upon court order.
33759 (3) (a) The petition described in Subsection (2) shall be accompanied by an affidavit in
33760 which the emergency medical services provider or first aid volunteer certifies that he has been
33761 significantly exposed to the individual who is the subject of the petition and describes that
33762 exposure.
33763 (b) The petitioner shall submit to testing to determine the presence of a disease, when
33764 the petition is filed or within three days after the petition is filed.
33765 (4) The petitioner shall cause the petition required under this section to be served on
33766 the person who the petitioner is requesting to be tested in a manner that will best preserve the
33767 confidentiality of that person.
33768 (5) (a) The court shall set a time for a hearing on the matter within ten days after the
33769 petition is filed and shall give the petitioner and the individual who is the subject of the petition
33770 notice of the hearing at least 72 hours prior to the hearing.
33771 (b) The individual who is the subject of the petition shall also be notified that he may
33772 have an attorney present at the hearing, and that his attorney may examine and cross-examine
33773 witnesses.
33774 (c) The hearing shall be conducted in camera.
33775 (6) The district court may enter an order requiring that an individual submit to testing
33776 for a disease if the court finds probable cause to believe:
33777 (a) the petitioner was significantly exposed; and
33778 (b) the exposure occurred during the course of the emergency medical services
33779 provider's duties, or the provision of emergency assistance or first aid by a first aid volunteer.
33780 (7) The court may order that additional, follow-up testing be conducted, and that the
33781 individual submit to that testing, as it determines to be necessary and appropriate.
33782 (8) The court is not required to order an individual to submit to a test under this section
33783 if it finds that there is a substantial reason, relating to the life or health of the individual, not to
33784 enter the order.
33785 (9) (a) Upon order of the district court that a person submit to testing for a disease, that
33786 person shall report to the designated local health department to have his blood drawn within ten

33787 days from the issuance of the order, and thereafter as designated by the court, or be held in
33788 contempt of court.
33789 (b) The court shall send the order to the Department of Health and to the local health
33790 department ordered to draw the blood.
33791 (c) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a
33792 local health department may disclose the test results pursuant to a court order as provided in
33793 this section.
33794 (d) Under this section, anonymous testing as provided under Section 26-6-3.5 shall not
33795 satisfy the requirements of the court order.
33796 (10) The local health department or the Department of Health shall inform the subject
33797 of the petition and the petitioner of the results of the test and advise both parties that the test
33798 results are confidential. That information shall be maintained as confidential by all parties to
33799 the action.
33800 (11) The court, its personnel, the process server, the Department of Health, local health
33801 department, and petitioner shall maintain confidentiality of the name and any other identifying
33802 information regarding the individual tested and the results of the test as they relate to that
33803 individual, except as specifically authorized by this chapter.
33804 (12) (a) Except as provided in Subsection (12)(b), the petitioner shall remit payment
33805 for the drawing of the blood specimen and the analysis of the specimen for the mandatory
33806 disease testing to the entity that draws the blood.
33807 (b) If the petitioner is an emergency medical services provider, the agency which
33808 employs the emergency medical services provider shall remit payment for the drawing of the
33809 blood specimen and the analysis of the specimen for the mandatory disease testing to the entity
33810 that draws the blood.
33811 (13) The entity that draws the blood shall cause the blood and the payment for the
33812 analysis of the specimen to be delivered to the Department of Health for analysis.
33813 (14) If the individual is incarcerated, the incarcerating authority shall either draw the
33814 blood specimen or shall pay the expenses of having the individual's blood drawn.
33815 Section 1150. Section **78B-8-403**, which is renumbered from Section 78-29-103 is
33816 renumbered and amended to read:
33817 **[~~78-29-103~~]. 78B-8-403. Confidentiality -- Disclosure -- Penalty.**

33818 Any person or entity entitled to receive confidential information under this chapter,
33819 other than the individual tested and identified in the information, who violates the provisions of
33820 this chapter by releasing or making public that confidential information, or by otherwise
33821 breaching the confidentiality requirements of this chapter, is guilty of a class B misdemeanor.
33822 Section 1151. Section **78B-8-404**, which is renumbered from Section 78-29-104 is
33823 renumbered and amended to read:
33824 **[~~78-29-104~~]. 78B-8-404. Department authority -- Rules.**
33825 The Labor Commission in consultation with the Department of Health has authority to
33826 establish rules necessary for the purposes of Subsections [~~78-29-101~~] 78B-8-401(2) and (6).
33827 Section 1152. Section **78B-8-405**, which is renumbered from Section 78-29-105 is
33828 renumbered and amended to read:
33829 **[~~78-29-105~~]. 78B-8-405. Construction.**
33830 Nothing in this [~~chapter~~] part may be construed as prohibiting:
33831 (1) a person from voluntarily consenting to the request of a health care provider, as
33832 defined in Section [~~78-14-3~~] 78B-3-403, to submit to testing following a significant exposure;
33833 or
33834 (2) a court from considering the petition of a health care provider for an order requiring
33835 that a person submit to testing to determine the presence of a disease if a significant exposure
33836 has occurred in connection with the health care provider's treatment of that person.
33837 Section 1153. Section **78B-8-501**, which is renumbered from Section 78-27a-1 is
33838 renumbered and amended to read:
33839 **Part 5. Small Business Equal Access to Justice Act**
33840 **[~~78-27a-1~~]. 78B-8-501. Title.**
33841 This [~~act shall be~~] part is known [~~and may be cited~~] as the "Small Business Equal
33842 Access to Justice Act."
33843 Section 1154. Section **78B-8-502**, which is renumbered from Section 78-27a-2 is
33844 renumbered and amended to read:
33845 **[~~78-27a-2~~]. 78B-8-502. Legislative findings -- Purpose.**
33846 The Legislature finds that small businesses may be deterred from seeking review of or
33847 defending against substantially unjustified governmental action because of the expense
33848 involved in securing the vindication of their rights. The purpose of this [~~act~~] part is to entitle

33849 small businesses, under conditions set forth in this act, to recover reasonable litigation
33850 expenses.
33851 Section 1155. Section **78B-8-503**, which is renumbered from Section 78-27a-3 is
33852 renumbered and amended to read:
33853 **[~~78-27a-3~~]. 78B-8-503. Definitions.**
33854 As used in this [~~act~~] part:
33855 (1) "Prevail" means to obtain favorable final judgment, the right to all appeals having
33856 been exhausted, on the merits, on substantially all counts or charges in the action and with
33857 respect to the most significant issue or set of issues presented, but does not include the
33858 settlement of any action, either by stipulation, consent decree or otherwise, whether or not
33859 settlement occurs before or after any hearing or trial.
33860 (2) "Reasonable litigation expenses" means court costs, administrative hearing costs,
33861 [~~attorney's~~] attorney fees, and witness fees of all necessary witnesses, not in excess of $10,000,
33862 which a court finds were reasonably incurred in opposing action covered under this act.
33863 (3) "Small business" means a commercial or business entity, including a sole
33864 proprietorship, which does not have more than 250 employees, but does not include an entity
33865 which is a subsidiary or affiliate of another entity which is not a small business.
33866 (4) "State" means any department, board, institution, hospital, college, or university of
33867 the state of Utah or any political subdivision thereof, except with respect to antitrust actions
33868 brought under Title 76, Chapter 10, Part 9.
33869 Section 1156. Section **78B-8-504**, which is renumbered from Section 78-27a-4 is
33870 renumbered and amended to read:
33871 **[~~78-27a-4~~]. 78B-8-504. Litigation expense award authorized in actions by state.**
33872 In any civil judicial action commenced by the state, which [~~action~~] involves the
33873 business regulatory functions of the state, a court may award reasonable litigation expenses to
33874 any small business which is a named party in the action if the small business prevails and the
33875 court finds that the state action was undertaken without substantial justification.
33876 Section 1157. Section **78B-8-505**, which is renumbered from Section 78-27a-5 is
33877 renumbered and amended to read:
33878 **[~~78-27a-5~~]. 78B-8-505. Litigation expense award authorized in appeals from**
33879 **administrative decisions.**

33880 (1) In any civil judicial appeal taken from an administrative decision regarding a matter
33881 in which the administrative action was commenced by the state, and which involves the
33882 business regulatory functions of the state, a court may award reasonable litigation expenses to
33883 any small business which is a named party if the small business prevails in the appeal and the
33884 court finds that the state action was undertaken without substantial justification.
33885 (2) Any state agency or political subdivision may require by rule or ordinance that a
33886 small business exhaust administrative remedies prior to making a claim under this [~~act~~] part.
33887 Section 1158. Section **78B-8-506**, which is renumbered from Section 78-27a-6 is
33888 renumbered and amended to read:
33889 **[~~78-27a-6~~]. 78B-8-506. Payment of expenses awarded -- Statement required in**
33890 **agency's budget.**
33891 Expenses awarded under this [~~act~~] part shall be paid from funds in the regular operating
33892 budget of the state entity. If sufficient funds are not available in the budget of the entity, the
33893 expenses shall be considered a claim governed by the provisions of Title 63, Chapter 6. Every
33894 state entity against which litigation expenses have been awarded under this [~~act~~] part shall, at
33895 the time of submission of its proposed budget, submit a report to the governmental body which
33896 appropriates its funds in which the amount of expenses awarded and paid under this act during
33897 the fiscal year is stated.
33898 Section 1159. Section **78B-8-601** is enacted to read:
33899 **Part 6. Transportation of Forest Products or Native Vegetation**
33900 **78B-8-601. Definitions.**
33901 For purposes of this part:
33902 (1) "Forest products" means any tree or portion thereof before it is manufactured into
33903 dimensional lumber, timbers, and ties, or mill peeled and made into power poles or house logs,
33904 including but not limited to coniferous and deciduous trees, Christmas trees, sawlogs, poles,
33905 posts, pulp logs, and fuelwood.
33906 (2) "Native vegetation" means all other forest, desert, or rangeland vegetation including
33907 but not limited to shrubs, flora, roots, bulbs, and seed.
33908 Section 1160. Section **78B-8-602** is enacted to read:
33909 **78B-8-602. Proof of ownership required to harvest or transport forest products or**
33910 **native vegetation -- Requirements for proof of ownership.**

33911 (1) It is unlawful for any person, firm, company, partnership, corporation, or business
33912 to harvest or transport timber, forest products, or other native vegetation without proof of
33913 ownership.
33914 (2) Proof of ownership requires possession of:
33915 (a) a contract, permit, or other writing issued by the landowner or proper state or
33916 federal agency;
33917 (b) a bill of sale, or other sales receipt;
33918 (c) a bill of lading or product load receipt;
33919 (d) a ticket issued by the seller authorizing harvesting or removal; or
33920 (e) any other legal instrument.
33921 (3) The document required in Subsection (1) shall be issued by the landowner or proper
33922 state or federal agency and shall provide the following information:
33923 (a) date of execution;
33924 (b) name and address of person authorized to harvest or transport the products, if
33925 different from the purchaser;
33926 (c) a legal or other sufficient description of the property from which the products are
33927 harvested or removed;
33928 (d) the estimated amount or volume, species, and other pertinent information regarding
33929 the products harvested or transported;
33930 (e) the delivery or scaling point;
33931 (f) the name and address of the purchaser of the products;
33932 (g) the name and address of the landowner, agency, or vendor; and
33933 (h) an expiration date.
33934 Section 1161. Section **78B-8-603**, which is renumbered from Section 78-38-4.7 is
33935 renumbered and amended to read:
33936 **[~~78-38-4.7~~]. 78B-8-603. Transportation of forest products or native vegetation**
33937 **into or through the state.**
33938 Timber, forest products, or native vegetation transported into or through the state [~~must~~]
33939 shall be accompanied by a shipping permit or proof of ownership.
33940 Section 1162. Section **78B-8-604**, which is renumbered from Section 78-38-4.6 is
33941 renumbered and amended to read:

33942 **[~~78-38-4.6~~]. 78B-8-604. Enforcement.**
33943 Any law enforcement officer specified in Section 53-13-103, or ranger, or special agent
33944 of the United States Forest Service or the United States Bureau of Land Management may:
33945 (1) stop any vehicle or means of conveyance, including common carriers, containing
33946 timber, forest products, or native vegetation upon any road or highway of this state for the
33947 purpose of making an inspection and investigation but may not unduly detain a driver of such
33948 vehicle or means of conveyance;
33949 (2) inspect the timber, forest product, or native vegetation in any vehicle, or other
33950 means of conveyance, including common carrier, to determine whether the provisions of this
33951 chapter have been complied with;
33952 (3) seize and hold any timber, forest product, or native vegetation harvested, removed,
33953 or transported in violation of this [~~chapter~~] part; and
33954 (4) sell or dispose of the timber, forest product, or native vegetation as provided by rule
33955 by the appropriate agency.
33956 Section 1163. Section **78B-8-605**, which is renumbered from Section 78-38-4.8 is
33957 renumbered and amended to read:
33958 **[~~78-38-4.8~~]. 78B-8-605. Exemptions.**
33959 The provisions of this [~~chapter~~] part do not apply to the transportation of:
33960 (1) wood chips, sawdust, and bark;
33961 (2) products transported by the owner of the property or his agent from which the
33962 products were removed; or
33963 (3) products for personal consumption incidental to camping and picnicking which is
33964 limited to the amount:
33965 (a) needed for the duration of the picnic or campout; and
33966 (b) used at the campsite.
33967 Section 1164. Section **78B-8-606**, which is renumbered from Section 78-38-4.9 is
33968 renumbered and amended to read:
33969 **[~~78-38-4.9~~]. 78B-8-606. Violation as misdemeanor.**
33970 Violation of Sections [~~78-38-4.5~~] 78B-8-602 through [~~78-38-4.7~~] 78B-8-604 is a class
33971 B misdemeanor.
33972 Section 1165. Section **78B-9-101**, which is renumbered from Section 78-35a-101 is

33973 renumbered and amended to read:

33974 **CHAPTER 9. POST-CONVICTION REMEDIES ACT**

33975 **[~~78-35a-101~~]. 78B-9-101. Title.**

33976 This act shall be known as the "Post-Conviction Remedies Act."

33977 Section 1166. Section **78B-9-102**, which is renumbered from Section 78-35a-102 is
33978 renumbered and amended to read:

33979 **[~~78-35a-102~~]. 78B-9-102. Replacement of prior remedies.**

33980 (1) This chapter establishes a substantive legal remedy for any person who challenges a
33981 conviction or sentence for a criminal offense and who has exhausted all other legal remedies,
33982 including a direct appeal except as provided in Subsection (2). Procedural provisions for filing
33983 and commencement of a petition are found in Rule 65C, Utah Rules of Civil Procedure.

33984 (2) This chapter does not apply to:

33985 (a) habeas corpus petitions that do not challenge a conviction or sentence for a criminal
33986 offense;

33987 (b) motions to correct a sentence pursuant to Rule 22(e), Utah Rules of Criminal
33988 Procedure; or

33989 (c) actions taken by the Board of Pardons and Parole.

33990 Section 1167. Section **78B-9-103**, which is renumbered from Section 78-35a-103 is
33991 renumbered and amended to read:

33992 **[~~78-35a-103~~]. 78B-9-103. Applicability -- Effect on petitions.**

33993 Except for the limitation period established in Section [~~78-35a-107~~] 78B-9-107, this
33994 chapter applies only to post-conviction proceedings filed on or after July 1, 1996.

33995 Section 1168. Section **78B-9-104**, which is renumbered from Section 78-35a-104 is
33996 renumbered and amended to read:

33997 **[~~78-35a-104~~]. 78B-9-104. Grounds for relief -- Retroactivity of rule.**

33998 (1) Unless precluded by Section [~~78-35a-106 or 78-35a-107~~] 78B-9-106 or 78B-9-107,
33999 a person who has been convicted and sentenced for a criminal offense may file an action in the
34000 district court of original jurisdiction for post-conviction relief to vacate or modify the
34001 conviction or sentence upon the following grounds:

34002 (a) the conviction was obtained or the sentence was imposed in violation of the United
34003 States Constitution or Utah Constitution;

34004 (b) the conviction was obtained under a statute that is in violation of the United States
34005 Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is
34006 constitutionally protected;
34007 (c) the sentence was imposed in an unlawful manner, or probation was revoked in an
34008 unlawful manner;
34009 (d) the petitioner had ineffective assistance of counsel in violation of the United States
34010 Constitution or Utah Constitution; or
34011 (e) newly discovered material evidence exists that requires the court to vacate the
34012 conviction or sentence, because:
34013 (i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of
34014 trial or sentencing or in time to include the evidence in any previously filed post-trial motion or
34015 post-conviction proceeding, and the evidence could not have been discovered through the
34016 exercise of reasonable diligence;
34017 (ii) the material evidence is not merely cumulative of evidence that was known;
34018 (iii) the material evidence is not merely impeachment evidence; and
34019 (iv) viewed with all the other evidence, the newly discovered material evidence
34020 demonstrates that no reasonable trier of fact could have found the petitioner guilty of the
34021 offense or subject to the sentence received.
34022 (2) The question of whether a petitioner is entitled to the benefit of a rule announced by
34023 the United States Supreme Court, Utah Supreme Court, or Utah Court of Appeals after the
34024 petitioner's conviction became final shall be governed by applicable state and federal principles
34025 of retroactivity.
34026 Section 1169. Section **78B-9-105**, which is renumbered from Section 78-35a-105 is
34027 renumbered and amended to read:
34028 **[~~78-35a-105~~]. 78B-9-105. Burden of proof.**
34029 The petitioner has the burden of pleading and proving by a preponderance of the
34030 evidence the facts necessary to entitle the petitioner to relief. The respondent has the burden of
34031 pleading any ground of preclusion under Section [~~78-35a-106~~] 78B-9-106, but once a ground
34032 has been pled, the petitioner has the burden to disprove its existence by a preponderance of the
34033 evidence.
34034 Section 1170. Section **78B-9-106**, which is renumbered from Section 78-35a-106 is

34035 renumbered and amended to read:
34036 **[~~78-35a-106~~]. 78B-9-106. Preclusion of relief -- Exception.**
34037 (1) A person is not eligible for relief under this chapter upon any ground that:
34038 (a) may still be raised on direct appeal or by a post-trial motion;
34039 (b) was raised or addressed at trial or on appeal;
34040 (c) could have been but was not raised at trial or on appeal;
34041 (d) was raised or addressed in any previous request for post-conviction relief or could
34042 have been, but was not, raised in a previous request for post-conviction relief; or
34043 (e) is barred by the limitation period established in Section [~~78-35a-107~~] 78B-9-107.
34044 (2) Notwithstanding Subsection (1)(c), a person may be eligible for relief on a basis
34045 that the ground could have been but was not raised at trial or on appeal, if the failure to raise
34046 that ground was due to ineffective assistance of counsel.
34047 Section 1171. Section **78B-9-107**, which is renumbered from Section 78-35a-107 is
34048 renumbered and amended to read:
34049 **[~~78-35a-107~~]. 78B-9-107. Statute of limitations for postconviction relief.**
34050 (1) A petitioner is entitled to relief only if the petition is filed within one year after the
34051 cause of action has accrued.
34052 (2) For purposes of this section, the cause of action accrues on the latest of the
34053 following dates:
34054 (a) the last day for filing an appeal from the entry of the final judgment of conviction, if
34055 no appeal is taken;
34056 (b) the entry of the decision of the appellate court which has jurisdiction over the case,
34057 if an appeal is taken;
34058 (c) the last day for filing a petition for writ of certiorari in the Utah Supreme Court or
34059 the United States Supreme Court, if no petition for writ of certiorari is filed;
34060 (d) the entry of the denial of the petition for writ of certiorari or the entry of the
34061 decision on the petition for certiorari review, if a petition for writ of certiorari is filed; or
34062 (e) the date on which petitioner knew or should have known, in the exercise of
34063 reasonable diligence, of evidentiary facts on which the petition is based.
34064 (3) If the court finds that the interests of justice require, a court may excuse a
34065 petitioner's failure to file within the time limitations.

34066 (4) Sections 77-19-8, [~~78-12-35~~] 78B-2-104, and [~~78-12-40~~] 78B-2-111 do not extend
34067 the limitations period established in this section.
34068 Section 1172. Section **78B-9-108**, which is renumbered from Section 78-35a-108 is
34069 renumbered and amended to read:
34070 **[~~78-35a-108~~]. 78B-9-108. Effect of granting relief -- Notice.**
34071 (1) If the court grants the petitioner's request for relief, it shall either:
34072 (a) modify the original conviction or sentence; or
34073 (b) vacate the original conviction or sentence and order a new trial or sentencing
34074 proceeding as appropriate.
34075 (2) (a) If the petitioner is serving a felony sentence, the order shall be stayed for five
34076 days. Within the stay period, the respondent shall give written notice to the court and the
34077 petitioner that the respondent will pursue a new trial or sentencing proceedings, appeal the
34078 order, or take no action.
34079 (b) If the respondent fails to provide notice or gives notice at any time during the stay
34080 period that it intends to take no action, the court shall lift the stay and deliver the order to the
34081 custodian of the petitioner.
34082 (c) If the respondent gives notice that it intends to retry or resentence the petitioner, the
34083 trial court may order any supplementary orders as to arraignment, trial, sentencing, custody,
34084 bail, discharge, or other matters that may be necessary.
34085 Section 1173. Section **78B-9-109**, which is renumbered from Section 78-35a-109 is
34086 renumbered and amended to read:
34087 **[~~78-35a-109~~]. 78B-9-109. Appointment of counsel.**
34088 (1) If any portion of the petition is not summarily dismissed, the court may, upon the
34089 request of an indigent petitioner, appoint counsel on a pro bono basis. Counsel who
34090 represented the petitioner at trial or on the direct appeal may not be appointed to represent the
34091 petitioner under this section.
34092 (2) In determining whether to appoint counsel, the court shall consider the following
34093 factors:
34094 (a) whether the petition contains factual allegations that will require an evidentiary
34095 hearing; and
34096 (b) whether the petition involves complicated issues of law or fact that require the

34097 assistance of counsel for proper adjudication.
34098 (3) An allegation that counsel appointed under this section was ineffective cannot be
34099 the basis for relief in any subsequent post-conviction petition.
34100 Section 1174. Section **78B-9-110**, which is renumbered from Section 78-35a-110 is
34101 renumbered and amended to read:
34102 **[~~78-35a-110~~]. 78B-9-110. Appeal -- Jurisdiction.**
34103 Any party may appeal from the trial court's final judgment on a petition for
34104 post-conviction relief to the appellate court having jurisdiction pursuant to Section [~~78-2-2 or~~
34105 ~~78-2a-3~~] 78A-3-102 or 78A-4-103.
34106 Section 1175. Section **78B-9-201**, which is renumbered from Section 78-35a-201 is
34107 renumbered and amended to read:
34108 **[~~78-35a-201~~]. 78B-9-201. Post-conviction remedies -- 30 days.**
34109 A post-conviction remedy may not be applied for or entertained by any court within 30
34110 days prior to the date set for execution of a capital sentence, unless the grounds for application
34111 are based on facts or circumstances which developed or first became known within that period
34112 of time.
34113 Section 1176. Section **78B-9-202**, which is renumbered from Section 78-35a-202 is
34114 renumbered and amended to read:
34115 **[~~78-35a-202~~]. 78B-9-202. Appointment and payment of counsel in death**
34116 **penalty cases.**
34117 (1) A person who has been sentenced to death and whose conviction and sentence has
34118 been affirmed on appeal shall be advised in open court, on the record, in a hearing scheduled
34119 no less than 30 days prior to the signing of the death warrant, of the provisions of this chapter
34120 allowing challenges to the conviction and death sentence and the appointment of counsel for
34121 indigent defendants.
34122 (2) (a) If a defendant requests the court to appoint counsel, the court shall determine
34123 whether the defendant is indigent and make findings on the record regarding the defendant's
34124 indigency. If the court finds that the defendant is indigent, it shall promptly appoint counsel
34125 who is qualified to represent defendants in death penalty cases as required by Rule 8 of the
34126 Utah Rules of Criminal Procedure.
34127 (b) A defendant who wishes to reject the offer of counsel shall be advised on the record

34128 by the court of the consequences of the rejection before the court may accept the rejection.
34129 (c) Costs of counsel and other reasonable litigation expenses incurred in providing the
34130 representation provided for in this section shall be paid from state funds by the Division of
34131 Finance according to rules established pursuant to Title 63, Chapter 46a, Utah Administrative
34132 Rulemaking Act.
34133 Section 1177. Section **78B-9-301**, which is renumbered from Section 78-35a-301 is
34134 renumbered and amended to read:
34135 **[~~78-35a-301~~]. 78B-9-301. Postconviction testing of DNA -- Petition --**
34136 **Sufficient allegations -- Notification of victim.**
34137 (1) As used in this part, "DNA" means deoxyribonucleic acid.
34138 (2) A person convicted of a felony offense may at any time file a petition for
34139 postconviction DNA testing in the trial court that entered the judgment of conviction against
34140 him if the person asserts his actual innocence under oath and the petition alleges:
34141 (a) evidence has been obtained regarding the person's case which is still in existence
34142 and is in a condition that allows DNA testing to be conducted;
34143 (b) the chain of custody is sufficient to establish that the evidence has not been altered
34144 in any material aspect;
34145 (c) the person identifies the specific evidence to be tested and states a theory of
34146 defense, not inconsistent with theories previously asserted at trial, that the requested DNA
34147 testing would support;
34148 (d) the evidence was not previously subjected to DNA testing, or if the evidence was
34149 tested previously, the evidence was not subjected to the testing that is now requested, and the
34150 new testing may resolve an issue not resolved by the prior testing;
34151 (e) the proposed DNA testing is generally accepted as valid in the scientific field or is
34152 otherwise admissible under Utah law;
34153 (f) the evidence that is the subject of the request for testing has the potential to produce
34154 new, noncumulative evidence that will establish the person's actual innocence; and
34155 (g) the person is aware of the consequences of filing the petition, including:
34156 (i) those specified in Sections [~~78-35a-302 and 78-35a-304~~] 78B-9-302 and 78B-9-304;
34157 and
34158 (ii) that the person is waiving any statute of limitations in all jurisdictions as to any

34159 felony offense he has committed which is identified through DNA database comparison.
34160 (3) The petition under Subsection (2) shall be in compliance with Rule 65C, Utah
34161 Rules of Civil Procedure, including providing the underlying criminal case number.
34162 (4) The court may not order DNA testing in cases in which DNA testing was available
34163 at the time of trial and the person did not request DNA testing or present DNA evidence for
34164 tactical reasons.
34165 (5) After a petition is filed under this section, prosecutors, law enforcement officers,
34166 and crime laboratory personnel have a duty to cooperate in preserving evidence and in
34167 determining the sufficiency of the chain of custody of the evidence which may be subject to
34168 DNA testing.
34169 (6) (a) A person who files a petition under this section shall serve notice upon the
34170 office of the prosecutor who obtained the conviction, and upon the state attorney general. The
34171 attorney general shall, within 30 days after receipt of service of a copy of the petition, or within
34172 any additional period of time the court allows, answer or otherwise respond to all proceedings
34173 initiated under this part.
34174 (b) After the attorney general is given an opportunity to respond to a petition for
34175 postconviction DNA testing, the court shall order DNA testing if it finds by a preponderance of
34176 the evidence that all criteria of Subsection (2) have been met.
34177 (7) (a) If the court grants the petition for testing, the DNA test shall be performed by
34178 the Utah State Crime Laboratory within the Criminal Investigations and Technical Services
34179 Division created in Section 53-10-103, unless the person establishes that the state crime
34180 laboratory has a conflict of interest or does not have the capability to perform the necessary
34181 testing.
34182 (b) If the court orders that the testing be conducted by any laboratory other than the
34183 state crime laboratory, the court shall require that the testing be performed:
34184 (i) under reasonable conditions designed to protect the state's interests in the integrity
34185 of the evidence; and
34186 (ii) according to accepted scientific standards and procedures.
34187 (8) (a) DNA testing under this section shall be paid for from funds appropriated to the
34188 Department of Corrections under Subsection 53-10-407(4)(a) from the DNA Specimen
34189 Restricted Account created in Section 53-10-407 if:

34190 (i) the court ordered the DNA testing under this section;
34191 (ii) the Utah State Crime Laboratory within the Criminal Investigations and Technical
34192 Services Division has a conflict of interest or does not have the capability to perform the
34193 necessary testing; and
34194 (iii) the petitioner who has filed for postconviction DNA testing under Section
34195 [~~78-35a-201~~] 78B-9-201 is serving a sentence of imprisonment and is indigent.
34196 (b) Under this Subsection (8), costs of DNA testing include those necessary to
34197 transport the evidence, prepare samples for analysis, analyze the evidence, and prepare reports
34198 of findings.
34199 (9) If the person is serving a sentence of imprisonment and is indigent, the state shall
34200 pay for the costs of the testing under this part, but if the result is not favorable to the person the
34201 court may order the person to reimburse the state for the costs of the testing, pursuant to the
34202 provisions of Subsections [~~78-35a-302~~] 78B-9-302(4) and [~~78-35a-304~~] 78B-9-304(1)(b).
34203 (10) Any victim of the crime regarding which the person petitions for DNA testing,
34204 who has elected to receive notice under Section 77-38-3 shall be notified by the state's attorney
34205 of any hearing regarding the petition and testing, even though the hearing is a civil proceeding.
34206 Section 1178. Section **78B-9-302**, which is renumbered from Section 78-35a-302 is
34207 renumbered and amended to read:
34208 **[~~78-35a-302~~]. 78B-9-302. Effect of petition for postconviction DNA testing**
34209 **-- Requests for appointment of counsel -- Appeals -- Subsequent postconviction petitions.**
34210 (1) The filing of a petition for DNA testing constitutes the person's consent to provide
34211 samples of body fluids for use in the DNA testing.
34212 (2) The data from any DNA samples or test results obtained as a result of the petition
34213 may be entered into law enforcement DNA databases.
34214 (3) The filing of a petition for DNA testing constitutes the person's waiver of any
34215 statute of limitations in all jurisdictions as to any felony offense the person has committed
34216 which is identified through DNA database comparison.
34217 (4) The person filing the petition for postconviction DNA testing bears the cost of the
34218 testing unless:
34219 (a) the person is serving a sentence of imprisonment;
34220 (b) the person is indigent; and

34221 (c) the DNA test is favorable to the petitioner.
34222 (5) (a) Subsections [~~78-35a-109~~] 78B-9-109(1) and (2), regarding the appointment of
34223 pro bono counsel, apply to any request for the appointment of counsel under this part.
34224 (b) Subsection [~~78-35a-109~~] 78B-9-109(3), regarding effectiveness of counsel, applies
34225 to subsequent postconviction petitions and to appeals under this part.
34226 Section 1179. Section **78B-9-303**, which is renumbered from Section 78-35a-303 is
34227 renumbered and amended to read:
34228 **[~~78-35a-303~~]. 78B-9-303. Consequences of postconviction DNA testing**
34229 **when result is favorable to person -- Procedures.**
34230 (1) (a) If the result of postconviction DNA testing is favorable to the person, the person
34231 may file a motion to vacate his conviction. The court shall give the state 30 days to respond in
34232 writing, to present evidence, and to be heard in oral argument prior to issuing an order to vacate
34233 the conviction. The state may by motion request an extension of the 30 days, which the court
34234 may grant upon good cause shown.
34235 (b) The state may stipulate to the conviction being vacated, or may request a hearing
34236 and attempt to demonstrate through evidence and argument that, despite the DNA test results,
34237 the state possesses sufficient evidence of the person's guilt so that he is unable to demonstrate
34238 by clear and convincing evidence that he is actually innocent of one or more offenses of which
34239 he was convicted, and all the lesser included offenses related to those offenses.
34240 (2) (a) If the result of postconviction DNA testing is favorable to the person and the
34241 state opposes vacating the conviction, the court shall consider all the evidence presented at the
34242 original trial and at the hearing under Subsection (1)(b), including the new DNA test result.
34243 Evidence that would otherwise have been suppressed at criminal trial is admissible, unless the
34244 evidence is an unconstitutionally coerced statement from the person.
34245 (b) If the court, after considering all the evidence, determines that the DNA test result
34246 demonstrates by clear and convincing evidence that the person is actually innocent of one or
34247 more offenses of which the person was convicted and all lesser included offenses relating to
34248 those offenses, the court shall order that those convictions be vacated with prejudice and those
34249 convictions be expunged from the person's record.
34250 (c) If the court, after considering all the evidence presented at the original trial and at
34251 the hearing under Subsection (1)(b), including the new DNA test result, finds by clear and

34252 convincing evidence that the person is actually innocent of one or more offenses of which the
34253 person was convicted, but the court does not find by clear and convincing evidence that the
34254 person is actually innocent of all lesser included offenses relating to those offenses, the court
34255 shall modify the original conviction and sentence of the person as appropriate for the lesser
34256 included offense, whether or not the lesser included offense was originally submitted to the
34257 trier of fact.
34258 (d) If the court, after considering all the evidence presented at the original trial and at
34259 the hearing under Subsection (1)(b), including the new DNA test result, does not find by clear
34260 and convincing evidence that the person is actually innocent of the offense or offenses the
34261 person is challenging, the court shall deny the person's petition regarding the offense or
34262 offenses.
34263 (e) Any party may appeal from the trial court's final ruling on the petition under this
34264 part.
34265 Section 1180. Section **78B-9-304**, which is renumbered from Section 78-35a-304 is
34266 renumbered and amended to read:
34267 **[~~78-35a-304~~]. 78B-9-304. Consequences of postconviction DNA testing**
34268 **when result is unfavorable to person -- Procedures.**
34269 (1) If the result of postconviction DNA testing is not favorable to the person, the court
34270 shall deny the person's petition, and the court shall:
34271 (a) report the unfavorable result to the Board of Pardons and Parole; and
34272 (b) order the person to pay for the costs of the DNA testing unless the petitioner has
34273 already paid that cost.
34274 (2) This section does not apply if the DNA test is inconclusive.
34275 Section 1181. Section **78B-10-101**, which is renumbered from Section 78-31c-101 is
34276 renumbered and amended to read:
34277 **CHAPTER 10. UTAH UNIFORM MEDIATION ACT**
34278 **[~~78-31c-101~~]. 78B-10-101. Title.**
34279 This chapter is known as the "Utah Uniform Mediation Act."
34280 Section 1182. Section **78B-10-102**, which is renumbered from Section 78-31c-102 is
34281 renumbered and amended to read:
34282 **[~~78-31c-102~~]. 78B-10-102. Definitions.**

34283 As used in this chapter:
34284 (1) "Mediation" means a process in which a mediator facilitates communication and
34285 negotiation between parties to assist them in reaching a voluntary agreement regarding their
34286 dispute.
34287 (2) "Mediation communication" means conduct or a statement, whether oral, in a
34288 record, verbal, or nonverbal, that occurs during a mediation or is made for purposes of
34289 considering, conducting, participating in, initiating, continuing, or reconvening a mediation or
34290 retaining a mediator.
34291 (3) "Mediation party" means a person that participates in a mediation and whose
34292 agreement is necessary to resolve the dispute.
34293 (4) "Mediator" means an individual who is neutral and conducts a mediation.
34294 (5) "Nonparty participant" means a person, other than a party or mediator, that
34295 participates in a mediation.
34296 (6) "Person" means an individual, corporation, estate, trust, business trust, partnership,
34297 limited liability company, association, joint venture, government, governmental subdivision,
34298 agency, or instrumentality, public corporation, or any other legal or commercial entity.
34299 (7) "Proceeding" means:
34300 (a) a judicial, administrative, arbitral, or other adjudicative process, including related
34301 prehearing and posthearing motions, conferences, and discovery; or
34302 (b) a legislative hearing or similar process.
34303 (8) "Record" means information that is inscribed on a tangible medium or that is stored
34304 in an electronic or other medium and is retrievable in perceivable form.
34305 (9) "Sign" means:
34306 (a) to execute or adopt a tangible symbol with the present intent to authenticate a
34307 record; or
34308 (b) to attach or logically associate an electronic symbol, sound, or process to or with a
34309 record with the present intent to authenticate a record.
34310 Section 1183. Section **78B-10-103**, which is renumbered from Section 78-31c-103 is
34311 renumbered and amended to read:
34312 **[~~78-31c-103~~]. 78B-10-103. Scope.**
34313 (1) Except as otherwise provided in Subsection (2) or (3), this chapter applies to a

34314 mediation in which:
34315 (a) the mediation parties are required to mediate by statute, court, or administrative
34316 agency rule or referred to mediation by a court, administrative agency, or arbitrator;
34317 (b) the mediation parties and the mediator agree to mediate in a record that
34318 demonstrates an expectation that mediation communications will be privileged against
34319 disclosure; or
34320 (c) the mediation parties use as a mediator an individual who holds himself or herself
34321 out as a mediator or the mediation is provided by an entity that holds itself out as providing
34322 mediation.
34323 (2) The chapter does not apply to a mediation:
34324 (a) relating to the establishment, negotiation, administration, or termination of a
34325 collective bargaining relationship;
34326 (b) relating to a dispute that is pending under or is part of the processes established by a
34327 collective bargaining agreement, except that the chapter applies to a mediation arising out of a
34328 dispute that has been filed with an administrative agency or court;
34329 (c) conducted by a judge who might make a ruling on the case; or
34330 (d) conducted under the auspices of:
34331 (i) a primary or secondary school if all the parties are students; or
34332 (ii) a correctional institution for youths if all the parties are residents of that institution.
34333 (3) If the parties agree in advance in a signed record, or a record of proceeding reflects
34334 agreement by the parties, that all or part of a mediation is not privileged, the privileges under
34335 Sections [~~78-31c-104 through 78-31c-106~~] 78B-10-104 through 78B-10-106 do not apply to
34336 the mediation or part agreed upon. However, Sections [~~78-31c-104 through 78-31c-106~~]
34337 78B-10-104 through 78B-10-106 apply to a mediation communication made by a person that
34338 has not received actual notice of the agreement before the communication is made.
34339 Section 1184. Section **78B-10-104**, which is renumbered from Section 78-31c-104 is
34340 renumbered and amended to read:
34341 **[~~78-31c-104~~]. 78B-10-104. Privilege against disclosure -- Admissibility --**
34342 **Discovery.**
34343 (1) Except as otherwise provided in Section [~~78-31c-106~~] 78B-10-106, a mediation
34344 communication is privileged as provided in Subsection (2) and is not subject to discovery or

34345 admissible in evidence in a proceeding unless waived or precluded as provided by Section
34346 [~~78-31c-105~~] 78B-10-105.
34347 (2) In a proceeding, the following privileges apply:
34348 (a) A mediation party may refuse to disclose, and may prevent any other person from
34349 disclosing, a mediation communication.
34350 (b) A mediator may refuse to disclose a mediation communication, and may prevent
34351 any other person from disclosing a mediation communication of the mediator.
34352 (c) A nonparty participant may refuse to disclose, and may prevent any other person
34353 from disclosing, a mediation communication of the nonparty participant.
34354 (3) Evidence or information that is otherwise admissible or subject to discovery does
34355 not become inadmissible or protected from discovery solely by reason of its disclosure or use in
34356 a mediation.
34357 Section 1185. Section **78B-10-105**, which is renumbered from Section 78-31c-105 is
34358 renumbered and amended to read:
34359 **[~~78-31c-105~~]. 78B-10-105. Waiver and preclusion of privilege.**
34360 (1) A privilege under Section [~~78-31c-104~~] 78B-10-104 may be waived in a record or
34361 orally during a proceeding if it is expressly waived by all parties to the mediation, and:
34362 (a) in the case of the privilege of a mediator, it is expressly waived by the mediator;
34363 and
34364 (b) in the case of the privilege of a nonparty participant, it is expressly waived by the
34365 nonparty participant.
34366 (2) A person that discloses or makes a representation about a mediation communication
34367 which prejudices another person in a proceeding is precluded from asserting a privilege under
34368 Section [~~78-31c-104~~] 78B-10-104, but only to the extent necessary for the person prejudiced to
34369 respond to the representation or disclosure.
34370 (3) A person that intentionally uses a mediation to plan, attempt to commit or commit a
34371 crime, or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting
34372 a privilege under Section [~~78-31c-104~~] 78B-10-104.
34373 Section 1186. Section **78B-10-106**, which is renumbered from Section 78-31c-106 is
34374 renumbered and amended to read:
34375 **[~~78-31c-106~~]. 78B-10-106. Exceptions to privilege.**

34376 (1) There is no privilege under Section [~~78-31c-104~~] 78B-10-104 for a mediation
34377 communication that is:
34378 (a) in an agreement evidenced by a record signed by all parties to the agreement;
34379 (b) available to the public under Title 63, Chapter 2, Government Records Access and
34380 Management Act, or made during a mediation session which is open, or is required by law to
34381 be open, to the public;
34382 (c) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;
34383 (d) intentionally used to plan a crime, attempt to commit or commit a crime, or to
34384 conceal an ongoing crime or ongoing criminal activity;
34385 (e) sought or offered to prove or disprove a claim or complaint of professional
34386 misconduct or malpractice filed against a mediator;
34387 (f) except as otherwise provided in Subsection (3), sought or offered to prove or
34388 disprove a claim or complaint of professional misconduct or malpractice filed against a
34389 mediation party, nonparty participant, or representative of a party based on conduct occurring
34390 during a mediation; or
34391 (g) subject to the reporting requirements in Section 62A-3-305 or 62A-4a-403.
34392 (2) There is no privilege under Section [~~78-31c-104~~] 78B-10-104 if a court,
34393 administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking
34394 discovery or the proponent of the evidence has shown that:
34395 (a) the evidence is not otherwise available;
34396 (b) there is a need for the evidence that substantially outweighs the interest in
34397 protecting confidentiality; and
34398 (c) the mediation communication is sought or offered in:
34399 (i) a court proceeding involving a felony or misdemeanor; or
34400 (ii) except as otherwise provided in Subsection (3), a proceeding to prove a claim to
34401 rescind or reform or a defense to avoid liability on a contract arising out of the mediation.
34402 (3) A mediator may not be compelled to provide evidence of a mediation
34403 communication referred to in Subsection (1)(f) or (2)(c)(ii).
34404 (4) If a mediation communication is not privileged under Subsection (1) or (2), only the
34405 portion of the communication necessary for the application of the exception from nondisclosure
34406 may be admitted. Admission of evidence under Subsection (1) or (2) does not render the

34407 evidence, or any other mediation communication, discoverable or admissible for any other
34408 purpose.
34409 Section 1187. Section **78B-10-107**, which is renumbered from Section 78-31c-107 is
34410 renumbered and amended to read:
34411 **[~~78-31c-107~~]. 78B-10-107. Prohibited mediator reports.**
34412 (1) Except as required in Subsection (2), a mediator may not make a report,
34413 assessment, evaluation, recommendation, finding, or other communication regarding a
34414 mediation to a court, administrative agency, or other authority that may make a ruling on the
34415 dispute that is the subject of the mediation.
34416 (2) A mediator may disclose:
34417 (a) whether the mediation occurred or has terminated, whether a settlement was
34418 reached, and attendance;
34419 (b) a mediation communication as permitted under Section [~~78-31c-106~~] 78B-10-106;
34420 or
34421 (c) a mediation communication evidencing abuse, neglect, abandonment, or
34422 exploitation of an individual to a public agency responsible for protecting individuals against
34423 such mistreatment.
34424 (3) A communication made in violation of Subsection (1) may not be considered by a
34425 court, administrative agency, or arbitrator.
34426 Section 1188. Section **78B-10-108**, which is renumbered from Section 78-31c-108 is
34427 renumbered and amended to read:
34428 **[~~78-31c-108~~]. 78B-10-108. Confidentiality.**
34429 Unless subject to Title 52, Chapter 4, Open and Public Meetings Act, and Title 63,
34430 Chapter 2, Government Records Access and Management Act, mediation communications are
34431 confidential to the extent agreed by the parties or provided by other law or rule of this state.
34432 Section 1189. Section **78B-10-109**, which is renumbered from Section 78-31c-109 is
34433 renumbered and amended to read:
34434 **[~~78-31c-109~~]. 78B-10-109. Mediator's disclosure of conflicts of interest --**
34435 **Background.**
34436 (1) Before accepting a mediation, an individual who is requested to serve as a mediator
34437 shall:

34438 (a) make an inquiry that is reasonable under the circumstances to determine whether
34439 there are any known facts that a reasonable individual would consider likely to affect the
34440 impartiality of the mediator, including a financial or personal interest in the outcome of the
34441 mediation and an existing or past relationship with a mediation party or foreseeable participant
34442 in the mediation; and
34443 (b) disclose any known fact to the mediation parties as soon as practical before
34444 accepting a mediation.
34445 (2) If a mediator learns any fact described in Subsection (1)(a) after accepting a
34446 mediation, the mediator shall disclose it as soon as practicable.
34447 (3) At the request of a mediation party, an individual who is requested to serve as a
34448 mediator shall disclose the mediator's qualifications to mediate a dispute.
34449 (4) Subsections (1), (2), (3), and (6) do not apply to an individual acting as a judge or
34450 ombudsman.
34451 (5) This chapter does not require that a mediator have a special qualification by
34452 background or profession.
34453 (6) A mediator must be impartial, unless after disclosure of the facts required in
34454 Subsections (1) and (2) to be disclosed, the parties agree otherwise.
34455 Section 1190. Section **78B-10-110**, which is renumbered from Section 78-31c-110 is
34456 renumbered and amended to read:
34457 **[~~78-31c-110~~]. 78B-10-110. Participation in mediation.**
34458 An attorney or other individual designated by a party may accompany the party to, and
34459 participate in, a mediation. A waiver of participation given before the mediation may be
34460 rescinded.
34461 Section 1191. Section **78B-10-111**, which is renumbered from Section 78-31c-111 is
34462 renumbered and amended to read:
34463 **[~~78-31c-111~~]. 78B-10-111. International commercial mediation.**
34464 (1) In this section:
34465 (a) "International commercial mediation" means an international commercial
34466 conciliation as defined in Article 1 of the Model Law.
34467 (b) "Model Law" means the Model Law on International Commercial Conciliation
34468 adopted by the United Nations Commission on International Trade Law on 28 June 2002 and

34469 recommended by the United Nations General Assembly in a resolution (A/RES/57/18) dated 19
34470 November 2002.
34471 (2) Except as otherwise provided in Subsections (3) and (4), if a mediation is an
34472 international commercial mediation, the mediation is governed by the Model Law.
34473 (3) Unless the parties agree in accordance with Subsection [~~78-31c-103~~]
34474 78B-10-103(3) that all or part of an international commercial mediation is not privileged,
34475 Sections [~~78-31c-104 through 78-31c-106~~] 78B-10-104 through 78B-10-106 and any
34476 applicable definitions in Section [~~78-31c-102~~] 78B-10-102 of this chapter apply to the
34477 mediation and nothing in Article 10 of the Model Law derogates from Sections [~~78-31c-104~~
34478 ~~through 78-31c-106~~] 78B-10-104 through 78B-10-106.
34479 (4) If the parties to an international commercial mediation agree under Article 1,
34480 Section (7), of the Model Law that the Model Law does not apply, this chapter applies.
34481 Section 1192. Section **78B-10-112**, which is renumbered from Section 78-31c-112 is
34482 renumbered and amended to read:
34483 **[~~78-31c-112~~]. 78B-10-112. Relation to Electronic Signatures in Global and**
34484 **National Commerce Act.**
34485 This chapter modifies, limits, or supersedes the federal Electronic Signatures in Global
34486 and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or
34487 supersede Section 101(c) of that act or authorize electronic delivery of any of the notices
34488 described in Section 103(b) of that act.
34489 Section 1193. Section **78B-10-113**, which is renumbered from Section 78-31c-113 is
34490 renumbered and amended to read:
34491 **[~~78-31c-113~~]. 78B-10-113. Uniformity of application and construction.**
34492 In applying and construing this chapter, consideration should be given to the need to
34493 promote uniformity of the law with respect to its subject matter among states that enact it.
34494 Section 1194. Section **78B-10-114**, which is renumbered from Section 78-31c-114 is
34495 renumbered and amended to read:
34496 **[~~78-31c-114~~]. 78B-10-114. Application to existing agreements or referrals.**
34497 (1) This chapter governs a mediation pursuant to a referral or an agreement to mediate
34498 made on or after May 1, 2006.
34499 (2) Notwithstanding Subsection (1), on or after May 1, 2007, this chapter governs all

34500 agreements to mediate whenever made.
34501 Section 1195. Section **78B-11-101**, which is renumbered from Section 78-31a-101 is
34502 renumbered and amended to read:
34503 **CHAPTER 11. UTAH UNIFORM ARBITRATION ACT**
34504 **[~~78-31a-101~~]. 78B-11-101. Title.**
34505 This chapter is known as the "Utah Uniform Arbitration Act."
34506 Section 1196. Section **78B-11-102**, which is renumbered from Section 78-31a-102 is
34507 renumbered and amended to read:
34508 **[~~78-31a-102~~]. 78B-11-102. Definitions.**
34509 As used in this chapter:
34510 (1) "Arbitration organization" means an association, agency, board, commission, or
34511 other entity that is neutral and initiates, sponsors, or administers an arbitration proceeding or is
34512 involved in the appointment of an arbitrator.
34513 (2) "Arbitrator" means an individual appointed to render an award, alone or with
34514 others, in a controversy that is subject to an agreement to arbitrate.
34515 (3) "Court" means a court of competent jurisdiction in this state.
34516 (4) "Knowledge" means actual knowledge.
34517 (5) "Person" means an individual, corporation, business trust, estate, trust, partnership,
34518 limited liability company, association, joint venture, government, governmental subdivision,
34519 agency, or instrumentality, public corporation, or any other legal or commercial entity.
34520 (6) "Record" means information that is inscribed on a tangible medium or that is stored
34521 in an electronic or other medium and is retrievable in perceivable form.
34522 Section 1197. Section **78B-11-103**, which is renumbered from Section 78-31a-103 is
34523 renumbered and amended to read:
34524 **[~~78-31a-103~~]. 78B-11-103. Notice.**
34525 (1) Except as otherwise provided in this chapter, a person gives notice to another
34526 person by taking action that is reasonably necessary to inform the other person in ordinary
34527 course, whether or not the other person acquires knowledge of the notice.
34528 (2) A person has notice if the person has knowledge of the notice or has received
34529 notice.
34530 (3) A person receives notice when it comes to the person's attention or the notice is

34531 delivered at the person's place of residence or place of business, or at another location held out
34532 by the person as a place of delivery of such communications.
34533 Section 1198. Section **78B-11-104**, which is renumbered from Section 78-31a-104 is
34534 renumbered and amended to read:
34535 **[~~78-31a-104~~]. 78B-11-104. Application.**
34536 (1) This chapter applies to any agreement to arbitrate made on or after May 6, 2002.
34537 (2) This chapter applies to any agreement to arbitrate made before May 6, 2002, if all
34538 the parties to the agreement or to the arbitration proceeding agree on the record.
34539 Section 1199. Section **78B-11-105**, which is renumbered from Section 78-31a-105 is
34540 renumbered and amended to read:
34541 **[~~78-31a-105~~]. 78B-11-105. Effect of agreement to arbitrate -- Nonwaivable**
34542 **provisions.**
34543 (1) Except as otherwise provided in Subsections (2) and (3), a party to an agreement to
34544 arbitrate or to an arbitration proceeding may waive or, the parties may vary the effect of, the
34545 requirements of this chapter to the extent permitted by law.
34546 (2) Before a controversy arises that is subject to an agreement to arbitrate, a party to the
34547 agreement may not:
34548 (a) waive or agree to vary the effect of the requirements of Subsection [~~78-31a-106(1),~~
34549 ~~78-31a-107(1), 78-31a-118(1) or (2)~~] 78B-11-106(1), 78B-11-107(1), 78B-11-118(1) or (2), or
34550 Section [~~78-31a-109, 78-31a-127, or 78-31a-129~~] 78B-11-109, 78B-11-127, or 78B-11-129;
34551 (b) agree to unreasonably restrict the right under Section [~~78-31a-110~~] 78B-11-110 to
34552 notice of the initiation of an arbitration proceeding;
34553 (c) agree to unreasonably restrict the right under Section [~~78-31a-113~~] 78B-11-113 to
34554 disclosure of any facts by a neutral arbitrator; or
34555 (d) waive the right under Section [~~78-31a-117~~] 78B-11-117 of a party to an agreement
34556 to arbitrate to be represented by a lawyer at any proceeding or hearing under this chapter, but an
34557 employer and a labor organization may waive the right to representation by a lawyer in a labor
34558 arbitration.
34559 (3) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the
34560 parties may not vary the effect of, the requirements of this section or Sections [~~78-31a-108,~~
34561 ~~78-31a-115, 78-31a-119, 78-31a-123 through 78-31a-125, 78-31a-130~~] 78B-11-108,

34562 78B-11-115, 78B-11-119, 78B-11-123 through 78B-11-125, 78B-11-130, Subsection
34563 [~~78-31a-104(1), 78-31a-121(3) or (4), or 78-31a-126(1) or (2)~~] 78B-11-104(1), 78B-11-121(3)
34564 or (4), or 78B-11-126(1) or (2).
34565 Section 1200. Section **78B-11-106**, which is renumbered from Section 78-31a-106 is
34566 renumbered and amended to read:
34567 **[~~78-31a-106~~]. 78B-11-106. Application for judicial relief.**
34568 (1) Except as otherwise provided in Section [~~78-31a-129~~] 78B-11-129, an application
34569 for judicial relief under this chapter shall be made by motion to the court and heard in the
34570 manner provided by law or rule of court for making and hearing motions.
34571 (2) Unless a civil action involving the agreement to arbitrate is pending, notice of an
34572 initial motion to the court under this chapter shall be served in the manner provided by law for
34573 the service of a summons in a civil action. Otherwise, notice of the motion must be given in
34574 the manner provided by law or rule of court for serving motions in pending cases.
34575 Section 1201. Section **78B-11-107**, which is renumbered from Section 78-31a-107 is
34576 renumbered and amended to read:
34577 **[~~78-31a-107~~]. 78B-11-107. Validity of agreement to arbitrate.**
34578 (1) An agreement contained in a record to submit to arbitration any existing or
34579 subsequent controversy arising between the parties to the agreement is valid, enforceable, and
34580 irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.
34581 (2) The court shall decide whether an agreement to arbitrate exists or a controversy is
34582 subject to an agreement to arbitrate.
34583 (3) An arbitrator shall decide whether a condition precedent to arbitrability has been
34584 fulfilled and whether a contract containing a valid agreement to arbitrate is enforceable.
34585 (4) If a party to a judicial proceeding challenges the existence of, or claims that a
34586 controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue
34587 pending final resolution of the issue by the court, unless the court otherwise orders.
34588 Section 1202. Section **78B-11-108**, which is renumbered from Section 78-31a-108 is
34589 renumbered and amended to read:
34590 **[~~78-31a-108~~]. 78B-11-108. Motion to compel arbitration.**
34591 (1) On motion of a person showing an agreement to arbitrate and alleging another
34592 person's refusal to arbitrate pursuant to the agreement:

34593 (a) if the refusing party does not appear or does not oppose the motion, the court shall
34594 order the parties to arbitrate; and
34595 (b) if the refusing party opposes the motion, the court shall proceed summarily to
34596 decide the issue and order the parties to arbitrate unless it finds that there is no enforceable
34597 agreement to arbitrate.
34598 (2) On motion of a person alleging that an arbitration proceeding has been initiated or
34599 threatened but that there is no agreement to arbitrate, the court shall proceed summarily to
34600 decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall
34601 order the parties to arbitrate.
34602 (3) If the court finds that there is no enforceable agreement, it may not, pursuant to
34603 Subsection (1) or (2), order the parties to arbitrate.
34604 (4) The court may not refuse to order arbitration because the claim subject to
34605 arbitration lacks merit or grounds for the claim have not been established.
34606 (5) If a proceeding involving a claim referable to arbitration under an alleged
34607 agreement to arbitrate is pending in court, a motion under this section must be made in that
34608 court. Otherwise a motion under this section may be made in any court as provided in Section
34609 [~~78-31a-128~~] 78B-11-128.
34610 (6) If a party makes a motion to the court to order arbitration, the court on just terms
34611 shall stay any judicial proceeding that involves a claim alleged to be subject to the arbitration
34612 until the court renders a final decision under this section.
34613 (7) If the court orders arbitration, the court on just terms shall stay any judicial
34614 proceeding that involves a claim subject to the arbitration. If a claim subject to the arbitration
34615 is severable, the court may limit the stay to that claim.
34616 Section 1203. Section **78B-11-109**, which is renumbered from Section 78-31a-109 is
34617 renumbered and amended to read:
34618 **[~~78-31a-109~~]. 78B-11-109. Provisional remedies.**
34619 (1) Before an arbitrator is appointed and is authorized and able to act, the court, upon
34620 motion of a party to an arbitration proceeding and for good cause shown, may enter an order for
34621 provisional remedies to protect the effectiveness of the arbitration proceeding to the same
34622 extent and under the same conditions as if the controversy were the subject of a civil action.
34623 (2) After an arbitrator is appointed and is authorized and able to act:

34624 (a) the arbitrator may issue orders for provisional remedies, including interim awards,
34625 as the arbitrator finds necessary to protect the effectiveness of the arbitration proceeding and to
34626 promote the fair and expeditious resolution of the controversy, to the same extent and under the
34627 same conditions as if the controversy were the subject of a civil action; and
34628 (b) a party to an arbitration proceeding may move the court for a provisional remedy
34629 only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot
34630 provide an adequate remedy.
34631 (3) A party does not waive a right of arbitration by making a motion under Subsection
34632 (1) or (2).
34633 Section 1204. Section **78B-11-110**, which is renumbered from Section 78-31a-110 is
34634 renumbered and amended to read:
34635 **[~~78-31a-110~~]. 78B-11-110. Initiation of arbitration.**
34636 (1) A person initiates an arbitration proceeding by giving notice in a record to the other
34637 parties to the agreement to arbitrate in the agreed manner between the parties or, in the absence
34638 of agreement, by certified or registered mail, return receipt requested and obtained, or by
34639 service as authorized for the commencement of a civil action. The notice must describe the
34640 nature of the controversy and the remedy sought.
34641 (2) Unless a person objects for lack or insufficiency of notice under Subsection
34642 [~~78-31a-116~~] 78B-11-116(3) not later than the beginning of the arbitration hearing, the person,
34643 by appearing at the hearing, waives any objection to lack of or insufficiency of notice.
34644 Section 1205. Section **78B-11-111**, which is renumbered from Section 78-31a-111 is
34645 renumbered and amended to read:
34646 **[~~78-31a-111~~]. 78B-11-111. Consolidation of separate arbitration**
34647 **proceedings.**
34648 (1) Except as otherwise provided in Subsection (3), upon motion of a party to an
34649 agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of
34650 separate arbitration proceedings as to all or some of the claims if:
34651 (a) there are separate agreements to arbitrate or separate arbitration proceedings
34652 between the same persons or one of them is a party to a separate agreement to arbitrate or a
34653 separate arbitration proceeding with a third person;
34654 (b) the claims subject to the agreements to arbitrate arise in substantial part from the

34655 same transaction or series of related transactions;
34656 (c) the existence of a common issue of law or fact creates the possibility of conflicting
34657 decisions in the separate arbitration proceedings; and
34658 (d) prejudice resulting from a failure to consolidate is not outweighed by the risk of
34659 undue delay or prejudice to the rights of or hardship to parties opposing consolidation.
34660 (2) The court may order consolidation of separate arbitration proceedings as to some
34661 claims and allow other claims to be resolved in separate arbitration proceedings.
34662 (3) The court may not order consolidation of the claims of a party to an agreement to
34663 arbitrate if the agreement prohibits consolidation.
34664 Section 1206. Section **78B-11-112**, which is renumbered from Section 78-31a-112 is
34665 renumbered and amended to read:
34666 **[~~78-31a-112~~]. 78B-11-112. Appointment of arbitrator -- Service as a**
34667 **neutral arbitrator.**
34668 (1) If the parties to an agreement to arbitrate agree on a method for appointing an
34669 arbitrator, that method must be followed, unless the method fails. If the parties have not agreed
34670 on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act and a
34671 successor has not been appointed, the court, on motion of a party to the arbitration proceeding,
34672 shall appoint the arbitrator. An arbitrator appointed by the court has all the powers of an
34673 arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.
34674 (2) An individual who has a known, direct, and material interest in the outcome of the
34675 arbitration proceeding or a known, existing, and substantial relationship with a party may not
34676 serve as an arbitrator required by an agreement to be neutral.
34677 Section 1207. Section **78B-11-113**, which is renumbered from Section 78-31a-113 is
34678 renumbered and amended to read:
34679 **[~~78-31a-113~~]. 78B-11-113. Disclosure by arbitrator.**
34680 (1) Before accepting appointment, an individual who is requested to serve as an
34681 arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to
34682 arbitrate and arbitration proceeding and to any other arbitrators any known facts that a
34683 reasonable person would consider likely to affect the impartiality of the arbitrator in the
34684 arbitration proceeding, including:
34685 (a) a financial or personal interest in the outcome of the arbitration proceeding; and

34686 (b) an existing or past relationship with any of the parties to the agreement to arbitrate
34687 or the arbitration proceeding, their counsel or representatives, a witness, or another arbitrator.
34688 (2) An arbitrator has a continuing obligation to disclose to all parties to the agreement
34689 to arbitrate and arbitration proceeding and to any other arbitrators any facts that the arbitrator
34690 learns after accepting appointment which a reasonable person would consider likely to affect
34691 the impartiality of the arbitrator.
34692 (3) If an arbitrator discloses a fact required by Subsection (1) or (2) to be disclosed and
34693 a party timely objects to the appointment or continued service of the arbitrator based upon the
34694 fact disclosed, the objection may be a ground under Subsection [~~78-31a-124~~] 78B-11-124(1)(b)
34695 for vacating an award made by the arbitrator.
34696 (4) If the arbitrator did not disclose a fact as required by Subsection (1) or (2), upon
34697 timely objection by a party, the court under Subsection [~~78-31a-124~~] 78B-11-124(1)(b) may
34698 vacate an award.
34699 (5) An arbitrator appointed as a neutral arbitrator who does not disclose a known,
34700 direct, and material interest in the outcome of the arbitration proceeding or a known, existing,
34701 and substantial relationship with a party is presumed to act with evident partiality under
34702 Subsection [~~78-31a-124~~] 78B-11-124(1)(b).
34703 (6) If the parties to an arbitration proceeding agree to the procedures of an arbitration
34704 organization or any other procedures for challenges to arbitrators before an award is made,
34705 substantial compliance with those procedures is a condition precedent to a motion to vacate an
34706 award on that ground under Subsection [~~78-31a-124~~] 78B-11-124(1)(b).
34707 Section 1208. Section **78B-11-114**, which is renumbered from Section 78-31a-114 is
34708 renumbered and amended to read:
34709 **[~~78-31a-114~~]. 78B-11-114. Action by majority.**
34710 If there is more than one arbitrator, the powers of an arbitrator must be exercised by a
34711 majority of the arbitrators, but all of them shall conduct the hearing under Subsection
34712 [~~78-31a-116~~] 78B-11-116(3).
34713 Section 1209. Section **78B-11-115**, which is renumbered from Section 78-31a-115 is
34714 renumbered and amended to read:
34715 **[~~78-31a-115~~]. 78B-11-115. Immunity of arbitrator -- Competency to testify**
34716 **-- Attorney fees and costs.**

34717 (1) An arbitrator or an arbitration organization acting in that capacity is immune from
34718 civil liability to the same extent as a judge of a court of this state acting in a judicial capacity.
34719 (2) The immunity afforded by this section supplements any immunity under other law.
34720 (3) The failure of an arbitrator to make a disclosure required by Section [~~78-31a-113~~]
34721 78B-11-113 does not cause any loss of immunity under this section.
34722 (4) In a judicial, administrative, or similar proceeding, an arbitrator or representative of
34723 an arbitration organization is not competent to testify, and may not be required to produce
34724 records as to any statement, conduct, decision, or ruling occurring during the arbitration
34725 proceeding, to the same extent as a judge of a court of this state acting in a judicial capacity.
34726 This Subsection (4) does not apply:
34727 (a) to the extent necessary to determine the claim of an arbitrator, arbitration
34728 organization, or representative of the arbitration organization against a party to the arbitration
34729 proceeding; or
34730 (b) to a hearing on a motion to vacate an award under Subsection [~~78-31a-124~~]
34731 78B-11-124(1)(a) or (b) if the movant establishes prima facie evidence that a ground for
34732 vacating the award exists.
34733 (5) If a person commences a civil action against an arbitrator, arbitration organization,
34734 or representative of an arbitration organization arising from the services of the arbitrator,
34735 organization, or representative or if a person seeks to compel an arbitrator or a representative of
34736 an arbitration organization to testify or produce records in violation of Subsection (4), and the
34737 court decides that the arbitrator, arbitration organization, or representative of an arbitration
34738 organization is immune from civil liability or that the arbitrator or representative of the
34739 organization is not competent to testify, the court shall award to the arbitrator, organization, or
34740 representative reasonable [~~attorney's~~] attorney fees and other reasonable expenses of litigation.
34741 Section 1210. Section **78B-11-116**, which is renumbered from Section 78-31a-116 is
34742 renumbered and amended to read:
34743 **[~~78-31a-116~~]. 78B-11-116. Arbitration process.**
34744 (1) An arbitrator may conduct an arbitration in a manner the arbitrator considers
34745 appropriate for a fair and expeditious disposition of the proceeding. The authority conferred
34746 upon the arbitrator includes the power to hold conferences with the parties to the arbitration
34747 proceeding before the hearing and, among other matters, determine the admissibility, relevance,

34748 materiality, and weight of any evidence.
34749 (2) An arbitrator may decide a request for summary disposition of a claim or particular
34750 issue:
34751 (a) if all interested parties agree; or
34752 (b) upon request of one party to the arbitration proceeding if that party gives notice to
34753 all other parties to the proceeding, and the other parties have a reasonable opportunity to
34754 respond.
34755 (3) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give
34756 notice of the hearing not less than five days before the hearing begins. Unless a party to the
34757 arbitration proceeding makes an objection to lack or insufficiency of notice not later than the
34758 beginning of the hearing, the party's appearance at the hearing waives the objection. Upon
34759 request of a party to the arbitration proceeding and for good cause shown, or upon the
34760 arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary
34761 but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for
34762 making the award unless the parties to the arbitration proceeding consent to a later date. The
34763 arbitrator may hear and decide the controversy upon the evidence produced although a party
34764 who was duly notified of the arbitration proceeding did not appear. The court, on request, may
34765 direct the arbitrator to conduct the hearing promptly and render a timely decision.
34766 (4) At a hearing under Subsection (3), a party to the arbitration proceeding has a right
34767 to be heard, to present evidence material to the controversy, and to cross-examine witnesses
34768 appearing at the hearing.
34769 (5) If an arbitrator ceases or is unable to act during the arbitration proceeding, a
34770 replacement arbitrator must be appointed in accordance with Section [~~78-31a-112~~] 78B-11-112
34771 to continue the proceeding and to resolve the controversy.
34772 Section 1211. Section **78B-11-117**, which is renumbered from Section 78-31a-117 is
34773 renumbered and amended to read:
34774 **[~~78-31a-117~~]. 78B-11-117. Representation.**
34775 A party to an arbitration proceeding may be represented by an attorney.
34776 Section 1212. Section **78B-11-118**, which is renumbered from Section 78-31a-118 is
34777 renumbered and amended to read:
34778 **[~~78-31a-118~~]. 78B-11-118. Witnesses -- Subpoenas -- Depositions --**

34779 **Discovery.**
34780 (1) An arbitrator may issue a subpoena for the attendance of a witness and for the
34781 production of records and other evidence at any hearing and may administer oaths. A subpoena
34782 must be served in the manner for service of subpoenas in a civil action and, upon motion to the
34783 court by a party to the arbitration proceeding or the arbitrator, enforced in the manner for
34784 enforcement of subpoenas in a civil action.
34785 (2) In order to make the proceedings fair, expeditious, and cost-effective, upon request
34786 of a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of
34787 any witness to be taken for use as evidence at the hearing, including a witness who cannot be
34788 subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions
34789 under which the deposition is taken.
34790 (3) An arbitrator may permit any discovery the arbitrator decides is appropriate in the
34791 circumstances, taking into account the needs of the parties to the arbitration proceeding and
34792 other affected persons and the desirability of making the proceeding fair, expeditious, and
34793 cost-effective.
34794 (4) If an arbitrator permits discovery under Subsection (3), the arbitrator may order a
34795 party to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue
34796 subpoenas for the attendance of a witness and for the production of records and other evidence
34797 at a discovery proceeding, and take action against a noncomplying party to the extent a court
34798 could if the controversy were the subject of a civil action in this state.
34799 (5) An arbitrator may issue a protective order to prevent the disclosure of privileged
34800 information, confidential information, trade secrets, and other information protected from
34801 disclosure to the extent a court could if the controversy were the subject of a civil action in this
34802 state.
34803 (6) All laws compelling a person under subpoena to testify and all fees for attending a
34804 judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration
34805 proceeding as if the controversy were the subject of a civil action in this state.
34806 (7) The court may enforce a subpoena or discovery-related order for the attendance of a
34807 witness within this state and for the production of records and other evidence issued by an
34808 arbitrator in connection with an arbitration proceeding in another state upon conditions
34809 determined by the court so as to make the arbitration proceeding fair, expeditious, and

34810 cost-effective. A subpoena or discovery-related order issued by an arbitrator in another state
34811 must be served in the manner provided by law for service of subpoenas in a civil action in this
34812 state and, upon motion to the court by a party to the arbitration proceeding or the arbitrator,
34813 enforced in the manner provided by law for enforcement of subpoenas in a civil action in this
34814 state.
34815 (8) Upon stipulation of the parties, or where a statute or the written agreement of the
34816 parties provides that discovery shall be conducted in accordance with the Rules of Civil
34817 Procedure, an attorney may issue a subpoena for the attendance of a witness and for the
34818 production of records and other evidence at any hearing. A subpoena must be served in the
34819 manner for service of subpoenas in a civil action and, upon motion to the court by a party to the
34820 arbitration proceeding, enforced in the manner for enforcement of subpoenas in a civil action.
34821 Section 1213. Section **78B-11-119**, which is renumbered from Section 78-31a-119 is
34822 renumbered and amended to read:
34823 **[~~78-31a-119~~]. 78B-11-119. Judicial enforcement of preaward ruling by**
34824 **arbitrator.**
34825 If an arbitrator makes a preaward ruling in favor of a party to the arbitration proceeding,
34826 the party may request the arbitrator to incorporate the ruling into an award under Section
34827 [~~78-31a-120~~] 78B-11-120. A prevailing party may make a motion to the court for an expedited
34828 order to confirm the award under Section [~~78-31a-123~~] 78B-11-123, in which case the court
34829 shall summarily decide the motion. The court shall issue an order to confirm the award unless
34830 the court vacates, modifies, or corrects the award under Section [~~78-31a-124 or 78-31a-125~~]
34831 78B-11-124 or 78B-11-125.
34832 Section 1214. Section **78B-11-120**, which is renumbered from Section 78-31a-120 is
34833 renumbered and amended to read:
34834 **[~~78-31a-120~~]. 78B-11-120. Award.**
34835 (1) An arbitrator shall make a record of an award. The record must be signed or
34836 otherwise authenticated by any arbitrator who concurs with the award. The arbitrator or the
34837 arbitration organization shall give notice of the award, including a copy of the award, to each
34838 party to the arbitration proceeding.
34839 (2) An award must be made within the time specified by the agreement to arbitrate or,
34840 if not specified in the agreement, within the time ordered by the court. The court may extend

34841 or the parties to the arbitration proceeding may agree on the record to extend the time. The
34842 court or the parties may do so within or after the time specified or ordered. A party waives any
34843 objection that an award was not timely made unless the party gives notice of the objection to
34844 the arbitrator before receiving notice of the award.
34845 Section 1215. Section **78B-11-121**, which is renumbered from Section 78-31a-121 is
34846 renumbered and amended to read:
34847 **[~~78-31a-121~~]. 78B-11-121. Change of award by arbitrator.**
34848 (1) On motion to an arbitrator by a party to an arbitration proceeding, the arbitrator may
34849 modify or correct an award:
34850 (a) on any grounds stated in Subsection [~~78-31a-125~~] 78B-11-125(1)(a) or (c);
34851 (b) if the arbitrator has not made a final and definite award upon a claim submitted by
34852 the parties to the arbitration proceeding; or
34853 (c) to clarify the award.
34854 (2) A motion under Subsection (1) must be made and notice given to all parties within
34855 20 days after the movant receives notice of the award.
34856 (3) A party to the arbitration proceeding must give notice of any objection to the
34857 motion within ten days after receipt of the notice.
34858 (4) If a motion to the court is pending under Section [~~78-31a-123, 78-31a-124, or~~
34859 ~~78-31a-125~~] 78B-11-123, 78B-11-124, or 78B-11-125, the court may submit the claim to the
34860 arbitrator to consider whether to modify or correct the award:
34861 (a) on any grounds stated in Subsection [~~78-31a-125~~] 78B-11-125(1)(a) or (c);
34862 (b) if the arbitrator has not made a final and definite award upon a claim submitted by
34863 the parties to the arbitration proceeding; or
34864 (c) to clarify the award.
34865 (5) An award modified or corrected pursuant to this section is subject to Subsection
34866 [~~78-3a-120~~] 78A-6-119(1) and Sections [~~78-31a-123, 78-31a-124, and 78-31a-125~~]
34867 78B-11-123, 78B-11-124, and 78B-11-125.
34868 Section 1216. Section **78B-11-122**, which is renumbered from Section 78-31a-122 is
34869 renumbered and amended to read:
34870 **[~~78-31a-122~~]. 78B-11-122. Remedies -- Fees and expenses of arbitration**
34871 **proceeding.**

34872 (1) An arbitrator may award punitive damages or other exemplary relief if the award is
34873 authorized by law in a civil action involving the same claim and the evidence produced at the
34874 hearing justifies the award under the legal standards otherwise applicable to the claim.
34875 (2) An arbitrator may award reasonable [~~attorney's~~] attorney fees and other reasonable
34876 expenses of arbitration if the award is authorized by law in a civil action involving the same
34877 claim or by the agreement of the parties to the arbitration proceeding.
34878 (3) As to all remedies other than those authorized by Subsections (1) and (2), an
34879 arbitrator may order any remedies as the arbitrator considers just and appropriate under the
34880 circumstances of the arbitration proceeding. The fact that a remedy could not or would not be
34881 granted by the court is not a ground for refusing to confirm an award under Section
34882 [~~78-31a-123~~] 78B-11-123 or for vacating an award under Section [~~78-31a-124~~] 78B-11-124.
34883 (4) An arbitrator's expenses and fees, together with other expenses, must be paid as
34884 provided in the award.
34885 (5) If an arbitrator awards punitive damages or other exemplary relief under Subsection
34886 (1), the arbitrator shall specify in the award the basis in fact justifying, and the basis in law
34887 authorizing, the award and state separately the amount of the punitive damages or other
34888 exemplary relief.
34889 Section 1217. Section **78B-11-123**, which is renumbered from Section 78-31a-123 is
34890 renumbered and amended to read:
34891 **[~~78-31a-123~~]. 78B-11-123. Confirmation of award.**
34892 After a party to an arbitration proceeding receives notice of an award in a matter not
34893 pending before a court, the party may petition the court for an order confirming the award. If
34894 the notice of award is in a matter pending before the court, the party may file a motion for an
34895 order confirming the award. The court shall issue a confirming order unless the award is
34896 modified or corrected pursuant to Section [~~78-31a-121 or 78-31a-125~~] 78B-11-121 or
34897 78B-11-125 or is vacated pursuant to Section [~~78-31a-124~~] 78B-11-124.
34898 Section 1218. Section **78B-11-124**, which is renumbered from Section 78-31a-124 is
34899 renumbered and amended to read:
34900 **[~~78-31a-124~~]. 78B-11-124. Vacating an award.**
34901 (1) Upon motion to the court by a party to an arbitration proceeding, the court shall
34902 vacate an award made in the arbitration proceeding if:

34903 (a) the award was procured by corruption, fraud, or other undue means;
34904 (b) there was:
34905 (i) evident partiality by an arbitrator appointed as a neutral arbitrator;
34906 (ii) corruption by an arbitrator; or
34907 (iii) misconduct by an arbitrator prejudicing the rights of a party to the arbitration
34908 proceeding;
34909 (c) an arbitrator refused to postpone the hearing upon showing of sufficient cause for
34910 postponement, refused to consider evidence material to the controversy, or otherwise conducted
34911 the hearing contrary to Section [~~78-31a-116~~] 78B-11-116, so as to substantially prejudice the
34912 rights of a party to the arbitration proceeding;
34913 (d) an arbitrator exceeded the arbitrator's authority;
34914 (e) there was no agreement to arbitrate, unless the person participated in the arbitration
34915 proceeding without raising an objection under Subsection [~~78-31a-116~~] 78B-11-116(3) not
34916 later than the beginning of the arbitration hearing; or
34917 (f) the arbitration was conducted without proper notice of the initiation of an arbitration
34918 as required in Section [~~78-31a-110~~] 78B-11-110 so as to substantially prejudice the rights of a
34919 party to the arbitration proceeding.
34920 (2) A motion under this section must be filed within 90 days after the movant receives
34921 notice of the award pursuant to Section [~~78-31a-120~~] 78B-11-120 or within 90 days after the
34922 movant receives notice of a modified or corrected award pursuant to Section [~~78-31a-121~~]
34923 78B-11-121, unless the movant alleges that the award was procured by corruption, fraud, or
34924 other undue means, in which case the motion must be made within 90 days after the ground is
34925 known or by the exercise of reasonable care would have been known by the movant.
34926 (3) If the court vacates an award on a ground other than that set forth in Subsection
34927 (1)(e), it may order a rehearing. If the award is vacated on a ground stated in Subsection (1)(a)
34928 or (b), the rehearing must be before a new arbitrator. If the award is vacated on a ground stated
34929 in Subsection (1)(c), (d), or (f), the rehearing may be before the arbitrator who made the award
34930 or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the
34931 same time as that provided in Subsection [~~78-31a-120~~] 78B-11-120(2) for an award.
34932 (4) If the court denies a motion to vacate an award, it shall confirm the award unless a
34933 motion to modify or correct the award is pending.

34934 Section 1219. Section **78B-11-125**, which is renumbered from Section 78-31a-125 is
34935 renumbered and amended to read:
34936 **[~~78-31a-125~~]. 78B-11-125. Modification or correction of award.**
34937 (1) Upon motion made within 90 days after the movant receives notice of the award
34938 pursuant to Section [~~78-31a-120~~] 78B-11-120 or within 90 days after the movant receives
34939 notice of a modified or corrected award pursuant to Section [~~78-31a-121~~] 78B-11-121, the
34940 court shall modify or correct the award if:
34941 (a) there was an evident mathematical miscalculation or an evident mistake in the
34942 description of a person, thing, or property referred to in the award;
34943 (b) the arbitrator has made an award on a claim not submitted to the arbitrator and the
34944 award may be corrected without affecting the merits of the decision upon the claims submitted;
34945 or
34946 (c) the award is imperfect in a matter of form not affecting the merits of the decision on
34947 the claims submitted.
34948 (2) If a motion made under Subsection (1) is granted, the court shall modify or correct
34949 and confirm the award as modified or corrected. Otherwise, unless a motion to vacate is
34950 pending, the court shall confirm the award.
34951 (3) A motion to modify or correct an award pursuant to this section may be joined with
34952 a motion to vacate the award.
34953 Section 1220. Section **78B-11-126**, which is renumbered from Section 78-31a-126 is
34954 renumbered and amended to read:
34955 **[~~78-31a-126~~]. 78B-11-126. Judgment on award -- Attorney fees and**
34956 **litigation expenses.**
34957 (1) Upon granting an order confirming, vacating without directing a rehearing,
34958 modifying, or correcting an award, the court shall enter a judgment conforming to the award.
34959 The judgment may be recorded, docketed, and enforced as any other judgment in a civil action.
34960 (2) A court may allow reasonable costs of the motion and subsequent judicial
34961 proceedings.
34962 (3) On application of a prevailing party to a contested judicial proceeding under
34963 Section [~~78-31a-123, 78-31a-124, or 78-31a-125~~] 78B-11-123, 78B-11-124, or 78B-11-125,
34964 the court may add reasonable [~~attorney's~~] attorney fees and other reasonable expenses of

34965 litigation incurred in a judicial proceeding after the award is made to a judgment confirming,
34966 vacating without directing a rehearing, modifying, or correcting an award.
34967 Section 1221. Section **78B-11-127**, which is renumbered from Section 78-31a-127 is
34968 renumbered and amended to read:
34969 **[~~78-31a-127~~]. 78B-11-127. Jurisdiction.**
34970 (1) A court of this state having jurisdiction over the controversy and the parties may
34971 enforce an agreement to arbitrate.
34972 (2) An agreement to arbitrate providing for arbitration in this state confers exclusive
34973 jurisdiction on the court to enter judgment on an award under this chapter.
34974 Section 1222. Section **78B-11-128**, which is renumbered from Section 78-31a-128 is
34975 renumbered and amended to read:
34976 **[~~78-31a-128~~]. 78B-11-128. Venue.**
34977 A motion pursuant to Section [~~78-31a-106~~] 78B-11-106 must be made in the court of
34978 the county in which the agreement to arbitrate specifies the arbitration hearing is to be held or,
34979 if the hearing has been held, in the court of the county in which it was held. Otherwise, the
34980 motion may be made in the court of any county in which an adverse party resides or has a place
34981 of business or, if no adverse party has a residence or place of business in this state, in the court
34982 of any county in this state. All subsequent motions must be made in the court hearing the
34983 initial motion unless the court otherwise directs.
34984 Section 1223. Section **78B-11-129**, which is renumbered from Section 78-31a-129 is
34985 renumbered and amended to read:
34986 **[~~78-31a-129~~]. 78B-11-129. Appeals.**
34987 (1) An appeal may be taken from:
34988 (a) an order denying a motion to compel arbitration;
34989 (b) an order granting a motion to stay arbitration;
34990 (c) an order confirming or denying confirmation of an award;
34991 (d) an order modifying or correcting an award;
34992 (e) an order vacating an award without directing a rehearing; or
34993 (f) a final judgment entered pursuant to this chapter.
34994 (2) An appeal under this section must be taken as from an order or a judgment in a civil
34995 action.

34996 Section 1224. Section **78B-11-130**, which is renumbered from Section 78-31a-130 is
34997 renumbered and amended to read:
34998 **[~~78-31a-130~~]. 78B-11-130. Electronic Signatures in Global and National**
34999 **Commerce Act.**
35000 The provisions of this chapter governing the legal effect, validity, or enforceability of
35001 electronic records or signatures, and of contracts formed or performed with the use of such
35002 records or signatures conform to the requirements of Section 102 of the Electronic Signatures
35003 in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464, and supersede,
35004 modify, and limit the Electronic Signatures in Global and National Commerce Act.
35005 Section 1225. Section **78B-11-131**, which is renumbered from Section 78-31a-131 is
35006 renumbered and amended to read:
35007 **[~~78-31a-131~~]. 78B-11-131. Effect of chapter on prior agreements or**
35008 **proceedings.**
35009 This act does not affect an action or proceeding commenced or right accrued before this
35010 chapter takes effect. Subject to Section [~~78-31a-104~~] 78B-11-104 of this chapter, an arbitration
35011 agreement made before May 6, 2002 shall be governed by the arbitration act in force on the
35012 date the agreement was signed.
35013 Section 1226. Section **78B-12-101**, which is renumbered from Section 78-45-1 is
35014 renumbered and amended to read:
35015 **Part 1. General Provisions**
35016 **[~~78-45-1~~]. 78B-12-101. Title.**
35017 This [~~act may be cited~~] chapter is known as the [~~Uniform Civil Liability for~~] Utah Child
35018 Support Act.
35019 Section 1227. Section **78B-12-102**, which is renumbered from Section 78-45-2 is
35020 renumbered and amended to read:
35021 **[~~78-45-2~~]. 78B-12-102. Definitions.**
35022 As used in this chapter:
35023 (1) "Adjusted gross income" means income calculated under Subsection [~~78-45-7.6~~]
35024 78B-12-204(1).
35025 (2) "Administrative agency" means the Office of Recovery Services or the Department
35026 of Human Services.

35027 (3) "Administrative order" means an order that has been issued by the Office of
35028 Recovery Services, the Department of Human Services, or an administrative agency of another
35029 state or other comparable jurisdiction with similar authority to that of the office.
35030 (4) "Base child support award" means the award that may be ordered and is calculated
35031 using the guidelines before additions for medical expenses and work-related child care costs.
35032 (5) "Base combined child support obligation table," "child support table," "base child
35033 support obligation table," "low income table," or "table" means the appropriate table in
35034 [~~Section 78-45-7.14~~] Part 3, Tables.
35035 (6) "Child" means:
35036 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,
35037 self-supporting, married, or a member of the armed forces of the United States;
35038 (b) a son or daughter over the age of 18 years, while enrolled in high school during the
35039 normal and expected year of graduation and not otherwise emancipated, self-supporting,
35040 married, or a member of the armed forces of the United States; or
35041 (c) a son or daughter of any age who is incapacitated from earning a living and, if able
35042 to provide some financial resources to the family, is not able to support self by own means.
35043 (7) "Child support" means a base child support award, or a monthly financial award for
35044 uninsured medical expenses, ordered by a tribunal for the support of a child, including current
35045 periodic payments, all arrearages which accrue under an order for current periodic payments,
35046 and sum certain judgments awarded for arrearages, medical expenses, and child care costs.
35047 (8) "Child support order" or "support order" means a judgment, decree, or order of a
35048 tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable,
35049 whether incidental to a proceeding for divorce, judicial or legal separation, separate
35050 maintenance, paternity, guardianship, civil protection, or otherwise which:
35051 (a) establishes or modifies child support;
35052 (b) reduces child support arrearages to judgment; or
35053 (c) establishes child support or registers a child support order under Title [~~78~~] 78B,
35054 Chapter [~~45f~~] 14, Uniform Interstate Family Support Act.
35055 (9) "Child support services" or "IV-D child support services" means services provided
35056 pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Section 651 et seq.
35057 (10) "Court" means the district court or juvenile court.

35058 (11) "Guidelines" means the directions for the calculation and application of child
35059 support [~~guidelines in Sections 78-45-7.2 through 78-45-7.21~~] in Part 2, Calculation and
35060 Adjustment.
35061 (12) "Income" means earnings, compensation, or other payment due to an individual,
35062 regardless of source, whether denominated as wages, salary, commission, bonus, pay,
35063 allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive
35064 pay. "Income" includes:
35065 (a) all gain derived from capital assets, labor, or both, including profit gained through
35066 sale or conversion of capital assets;
35067 (b) interest and dividends;
35068 (c) periodic payments made under pension or retirement programs or insurance policies
35069 of any type;
35070 (d) unemployment compensation benefits;
35071 (e) workers' compensation benefits; and
35072 (f) disability benefits.
35073 (13) "Joint physical custody" means the child stays with each parent overnight for more
35074 than 30% of the year, and both parents contribute to the expenses of the child in addition to
35075 paying child support.
35076 (14) "Medical expenses" means health and dental expenses and related insurance costs.
35077 (15) "Obligee" means an individual, this state, another state, or another comparable
35078 jurisdiction to whom child support is owed or who is entitled to reimbursement of child support
35079 or public assistance.
35080 (16) "Obligor" means any person owing a duty of support.
35081 (17) "Office" means the Office of Recovery Services within the Department of Human
35082 Services.
35083 (18) "Parent" includes a natural parent, or an adoptive parent.
35084 (19) "Split custody" means that each parent has physical custody of at least one of the
35085 children.
35086 (20) "State" includes any state, territory, possession of the United States, the District of
35087 Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable
35088 domestic or foreign jurisdiction.

35089 (21) "Temporary" means a period of time that is projected to be less than 12 months in
35090 duration.
35091 (22) "Third party" means an agency or a person other than the biological or adoptive
35092 parent or a child who provides care, maintenance, and support to a child.
35093 (23) "Tribunal" means the district court, the Department of Human Services, Office of
35094 Recovery Services, or court or administrative agency of any state, territory, possession of the
35095 United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American
35096 Tribe, or other comparable domestic or foreign jurisdiction.
35097 (24) "Work-related child care costs" means reasonable child care costs for up to a
35098 full-time work week or training schedule as necessitated by the employment or training of a
35099 parent under Section [~~78-45-7.17~~] 78B-12-215.
35100 (25) "Worksheets" means the forms used to aid in calculating the base child support
35101 award.
35102 Section 1228. Section **78B-12-103**, which is renumbered from Section 78-45-6 is
35103 renumbered and amended to read:
35104 **[~~78-45-6~~]. 78B-12-103. District court jurisdiction.**
35105 The district court shall have jurisdiction of all proceedings brought under this [~~act~~]
35106 chapter.
35107 Section 1229. Section **78B-12-104**, which is renumbered from Section 78-45-8 is
35108 renumbered and amended to read:
35109 **[~~78-45-8~~]. 78B-12-104. Continuing jurisdiction.**
35110 The court shall retain jurisdiction to modify or vacate the order of support where justice
35111 requires.
35112 Section 1230. Section **78B-12-105**, which is renumbered from Section 78-45-3 is
35113 renumbered and amended to read:
35114 **[~~78-45-3~~]. 78B-12-105. Duty of parents.**
35115 (1) Every [~~father shall support his~~] child [~~and every child shall be~~] is presumed to be in
35116 need of the support of [~~his~~] the child's mother and father. Every [~~man~~] mother and father shall
35117 support [~~his wife when she is in need~~] their children.
35118 (2) Except as limited in a court order under Section 30-3-5, 30-4-3, or [~~78-45-7.15~~]
35119 78B-12-212:

35120 (a) The expenses incurred on behalf of a minor child for reasonable and necessary
35121 medical and dental expenses, and other necessities are chargeable upon the property of both
35122 parents, regardless of the marital status of the parents.
35123 (b) Either or both parents may be sued by a creditor for the expenses described in
35124 Subsection (2)(a) incurred on behalf of minor children.
35125 Section 1231. Section **78B-12-106**, which is renumbered from Section 78-45-4.3 is
35126 renumbered and amended to read:
35127 **[~~78-45-4.3~~]. 78B-12-106. Ward of state -- Natural or adoptive parent has**
35128 **primary obligation to support -- Right of third party to recover support.**
35129 (1) A natural or an adoptive parent whose minor child has become a ward of this or any
35130 other state is not relieved of the primary obligation to support that child until [~~he~~] the child
35131 reaches the age of majority, regardless of any agreements or legal defenses that may exist
35132 between the parents or other care providers. Any state that provides support for a child shall
35133 have the right to reimbursement.
35134 (2) Nothing contained in this chapter may act to relieve the natural parent or adoptive
35135 parent of the primary obligation of support.
35136 (3) A third party has the same right to recover support from the natural or adoptive
35137 parent as a custodial parent.
35138 Section 1232. Section **78B-12-107**, which is renumbered from Section 78-45-5 is
35139 renumbered and amended to read:
35140 **[~~78-45-5~~]. 78B-12-107. Duty of obligor regardless of presence or residence of**
35141 **obligee.**
35142 An obligor present or resident in this state has the duty of support as defined in this
35143 [~~act~~] chapter regardless of the presence or residence of the obligee.
35144 Section 1233. Section **78B-12-108**, which is renumbered from Section 78-45-4.4 is
35145 renumbered and amended to read:
35146 **[~~78-45-4.4~~]. 78B-12-108. Support follows the child.**
35147 (1) Obligations ordered for child support and medical expenses are for the use and
35148 benefit of the child and shall follow the child.
35149 (2) Except in cases of joint physical custody and split custody as defined in Section
35150 [~~78-45-2~~] 78B-12-102, when physical custody changes from that assumed in the original order,

35151 the parent without physical custody of a child shall be required to pay the amount of support
35152 determined in accordance with Sections [~~78-45-7.7~~] 78B-12-205 and [~~78-45-7.15~~] 78B-12-212,
35153 without the need to modify the order for:
35154 (a) the parent who has physical custody of the child;
35155 (b) a relative to whom physical custody of the child has been voluntarily given; or
35156 (c) the state when the child is residing outside of the home in the protective custody,
35157 temporary custody, or custody or care of the state or a state-licensed facility for at least 30 days.
35158 Section 1234. Section **78B-12-109**, which is renumbered from Section 78-45-4.5 is
35159 renumbered and amended to read:
35160 **[~~78-45-4.5~~]. 78B-12-109. Waiver and estoppel.**
35161 (1) Waiver and estoppel shall apply only to the custodial parent when there is no order
35162 already established by a tribunal if the custodial parent freely and voluntarily waives support
35163 specifically and in writing.
35164 (2) Waiver and estoppel may not be applied against any third party or public entity that
35165 may provide support for the child.
35166 (3) A noncustodial parent, or alleged biological father in a paternity action, may not
35167 rely on statements made by the custodial parent of the child concerning child support unless the
35168 statements are reduced to writing and signed by both parties.
35169 Section 1235. Section **78B-12-110**, which is renumbered from Section 78-45-10 is
35170 renumbered and amended to read:
35171 **[~~78-45-10~~]. 78B-12-110. Appeals.**
35172 Appeals may be taken from orders and judgments under this [~~act~~] chapter as in other
35173 civil actions.
35174 Section 1236. Section **78B-12-111**, which is renumbered from Section 78-45-7.1 is
35175 renumbered and amended to read:
35176 **[~~78-45-7.1~~]. 78B-12-111. Court order -- Medical expenses of dependent children**
35177 **-- Assigning responsibility for payment -- Insurance coverage -- Income withholding.**
35178 The court shall include the following in its order:
35179 (1) a provision assigning responsibility for the payment of reasonable and necessary
35180 medical expenses for the dependent children;
35181 (2) a provision requiring the purchase and maintenance of appropriate insurance for the

35182 medical expenses of dependent children, if coverage is or becomes available at a reasonable
35183 cost; and
35184 (3) provisions for income withholding, in accordance with Title 62A, Chapter 11, Parts
35185 4 and 5.
35186 Section 1237. Section **78B-12-112**, which is renumbered from Section 78-45-9.3 is
35187 renumbered and amended to read:
35188 **[~~78-45-9.3~~]. 78B-12-112. Payment under child support order -- Judgment.**
35189 (1) All monthly payments of child support shall be due on the 1st day of each month
35190 [~~for purposes of child support services~~] pursuant to Title 62A, Chapter 11, Part 3, [~~income~~
35191 ~~withholding services pursuant to~~] Child Support Services Act, Part 4, Income Withholding in
35192 IV-D Cases, and [~~income withholding procedures pursuant to~~] Part 5, Income Withholding in
35193 Non-IV-D Cases.
35194 (2) For purposes of child support services and income withholding pursuant to Title
35195 62A, Chapter 11, Part 3 and Part 4, child support is not considered past due until the 1st day of
35196 the following month. For purposes other than those specified in Subsection (1) support shall be
35197 payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the
35198 order or decree provides for a different time for payment.
35199 (3) Each payment or installment of child or spousal support under any [~~child~~] support
35200 order, as defined by Section [~~78-45-2~~] 78B-12-102, is, on and after the date it is due:
35201 (a) a judgment with the same attributes and effect of any judgment of a district court,
35202 except as provided in Subsection (4);
35203 (b) entitled, as a judgment, to full faith and credit in this and in any other jurisdiction;
35204 and
35205 (c) not subject to retroactive modification by this or any other jurisdiction, except as
35206 provided in Subsection (4).
35207 (4) A child or spousal support payment under a [~~child~~] support order may be modified
35208 with respect to any period during which a modification is pending, but only from the date of
35209 service of the pleading on the obligee, if the obligor is the petitioner, or on the obligor, if the
35210 obligee is the petitioner. If the tribunal orders that the support should be modified, the effective
35211 date of the modification shall be the month following service on the parent whose support is
35212 affected. Once the tribunal determines that a modification is appropriate, the tribunal shall

35213 order a judgment to be entered for any difference in the original order and the modified amount
35214 for the period from the service of the pleading until the final order of modification is entered.
35215 [~~(5) For purposes of this section, "jurisdiction" means a state or political subdivision, a~~
35216 ~~territory or possession of the United States, the District of Columbia, and the Commonwealth~~
35217 ~~of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.~~]
35218 [~~(6)~~] (5) The judgment provided for in Subsection (3)(a), to be effective and
35219 enforceable as a lien against the real property interest of any third party relying on the public
35220 record, shall be docketed in the district court in accordance with Sections [~~78-22-1~~] 78B-5-202
35221 and 62A-11-312.5.
35222 Section 1238. Section **78B-12-113**, which is renumbered from Section 78-45-9 is
35223 renumbered and amended to read:
35224 **[~~78-45-9~~]. 78B-12-113. Enforcement of right of support.**
35225 (1) (a) The obligee may enforce his right of support against the obligor. The office
35226 may proceed pursuant to this chapter or any other applicable statute on behalf of:
35227 (i) the Department of Human Services;
35228 (ii) any other department or agency of this state that provides public assistance, as
35229 defined by Subsection 62A-11-303(3), to enforce the right to recover public assistance; or
35230 (iii) the obligee, to enforce the obligee's right of support against the obligor.
35231 (b) Whenever any court action is commenced by the office to enforce payment of the
35232 obligor's support obligation, the attorney general or the county attorney of the county of
35233 residence of the obligee shall represent the office.
35234 (2) (a) A person may not commence an action, file a pleading, or submit a written
35235 stipulation to the court, without complying with Subsection (2)(b), if the purpose or effect of
35236 the action, pleading, or stipulation is to:
35237 (i) establish paternity;
35238 (ii) establish or modify a support obligation;
35239 (iii) change the court-ordered manner of payment of support;
35240 (iv) recover support due or owing; or
35241 (v) appeal issues regarding child support laws.
35242 (b) (i) When taking an action described in Subsection (2)(a), a person must file an
35243 affidavit with the court at the time the action is commenced, the pleading is filed, or the

35244 stipulation is submitted stating whether child support services have been or are being provided
35245 under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., on behalf of a child
35246 who is a subject of the action, pleading, or stipulation.
35247 (ii) If child support services have been or are being provided, under Part IV of the
35248 Social Security Act, 42 U.S.C., Section 601 et seq., the person shall mail a copy of the affidavit
35249 and a copy of the pleading or stipulation to the Office of the Attorney General, Child Support
35250 Division.
35251 (iii) If notice is not given in accordance with this Subsection (2), the office is not
35252 bound by any decision, judgment, agreement, or compromise rendered in the action. For
35253 purposes of appeals, service must be made on the Office of the Director for the Office of
35254 Recovery Services.
35255 (c) If IV-D services have been or are being provided, that person shall join the office as
35256 a party to the action, or mail or deliver a written request to the Office of the Attorney General,
35257 Child Support Division asking the office to join as a party to the action. A copy of that request,
35258 along with proof of service, shall be filed with the court. The office shall be represented as
35259 provided in Subsection (1)(b).
35260 (3) Neither the attorney general nor the county attorney represents or has an
35261 attorney-client relationship with the obligee or the obligor in carrying out the duties under this
35262 chapter.
35263 Section 1239. Section **78B-12-114**, which is renumbered from Section 78-45-9.2 is
35264 renumbered and amended to read:
35265 **[~~78-45-9.2~~]. 78B-12-114. County attorney to assist obligee.**
35266 (1) The county attorney's office shall provide assistance to an obligee desiring to
35267 proceed under this [~~act~~] chapter in the following manner:
35268 [~~(1)~~] (a) provide forms, approved by the Judicial Council of Utah, for an order of wage
35269 assignment if the obligee is not represented by legal counsel;
35270 [~~(2) the county attorney's office may charge a fee not to exceed $25 for providing~~
35271 ~~assistance to an obligee under Subsection (1).~~]
35272 [~~(3)~~] (b) inform the obligee of the right to file impecuniously if the obligee is unable to
35273 bear the expenses of the action and assist the obligee with such filing;
35274 [~~(4)~~] (c) advise the obligee of the available methods for service of process; and

35275 [~~(5)~~] (d) assist the obligee in expeditiously scheduling a hearing before the court.
35276 (2) The county attorney's office may charge a fee not to exceed $25 for providing
35277 assistance to an obligee under Subsection (1).
35278 Section 1240. Section **78B-12-115**, which is renumbered from Section 78-45-11 is
35279 renumbered and amended to read:
35280 **[~~78-45-11~~]. 78B-12-115. Husband and wife privileged communication**
35281 **inapplicable -- Competency of spouses.**
35282 Laws attaching a privilege against the disclosure of communications between husband
35283 and wife are inapplicable under this [~~act~~] chapter. Spouses are competent witnesses to testify to
35284 any relevant matter, including marriage and parentage.
35285 Section 1241. Section **78B-12-116**, which is renumbered from Section 78-45-7.22 is
35286 renumbered and amended to read:
35287 **[~~78-45-7.22~~]. 78B-12-116. Social Security number in court records.**
35288 The Social Security number of any individual who is subject to a support order shall be
35289 placed in the records relating to the matter.
35290 Section 1242. Section **78B-12-117**, which is renumbered from Section 78-45-12 is
35291 renumbered and amended to read:
35292 **[~~78-45-12~~]. 78B-12-117. Rights are in addition to those presently existing.**
35293 The rights [~~herein~~] created in this chapter are in addition to and not in substitution to
35294 any other rights.
35295 Section 1243. Section **78B-12-201**, which is renumbered from Section 78-45-7.3 is
35296 renumbered and amended to read:
35297 **Part 2. Calculation and Adjustment**
35298 **[~~78-45-7.3~~]. 78B-12-201. Procedure -- Documentation -- Stipulation.**
35299 (1) In any matter in which child support is ordered, the moving party shall submit:
35300 (a) a completed child support worksheet;
35301 (b) the financial verification required by Subsection [~~78-45-7.5~~] 78B-12-203(5);
35302 (c) a written statement indicating whether or not the amount of child support requested
35303 is consistent with the guidelines; and
35304 (d) the information required under Subsection (3).
35305 (2) (a) If the documentation of income required under Subsection (1) is not available, a

35306 verified representation of the other party's income by the moving party, based on the best
35307 evidence available, may be submitted.
35308 (b) The evidence shall be in affidavit form and may only be offered after a copy has
35309 been provided to the other party in accordance with Utah Rules of Civil Procedure or Title 63,
35310 Chapter 46b, Administrative Procedures Act, in an administrative proceeding.
35311 (3) Upon the entry of an order in a proceeding to establish paternity or to establish,
35312 modify, or enforce a support order, each party shall file identifying information and shall
35313 update that information as changes occur with the court that conducted the proceeding.
35314 (a) The required identifying information shall include the person's social security
35315 number, driver's license number, residential and mailing addresses, telephone numbers, the
35316 name, address and telephone number of employers, and any other data required by the United
35317 States Secretary of Health and Human Services.
35318 (b) Attorneys representing the office in child support services cases are not required to
35319 file the identifying information required by Subsection (3)(a).
35320 (4) A stipulated amount for child support or combined child support and alimony is
35321 adequate under the guidelines if the stipulated child support amount or combined amount
35322 equals or exceeds the base child support award required by the guidelines.
35323 Section 1244. Section **78B-12-202**, which is renumbered from Section 78-45-7 is
35324 renumbered and amended to read:
35325 **[~~78-45-7~~]. 78B-12-202. Determination of amount of support -- Rebuttable**
35326 **guidelines.**
35327 (1) (a) Prospective support shall be equal to the amount granted by prior court order
35328 unless there has been a substantial change of circumstance on the part of the obligor or obligee
35329 or adjustment under Subsection [~~78-45-7.2~~] 78B-12-210(6) has been made.
35330 (b) If the prior court order contains a stipulated provision for the automatic adjustment
35331 for prospective support, the prospective support shall be the amount as stated in the order,
35332 without a showing of a material change of circumstances, if the stipulated provision:
35333 (i) is clear and unambiguous;
35334 (ii) is self-executing;
35335 (iii) provides for support which equals or exceeds the base child support award
35336 required by the guidelines; and

35337 (iv) does not allow a decrease in support as a result of the obligor's voluntary reduction
35338 of income.
35339 (2) If no prior court order exists, a substantial change in circumstances has occurred, or
35340 a petition to modify an order under Subsection [~~78-45-7.2~~] 78B-12-210(6) has been filed, the
35341 court determining the amount of prospective support shall require each party to file a proposed
35342 award of child support using the guidelines before an order awarding child support or
35343 modifying an existing award may be granted.
35344 (3) If the court finds sufficient evidence to rebut the guidelines, the court shall establish
35345 support after considering all relevant factors, including but not limited to:
35346 (a) the standard of living and situation of the parties;
35347 (b) the relative wealth and income of the parties;
35348 (c) the ability of the obligor to earn;
35349 (d) the ability of the obligee to earn;
35350 (e) the ability of an incapacitated adult child to earn, or other benefits received by the
35351 adult child or on the adult child's behalf including Supplemental Security Income;
35352 (f) the needs of the obligee, the obligor, and the child;
35353 (g) the ages of the parties; and
35354 (h) the responsibilities of the obligor and the obligee for the support of others.
35355 (4) When no prior court order exists, the court shall determine and assess all arrearages
35356 based upon the [~~Uniform Child Support Guidelines~~] guidelines described in this chapter.
35357 Section 1245. Section **78B-12-203**, which is renumbered from Section 78-45-7.5 is
35358 renumbered and amended to read:
35359 **[~~78-45-7.5~~]. 78B-12-203. Determination of gross income -- Imputed income.**
35360 (1) As used in the guidelines, "gross income" includes prospective income from any
35361 source, including earned and nonearned income sources which may include salaries, wages,
35362 commissions, royalties, bonuses, rents, gifts from anyone, prizes, dividends, severance pay,
35363 pensions, interest, trust income, alimony from previous marriages, annuities, capital gains,
35364 Social Security benefits, workers' compensation benefits, unemployment compensation,
35365 income replacement disability insurance benefits, and payments from "nonmeans-tested"
35366 government programs.
35367 (2) Income from earned income sources is limited to the equivalent of one full-time

35368 40-hour job. If and only if during the time prior to the original support order, the parent
35369 normally and consistently worked more than 40 hours at the parent's job, the court may
35370 consider this extra time as a pattern in calculating the parent's ability to provide child support.
35371 (3) Notwithstanding Subsection (1), specifically excluded from gross income are:
35372 (a) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment
35373 Program;
35374 (b) benefits received under a housing subsidy program, the Job Training Partnership
35375 Act, Supplemental Security Income, Social Security Disability Insurance, Medicaid, Food
35376 Stamps, or General Assistance; and
35377 (c) other similar means-tested welfare benefits received by a parent.
35378 (4) (a) Gross income from self-employment or operation of a business shall be
35379 calculated by subtracting necessary expenses required for self-employment or business
35380 operation from gross receipts. The income and expenses from self-employment or operation of
35381 a business shall be reviewed to determine an appropriate level of gross income available to the
35382 parent to satisfy a child support award. Only those expenses necessary to allow the business to
35383 operate at a reasonable level may be deducted from gross receipts.
35384 (b) Gross income determined under this subsection [~~(4)~~] may differ from the amount of
35385 business income determined for tax purposes.
35386 (5) (a) When possible, gross income should first be computed on an annual basis and
35387 then recalculated to determine the average gross monthly income.
35388 (b) Each parent shall provide verification of current income. Each parent shall provide
35389 year-to-date pay stubs or employer statements and complete copies of tax returns from at least
35390 the most recent year unless the court finds the verification is not reasonably available.
35391 Verification of income from records maintained by the Department of Workforce Services may
35392 be substituted for pay stubs, employer statements, and income tax returns.
35393 (c) Historical and current earnings shall be used to determine whether an
35394 underemployment or overemployment situation exists.
35395 (6) Gross income includes income imputed to the parent under Subsection (7).
35396 (7) (a) Income may not be imputed to a parent unless the parent stipulates to the
35397 amount imputed, the parent defaults, or, in contested cases, a hearing is held and the judge in a
35398 judicial proceeding or the presiding officer in an administrative proceeding enters findings of

35399 fact as to the evidentiary basis for the imputation.
35400 (b) If income is imputed to a parent, the income shall be based upon employment
35401 potential and probable earnings as derived from employment opportunities, work history,
35402 occupation qualifications, and prevailing earnings for persons of similar backgrounds in the
35403 community, or the median earning for persons in the same occupation in the same geographical
35404 area as found in the statistics maintained by the Bureau of Labor Statistics.
35405 (c) If a parent has no recent work history or a parent's occupation is unknown, income
35406 shall be imputed at least at the federal minimum wage for a 40-hour work week. To impute a
35407 greater income, the judge in a judicial proceeding or the presiding officer in an administrative
35408 proceeding shall enter specific findings of fact as to the evidentiary basis for the imputation.
35409 (d) Income may not be imputed if any of the following conditions exist and the
35410 condition is not of a temporary nature:
35411 (i) the reasonable costs of child care for the parents' minor children approach or equal
35412 the amount of income the custodial parent can earn;
35413 (ii) a parent is physically or mentally unable to earn minimum wage;
35414 (iii) a parent is engaged in career or occupational training to establish basic job skills;
35415 or
35416 (iv) unusual emotional or physical needs of a child require the custodial parent's
35417 presence in the home.
35418 (8) (a) Gross income may not include the earnings of a minor child who is the subject
35419 of a child support award nor benefits to a minor child in the child's own right such as
35420 Supplemental Security Income.
35421 (b) Social Security benefits received by a child due to the earnings of a parent shall be
35422 credited as child support to the parent upon whose earning record it is based, by crediting the
35423 amount against the potential obligation of that parent. Other unearned income of a child may
35424 be considered as income to a parent depending upon the circumstances of each case.
35425 Section 1246. Section **78B-12-204**, which is renumbered from Section 78-45-7.6 is
35426 renumbered and amended to read:
35427 **[~~78-45-7.6~~]. 78B-12-204. Adjusted gross income.**
35428 (1) As used in [~~the guidelines~~] this chapter, "adjusted gross income" is the amount
35429 calculated by subtracting from gross income alimony previously ordered and paid and child

35430 support previously ordered.
35431 (2) The guidelines do not reduce the total child support award by adjusting the gross
35432 incomes of the parents for alimony ordered in the pending proceeding. In establishing alimony,
35433 the court shall consider that in determining the child support, the guidelines do not provide a
35434 deduction from gross income for alimony.
35435 Section 1247. Section **78B-12-205**, which is renumbered from Section 78-45-7.7 is
35436 renumbered and amended to read:
35437 **[~~78-45-7.7~~]. 78B-12-205. Calculation of obligations.**
35438 (1) Each parent's child support obligation shall be established in proportion to their
35439 adjusted gross incomes, unless the low income table is applicable. Except during periods of
35440 court-ordered parent-time as set forth in Section [~~78-45-7.11~~] 78B-12-216, the parents are
35441 obligated to pay their proportionate shares of the base combined child support obligation. If
35442 physical custody of the child changes from that assumed in the original order, modification of
35443 the order is not necessary, even if only one parent is specifically ordered to pay in the order.
35444 (2) Except in cases of joint physical custody and split custody as defined in Section
35445 [~~78-45-2~~] 78B-12-102 and in cases where the obligor's adjusted gross income is $1,050 or less
35446 monthly, the base child support award shall be determined as follows:
35447 (a) combine the adjusted gross incomes of the parents and determine the base
35448 combined child support obligation using the base combined child support obligation table; and
35449 (b) calculate each parent's proportionate share of the base combined child support
35450 obligation by multiplying the combined child support obligation by each parent's percentage of
35451 combined adjusted gross income.
35452 (3) In the case of an incapacitated adult child, any amount that the incapacitated adult
35453 child can contribute to the incapacitated adult child's support may be considered in the
35454 determination of child support and may be used to justify a reduction in the amount of support
35455 ordered, except that in the case of orders involving multiple children, the reduction shall not be
35456 greater than the effect of reducing the total number of children by one in the child support table
35457 calculation.
35458 (4) In cases where the monthly adjusted gross income of either parent is between $650
35459 and $1,050, the base child support award shall be the lesser of the amount calculated in
35460 accordance with Subsection (2) and the amount calculated using the low income table. If the

35461 income and number of children is found in an area of the low income table in which no amount
35462 is shown, the base combined child support obligation table is to be used.
35463 (5) The base combined child support obligation table provides combined child support
35464 obligations for up to six children. For more than six children, additional amounts may be
35465 added to the base child support obligation shown. Unless rebutted by Subsection [~~78-45-7.2~~]
35466 78B-12-210(3), the amount ordered [~~shall~~] may not be less than the amount which would be
35467 ordered for up to six children.
35468 (6) If the monthly adjusted gross income of either parent is $649 or less, the tribunal
35469 shall determine the amount of the child support obligation on a case-by-case basis, but the base
35470 child support award may not be less than $30.
35471 (7) The amount shown on the table is the support amount for the total number of
35472 children, not an amount per child.
35473 (8) For all worksheets, income and support award figures shall be rounded to the
35474 nearest dollar.
35475 Section 1248. Section **78B-12-206**, which is renumbered from Section 78-45-7.12 is
35476 renumbered and amended to read:
35477 **[~~78-45-7.12~~]. 78B-12-206. Income in excess of tables.**
35478 If the combined adjusted gross income exceeds the highest level specified in the table,
35479 an appropriate and just child support amount shall be ordered on a case-by-case basis, but the
35480 amount ordered may not be less than the highest level specified in the table for the number of
35481 children due support.
35482 Section 1249. Section **78B-12-207**, which is renumbered from Section 78-45-7.4 is
35483 renumbered and amended to read:
35484 **[~~78-45-7.4~~]. 78B-12-207. Obligation -- Adjusted gross income used.**
35485 Adjusted gross income shall be used in calculating each parent's share of the base
35486 combined child support obligation. Only income of the natural or adoptive parents of the child
35487 may be used to determine the award under these guidelines.
35488 Section 1250. Section **78B-12-208**, which is renumbered from Section 78-45-7.9 is
35489 renumbered and amended to read:
35490 **[~~78-45-7.9~~]. 78B-12-208. Joint physical custody -- Obligation calculations.**
35491 In cases of joint physical custody, the base child support award shall be determined as

35492 follows:
35493 (1) Combine the adjusted gross incomes of the parents and determine the base
35494 combined child support obligation using the base combined child support obligation table.
35495 (2) Calculate each parent's proportionate share of the base combined child support
35496 obligation by multiplying the base combined child support obligation by each parent's
35497 percentage of combined adjusted gross income. The amounts so calculated are the base child
35498 support obligation due from each parent for support of the children.
35499 (3) If the obligor's time with the children exceeds 110 overnights, the obligation shall
35500 be calculated further as follows:
35501 (a) if the amount of time to be spent with the children is between 110 and 131
35502 overnights, multiply the number of overnights over 110 by .0027, then multiply the result by
35503 the base combined child support obligation, and then subtract the result from the obligor's
35504 payment as determined by Subsection (2) to arrive at the obligor's payment; or
35505 (b) if the amount of time to be spent with the children is 131 overnights or more,
35506 multiply the number of overnights over 130 by .0084, then multiply the result by the base
35507 combined child support obligation, and then subtract the result from the obligor's payment as
35508 determined in Subsection (3)(a) to arrive at the obligor's payment.
35509 Section 1251. Section **78B-12-209**, which is renumbered from Section 78-45-7.8 is
35510 renumbered and amended to read:
35511 **[~~78-45-7.8~~]. 78B-12-209. Split custody -- Obligation calculations.**
35512 In cases of split custody, the base child support award shall be determined as follows:
35513 (1) Combine the adjusted gross incomes of the parents and determine the base
35514 combined child support obligation using the base combined child support obligation table.
35515 Allocate a portion of the calculated amount between the parents in proportion to the number of
35516 children for whom each parent has physical custody. The amounts so calculated are a tentative
35517 base child support obligation due each parent from the other parent for support of the child or
35518 children for whom each parent has physical custody.
35519 (2) Multiply the tentative base child support obligation due each parent by the
35520 percentage that the other parent's adjusted gross income bears to the total combined adjusted
35521 gross income of both parents.
35522 (3) Subtract the lesser amount in Subsection (2) from the larger amount to determine

35523 the base child support award to be paid by the parent with the greater financial obligation.
35524 Section 1252. Section **78B-12-210**, which is renumbered from Section 78-45-7.2 is
35525 renumbered and amended to read:
35526 **[~~78-45-7.2~~]. 78B-12-210. Application of guidelines -- Use of ordered child**
35527 **support.**
35528 (1) The guidelines in this chapter apply to any judicial or administrative order
35529 establishing or modifying an award of child support entered on or after July 1, 1989.
35530 (2) (a) The [~~child support~~] guidelines shall be applied as a rebuttable presumption in
35531 establishing or modifying the amount of temporary or permanent child support.
35532 (b) The rebuttable presumption means the provisions and considerations required by
35533 the guidelines, the award amounts resulting from the application of the guidelines, and the use
35534 of worksheets consistent with these guidelines are presumed to be correct, unless rebutted
35535 under the provisions of this section.
35536 (3) A written finding or specific finding on the record supporting the conclusion that
35537 complying with a provision of the guidelines or ordering an award amount resulting from use
35538 of the guidelines would be unjust, inappropriate, or not in the best interest of a child in a
35539 particular case is sufficient to rebut the presumption in that case. If an order rebuts the
35540 presumption through findings, it is considered a deviated order.
35541 (4) The following shall be considered deviations from the guidelines, if:
35542 (a) the order includes a written finding that it is a deviation from the guidelines;
35543 (b) the guidelines worksheet has:
35544 (i) the box checked for a deviation; and
35545 (ii) an explanation as to the reason; or
35546 (c) the deviation is made because there were more children than provided for in the
35547 guidelines table.
35548 (5) If the amount in the order and the amount on the guidelines worksheet differ by $10
35549 or more:
35550 (a) the order is considered deviated; and
35551 (b) the incomes listed on the worksheet may not be used in adjusting support for
35552 emancipation.
35553 (6) (a) Natural or adoptive children of either parent who live in the home of that parent

35554 and are not children in common to both parties may at the option of either party be taken into
35555 account under the guidelines in setting or modifying a child support award, as provided in
35556 Subsection (7). Credit may not be given if:
35557 (i) by giving credit to the obligor, children for whom a prior support order exists would
35558 have their child support reduced; or
35559 (ii) by giving credit to the obligee for a present family, the obligation of the obligor
35560 would increase.
35561 (b) Additional worksheets shall be prepared that compute the obligations of the
35562 respective parents for the additional children. The obligations shall then be subtracted from the
35563 appropriate parent's income before determining the award in the instant case.
35564 (7) In a proceeding to adjust or modify an existing award, consideration of natural or
35565 adoptive children born after entry of the order and who are not in common to both parties may
35566 be applied to mitigate an increase in the award but may not be applied:
35567 (a) for the benefit of the obligee if the credit would increase the support obligation of
35568 the obligor from the most recent order; or
35569 (b) for the benefit of the obligor if the amount of support received by the obligee would
35570 be decreased from the most recent order.
35571 (8) (a) If a child support order has not been issued or modified within the previous
35572 three years, a parent, legal guardian, or the office may move the court to adjust the amount of a
35573 child support order.
35574 (b) Upon receiving a motion under Subsection (8)(a), the court shall, taking into
35575 account the best interests of the child:
35576 (i) determine whether there is a difference between the payor's ordered support amount
35577 and the payor's support amount that would be required under the guidelines; and
35578 (ii) if there is a difference as described in Subsection (8)(b)(i), adjust the payor's
35579 ordered support amount to the payor's support amount provided in the guidelines if:
35580 (A) the difference is 10% or more;
35581 (B) the difference is not of a temporary nature; and
35582 (C) the order adjusting the payor's ordered support amount does not deviate from the
35583 guidelines.
35584 (c) A showing of a substantial change in circumstances is not necessary for an

35585 adjustment under this Subsection (8).
35586 (9) (a) A parent, legal guardian, or the office may at any time petition the court to
35587 adjust the amount of a child support order if there has been a substantial change in
35588 circumstances. A change in the base combined child support obligation table set forth in
35589 Section [~~78-45-7.14~~] 78B-12-301 is not a substantial change in circumstances for the purposes
35590 of this Subsection (9).
35591 (b) For purposes of this Subsection (9), a substantial change in circumstances may
35592 include:
35593 (i) material changes in custody;
35594 (ii) material changes in the relative wealth or assets of the parties;
35595 (iii) material changes of 30% or more in the income of a parent;
35596 (iv) material changes in the employment potential and ability of a parent to earn;
35597 (v) material changes in the medical needs of the child; or
35598 (vi) material changes in the legal responsibilities of either parent for the support of
35599 others.
35600 (c) Upon receiving a petition under Subsection (9)(a), the court shall, taking into
35601 account the best interests of the child:
35602 (i) determine whether a substantial change has occurred;
35603 (ii) if a substantial change has occurred, determine whether the change results in a
35604 difference of 15% or more between the payor's ordered support amount and the payor's support
35605 amount that would be required under the guidelines; and
35606 (iii) adjust the payor's ordered support amount to that which is provided for in the
35607 guidelines if:
35608 (A) there is a difference of 15% or more; and
35609 (B) the difference is not of a temporary nature.
35610 (10) Notice of the opportunity to adjust a support order under Subsections (8) and (9)
35611 shall be included in each child support order.
35612 Section 1253. Section **78B-12-211**, which is renumbered from Section 78-45-7.18 is
35613 renumbered and amended to read:
35614 **[~~78-45-7.18~~]. 78B-12-211. Limitation on amount of support ordered.**
35615 (1) There is no maximum limit on the base child support award that may be ordered

35616 using the base combined child support obligation table, using the low income table, or
35617 awarding medical expenses except under Subsection (2).
35618 (2) If amounts under either table as provided in [~~Section 78-45-7.14~~] Part 3, Tables, in
35619 combination with the award of medical expenses exceeds 50% of the obligor's adjusted gross
35620 income, or by adding the child care costs, total child support would exceed 50% of the obligor's
35621 adjusted gross income, the presumption under Section [~~78-45-7.17~~] 78B-12-215 is rebutted.
35622 Section 1254. Section **78B-12-212**, which is renumbered from Section 78-45-7.15 is
35623 renumbered and amended to read:
35624 **[~~78-45-7.15~~]. 78B-12-212. Medical expenses.**
35625 (1) The court shall order that insurance for the medical expenses of the minor children
35626 be provided by a parent if it is available at a reasonable cost.
35627 (2) In determining which parent shall be ordered to maintain insurance for medical
35628 expenses, the court or administrative agency may consider the:
35629 (a) reasonableness of the cost;
35630 (b) availability of a group insurance policy;
35631 (c) coverage of the policy; and
35632 (d) preference of the custodial parent.
35633 (3) The order shall require each parent to share equally the out-of-pocket costs of the
35634 premium actually paid by a parent for the children's portion of insurance.
35635 (4) The parent who provides the insurance coverage may receive credit against the base
35636 child support award or recover the other parent's share of the children's portion of the premium.
35637 In cases in which the parent does not have insurance but another member of the parent's
35638 household provides insurance coverage for the children, the parent may receive credit against
35639 the base child support award or recover the other parent's share of the children's portion of the
35640 premium.
35641 (5) The children's portion of the premium is a per capita share of the premium actually
35642 paid. The premium expense for the children shall be calculated by dividing the premium
35643 amount by the number of persons covered under the policy and multiplying the result by the
35644 number of children in the instant case.
35645 (6) The order shall require each parent to share equally all reasonable and necessary
35646 uninsured medical expenses incurred for the dependent children, including but not limited to

35647 deductibles and copayments.
35648 (7) The parent ordered to maintain insurance shall provide verification of coverage to
35649 the other parent, or to the Office of Recovery Services under Title IV of the Social Security
35650 Act, 42 U.S.C. Section 601 et seq., upon initial enrollment of the dependent children, and
35651 thereafter on or before January 2 of each calendar year. The parent shall notify the other
35652 parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C.
35653 Section 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar
35654 days of the date the parent first knew or should have known of the change.
35655 (8) A parent who incurs medical expenses shall provide written verification of the cost
35656 and payment of medical expenses to the other parent within 30 days of payment.
35657 (9) In addition to any other sanctions provided by the court, a parent incurring medical
35658 expenses may be denied the right to receive credit for the expenses or to recover the other
35659 parent's share of the expenses if that parent fails to comply with Subsections (7) and (8).
35660 Section 1255. Section **78B-12-213**, which is renumbered from Section 78-45-7.19 is
35661 renumbered and amended to read:
35662 **[~~78-45-7.19~~]. 78B-12-213. Determination of parental liability.**
35663 (1) The district court or administrative agency may issue an order determining the
35664 amount of a parent's liability for medical expenses of a dependent child when the parent:
35665 (a) is required by a prior court or administrative order to:
35666 (i) share those expenses with the other parent of the dependent child; or
35667 (ii) obtain insurance for medical expenses but fails to do so; or
35668 (b) receives direct payment from an insurer under insurance coverage obtained after the
35669 prior court or administrative order was issued.
35670 (2) If the prior court or administrative order does not specify what proportions of the
35671 expenses are to be shared, the district court may determine the amount of liability as may be
35672 reasonable and necessary.
35673 (3) This section applies to an order without regard to when it was issued.
35674 Section 1256. Section **78B-12-214**, which is renumbered from Section 78-45-7.16 is
35675 renumbered and amended to read:
35676 **[~~78-45-7.16~~]. 78B-12-214. Child care expenses -- Expenses not incurred.**
35677 (1) The child support order shall require that each parent share equally the reasonable

35678 work-related child care expenses of the parents.
35679 (2) (a) If an actual expense for child care is incurred, a parent shall begin paying his
35680 share on a monthly basis immediately upon presentation of proof of the child care expense, but
35681 if the child care expense ceases to be incurred, that parent may suspend making monthly
35682 payment of that expense while it is not being incurred, without obtaining a modification of the
35683 child support order.
35684 (b) (i) In the absence of a court order to the contrary, a parent who incurs child care
35685 expense shall provide written verification of the cost and identity of a child care provider to the
35686 other parent upon initial engagement of a provider and thereafter on the request of the other
35687 parent.
35688 (ii) In the absence of a court order to the contrary, the parent shall notify the other
35689 parent of any change of child care provider or the monthly expense of child care within 30
35690 calendar days of the date of the change.
35691 (3) In addition to any other sanctions provided by the court, a parent incurring child
35692 care expenses may be denied the right to receive credit for the expenses or to recover the other
35693 parent's share of the expenses if the parent incurring the expenses fails to comply with
35694 Subsection (2)(b).
35695 Section 1257. Section **78B-12-215**, which is renumbered from Section 78-45-7.17 is
35696 renumbered and amended to read:
35697 **[~~78-45-7.17~~]. 78B-12-215. Child care costs.**
35698 (1) The need to include child care costs in the child support order is presumed, if the
35699 custodial parent or the noncustodial parent, during extended parent-time, is working and
35700 actually incurring the child care costs.
35701 (2) The need to include child care costs is not presumed, but may be awarded on a
35702 case-by-case basis, if the costs are related to the career or occupational training of the custodial
35703 parent, or if otherwise ordered by the court in the interest of justice.
35704 Section 1258. Section **78B-12-216**, which is renumbered from Section 78-45-7.11 is
35705 renumbered and amended to read:
35706 **[~~78-45-7.11~~]. 78B-12-216. Reduction for extended parent-time.**
35707 (1) The base child support award shall be:
35708 (a) reduced by 50% for each child for time periods during which the child is with the

35709 noncustodial parent by order of the court or by written agreement of the parties for at least 25
35710 of any 30 consecutive days of extended parent-time; or
35711 (b) 25% for each child for time periods during which the child is with the noncustodial
35712 parent by order of the court, or by written agreement of the parties for at least 12 of any 30
35713 consecutive days of extended parent-time.
35714 (2) If the dependent child is a client of cash assistance provided under Title 35A,
35715 Chapter 3, Part 3, Family Employment Program, any agreement by the parties for reduction of
35716 child support during extended parent-time shall be approved by the administrative agency.
35717 (3) Normal parent-time and holiday visits to the custodial parent shall not be
35718 considered extended parent-time.
35719 (4) For cases receiving IV-D child support services in accordance with Title 62A,
35720 Chapter 11, Parts 1, 3, and 4, to receive the adjustment the noncustodial parent shall provide
35721 written documentation of the extended parent-time schedule, including the beginning and
35722 ending dates, to the Office of Recovery Services in the form of either a court order or a
35723 voluntary written agreement between the parties.
35724 (5) If the noncustodial parent complies with Subsection (4), owes no past-due support,
35725 and pays the full, unadjusted amount of current child support due for the month of scheduled
35726 extended parent-time and the following month, the Office of Recovery Services shall refund
35727 the difference from the child support due to the custodial parent or the state, between the full
35728 amount of current child support received during the month of extended parent-time and the
35729 adjusted amount of current child support due:
35730 (a) from current support received in the month following the month of scheduled
35731 extended parent-time; or
35732 (b) from current support received in the month following the month written
35733 documentation of the scheduled extended parent-time is provided to the office, whichever
35734 occurs later.
35735 (6) If the noncustodial parent complies with Subsection (4), owes past-due support, and
35736 pays the full, unadjusted amount of current child support due for the month of scheduled
35737 extended parent-time, the Office of Recovery Services shall apply the difference, from the child
35738 support due to the custodial parent or the state, between the full amount of current child support
35739 received during the month of extended parent-time and the adjusted amount of current child

35740 support due, to the past-due support obligation in the case.
35741 (7) For cases not receiving IV-D child support services in accordance with Title 62A,
35742 Chapter 11, Parts 1, 3, and 4, any potential adjustment of the support payment during the month
35743 of extended visitation or any refund that may be due to the noncustodial parent from the
35744 custodial parent, shall be resolved between the parents or through the court without
35745 involvement by the Office of Recovery Services.
35746 (8) For purposes of this section the per child amount to which the abatement applies
35747 shall be calculated by dividing the base child support award by the number of children included
35748 in the award.
35749 (9) The reduction in this section does not apply to parents with joint physical custody
35750 obligations calculated in accordance with Section [~~78-45-7.9~~] 78B-12-208.
35751 Section 1259. Section **78B-12-217**, which is renumbered from Section 78-45-7.21 is
35752 renumbered and amended to read:
35753 **[~~78-45-7.21~~]. 78B-12-217. Award of tax exemption for dependent children.**
35754 (1) No presumption exists as to which parent should be awarded the right to claim a
35755 child or children as exemptions for federal and state income tax purposes. Unless the parties
35756 otherwise stipulate in writing, the court or administrative agency shall award in any final order
35757 the exemption on a case-by-case basis.
35758 (2) In awarding the exemption, the court or administrative agency shall consider:
35759 (a) as the primary factor, the relative contribution of each parent to the cost of raising
35760 the child; and
35761 (b) among other factors, the relative tax benefit to each parent.
35762 (3) Notwithstanding Subsection (2), the court or administrative agency may not award
35763 any exemption to the noncustodial parent if that parent is not current in his child support
35764 obligation, in which case the court or administrative agency may award an exemption to the
35765 custodial parent.
35766 (4) An exemption may not be awarded to a parent unless the award will result in a tax
35767 benefit to that parent.
35768 Section 1260. Section **78B-12-218**, which is renumbered from Section 78-45-7.20 is
35769 renumbered and amended to read:
35770 **[~~78-45-7.20~~]. 78B-12-218. Accountability of support provided to benefit**

35771 **child -- Accounting.**
35772 (1) The court or administrative agency which issues the initial or modified order for
35773 child support may, upon the petition of the obligor, order prospectively the obligee to furnish
35774 an accounting of amounts provided for the child's benefit to the obligor, including an
35775 accounting or receipts.
35776 (2) The court or administrative agency may prescribe the frequency and the form of the
35777 accounting which shall include receipts and an accounting.
35778 (3) The obligor may petition for the accounting only if current on all child support that
35779 has been ordered.
35780 Section 1261. Section **78B-12-219**, which is renumbered from Section 78-45-7.10 is
35781 renumbered and amended to read:
35782 **[~~78-45-7.10~~]. 78B-12-219. Adjustment when child becomes emancipated.**
35783 (1) When a child becomes 18 years of age or graduates from high school during the
35784 child's normal and expected year of graduation, whichever occurs later, or if the child dies,
35785 marries, becomes a member of the armed forces of the United States, or is emancipated in
35786 accordance with Title [~~78~~] 78A, Chapter [~~3a~~] 6, Part [~~10~~] 8, Emancipation, the base child
35787 support award is automatically adjusted to the base combined child support obligation for the
35788 remaining number of children due child support, shown in the table that was used to establish
35789 the most recent order, using the incomes of the parties as specified in that order or the
35790 worksheets, unless otherwise provided in the child support order.
35791 (2) The award may not be reduced by a per child amount derived from the base child
35792 support award originally ordered.
35793 (3) If the incomes of the parties are not specified in the most recent order or the
35794 worksheets, the information regarding the incomes is not consistent, or the order deviates from
35795 the guidelines, automatic adjustment of the order does not apply and the order will continue
35796 until modified by the issuing tribunal. If the order is deviated and the parties subsequently
35797 obtain a judicial order that adjusts the support back to the date of the emancipation of the child,
35798 the Office of Recovery Services may not be required to repay any difference in the support
35799 collected during the interim.
35800 Section 1262. Section **78B-12-301**, which is renumbered from Section 78-45-7.14 is
35801 renumbered and amended to read:

35802 **Part 3. Tables**

35803 **[~~78-45-7.14~~]. 78B-12-301. Base combined child support obligation table --**
35804 **Both parents.**

35805 (1) If a child support order is established or modified on or before December 31, 2007,
35806 the [~~tables~~] table in this Subsection (1) shall be used for a modification to that order made on or
35807 before December 31, 2009.

35808 [~~BASE COMBINED CHILD SUPPORT OBLIGATION TABLE~~]
35809 [~~(Both Parents)~~]

Monthly Combined Adj. Gross Income		Number of Children					
		1	2	3	4	5	6
From	To						
650 -	675	99	184	191	198	200	201
676 -	700	103	190	198	205	207	209
701 -	725	106	197	205	212	214	216
726 -	750	110	204	212	220	221	223
751 -	775	113	211	219	227	229	231
776 -	800	117	218	226	234	236	238
801 -	825	121	224	243	261	263	265
826 -	850	124	231	253	275	277	279
851 -	875	128	238	263	289	291	294
876 -	900	132	245	274	303	305	308
901 -	925	135	251	284	316	319	322
926 -	950	139	258	294	330	333	336
951 -	975	143	265	305	344	347	350
976 -	1,000	146	272	315	358	361	364
1,001 -	1,050	154	285	335	385	389	393
1,051 -	1,100	161	299	356	413	417	421
1,101 -	1,150	168	313	377	441	444	449
1,151 -	1,200	176	326	387	449	454	460
1,201 -	1,250	183	340	403	465	475	484

35833	1,251 - 1,300	190	353	418	482	496	508
35834	1,301 - 1,350	198	367	433	499	516	532
35835	1,351 - 1,400	205	381	448	515	537	556
35836	1,401 - 1,450	212	394	463	532	558	580
35837	1,451 - 1,500	220	408	478	549	579	605
35838	1,501 - 1,550	227	421	493	565	600	629
35839	1,551 - 1,600	234	435	509	582	620	653
35840	1,601 - 1,650	242	449	524	599	641	677
35841	1,651 - 1,700	249	462	539	615	662	701
35842	1,701 - 1,750	256	476	554	632	683	725
35843	1,751 - 1,800	264	489	569	649	704	749
35844	1,801 - 1,850	271	503	584	664	723	771
35845	1,851 - 1,900	278	517	597	677	736	786
35846	1,901 - 1,950	286	530	610	690	750	800
35847	1,951 - 2,000	293	544	622	700	752	813
35848	2,001 - 2,100	308	571	643	716	779	833
35849	2,101 - 2,200	319	592	666	741	807	862
35850	2,201 - 2,300	328	608	687	766	835	891
35851	2,301 - 2,400	336	625	708	791	862	921
35852	2,401 - 2,500	345	641	725	809	882	942
35853	2,501 - 2,600	354	658	746	834	909	972
35854	2,601 - 2,700	362	674	767	859	937	1,001
35855	2,701 - 2,800	371	691	788	885	964	1,031
35856	2,801 - 2,900	380	707	809	910	992	1,060
35857	2,901 - 3,000	388	724	830	936	1,020	1,090
35858	3,001 - 3,100	397	740	851	962	1,048	1,120
35859	3,101 - 3,200	406	756	872	987	1,076	1,149
35860	3,201 - 3,300	414	773	893	1,013	1,103	1,179
35861	3,301 - 3,400	423	789	914	1,039	1,131	1,208
35862	3,401 - 3,500	431	804	934	1,064	1,159	1,238
35863	3,501 - 3,600	438	817	953	1,090	1,187	1,268

35864	3,601 - 3,700	444	830	973	1,116	1,215	1,297
35865	3,701 - 3,800	451	843	992	1,141	1,243	1,327
35866	3,801 - 3,900	458	856	1,012	1,167	1,270	1,356
35867	3,901 - 4,000	465	870	1,031	1,192	1,297	1,386
35868	4,001 - 4,100	472	883	1,050	1,217	1,325	1,415
35869	4,101 - 4,200	479	896	1,069	1,242	1,352	1,444
35870	4,201 - 4,300	486	909	1,088	1,267	1,379	1,474
35871	4,301 - 4,400	493	923	1,107	1,292	1,407	1,503
35872	4,401 - 4,500	499	936	1,131	1,326	1,443	1,541
35873	4,501 - 4,600	506	949	1,150	1,350	1,470	1,570
35874	4,601 - 4,700	513	962	1,169	1,375	1,498	1,600
35875	4,701 - 4,800	520	975	1,188	1,400	1,525	1,629
35876	4,801 - 4,900	527	989	1,207	1,425	1,552	1,658
35877	4,901 - 5,000	534	1,002	1,226	1,450	1,580	1,687
35878	5,001 - 5,100	541	1,015	1,245	1,475	1,607	1,717
35879	5,101 - 5,200	547	1,028	1,264	1,500	1,634	1,746
35880	5,201 - 5,300	554	1,042	1,282	1,522	1,658	1,772
35881	5,301 - 5,400	561	1,055	1,300	1,544	1,682	1,797
35882	5,401 - 5,500	568	1,068	1,317	1,566	1,706	1,823
35883	5,501 - 5,600	575	1,081	1,335	1,588	1,730	1,848
35884	5,601 - 5,700	582	1,093	1,351	1,610	1,754	1,874
35885	5,701 - 5,800	586	1,103	1,367	1,632	1,778	1,899
35886	5,801 - 5,900	591	1,112	1,383	1,653	1,802	1,925
35887	5,901 - 6,000	596	1,122	1,398	1,675	1,826	1,950
35888	6,001 - 6,100	601	1,131	1,414	1,697	1,850	1,976
35889	6,101 - 6,200	605	1,141	1,430	1,719	1,874	2,001
35890	6,201 - 6,300	610	1,150	1,445	1,740	1,897	2,026
35891	6,301 - 6,400	615	1,159	1,461	1,762	1,921	2,052
35892	6,401 - 6,500	620	1,169	1,480	1,791	1,951	2,084
35893	6,501 - 6,600	624	1,178	1,495	1,812	1,975	2,109
35894	6,601 - 6,700	629	1,188	1,511	1,834	1,998	2,134

35895	6,701 - 6,800	629	1,188	1,511	1,834	1,998	2,134
35896	6,801 - 6,900	673	1,188	1,511	1,834	1,998	2,134
35897	6,901 - 7,000	680	1,188	1,511	1,834	1,998	2,134
35898	7,001 - 7,100	687	1,188	1,511	1,834	1,998	2,134
35899	7,101 - 7,200	694	1,188	1,511	1,834	1,998	2,134
35900	7,201 - 7,300	701	1,188	1,520	1,834	1,998	2,134
35901	7,301 - 7,400	706	1,189	1,531	1,834	1,998	2,134
35902	7,401 - 7,500	710	1,197	1,541	1,834	1,998	2,134
35903	7,501 - 7,600	715	1,205	1,551	1,834	1,998	2,134
35904	7,601 - 7,700	719	1,213	1,562	1,834	1,998	2,134
35905	7,701 - 7,800	723	1,220	1,572	1,834	1,998	2,134
35906	7,801 - 7,900	728	1,228	1,582	1,834	1,998	2,137
35907	7,901 - 8,000	732	1,236	1,592	1,834	2,000	2,150
35908	8,001 - 8,100	737	1,244	1,603	1,834	2,013	2,164
35909	8,101 - 8,200	741	1,252	1,613	1,841	2,026	2,178
35910	8,201 - 8,300	746	1,259	1,623	1,853	2,039	2,192
35911	8,301 - 8,400	750	1,267	1,633	1,864	2,052	2,206
35912	8,401 - 8,500	755	1,275	1,644	1,876	2,064	2,220
35913	8,501 - 8,600	759	1,283	1,654	1,887	2,077	2,234
35914	8,601 - 8,700	763	1,291	1,664	1,899	2,090	2,247
35915	8,701 - 8,800	768	1,298	1,675	1,911	2,103	2,261
35916	8,801 - 8,900	772	1,306	1,685	1,922	2,116	2,275
35917	8,901 - 9,000	777	1,314	1,695	1,934	2,129	2,289
35918	9,001 - 9,100	781	1,322	1,705	1,945	2,141	2,303
35919	9,101 - 9,200	786	1,330	1,716	1,957	2,154	2,317
35920	9,201 - 9,300	790	1,337	1,726	1,969	2,167	2,330
35921	9,301 - 9,400	795	1,345	1,736	1,980	2,180	2,344
35922	9,401 - 9,500	799	1,353	1,747	1,992	2,193	2,358
35923	9,501 - 9,600	803	1,361	1,757	2,003	2,206	2,372
35924	9,601 - 9,700	808	1,369	1,767	2,015	2,218	2,386
35925	9,701 - 9,800	812	1,376	1,777	2,027	2,231	2,400

9,801 - 9,900	817	1,384	1,788	2,038	2,244	2,414
9,901 - 10,000	821	1,392	1,798	2,050	2,257	2,427
10,001 - 10,100	826	1,400	1,808	2,061	2,270	2,441

[~~LOW INCOME TABLE~~]

[~~(Obligor Parent Only)~~]

[~~Monthly Adj.~~]

[~~Gross Income~~				~~Number of Children~~]		
	[~~1~~	~~2~~	~~3~~	~~4~~	~~5~~	~~6~~]
[~~From~~ ~~To~~]						
[~~650 - 675~~	~~23~~	~~23~~	~~23~~	~~23~~	~~24~~	~~24~~]
[~~676 - 700~~	~~45~~	~~46~~	~~46~~	~~47~~	~~47~~	~~48~~]
[~~701 - 725~~	~~68~~	~~68~~	~~69~~	~~70~~	~~71~~	~~71~~]
[~~726 - 750~~	~~90~~	~~91~~	~~92~~	~~93~~	~~94~~	~~95~~]
[~~751 - 775~~	~~113~~	~~114~~	~~115~~	~~116~~	~~118~~	~~119~~]
[~~776 - 800~~		~~137~~	~~138~~	~~140~~	~~141~~	~~143~~]
[~~801 - 825~~		~~159~~	~~161~~	~~163~~	~~165~~	~~166~~]
[~~826 - 850~~		~~182~~	~~184~~	~~186~~	~~188~~	~~190~~]
[~~851 - 875~~		~~205~~	~~207~~	~~209~~	~~212~~	~~214~~]
[~~876 - 900~~		~~228~~	~~230~~	~~233~~	~~235~~	~~238~~]
[~~901 - 925~~		~~250~~	~~253~~	~~256~~	~~259~~	~~261~~]
[~~926 - 950~~			~~276~~	~~279~~	~~282~~	~~285~~]
[~~951 - 975~~			~~299~~	~~302~~	~~306~~	~~309~~]
[~~976 - 1,000~~				~~326~~	~~329~~	~~333~~]
[~~1,001 - 1,050~~				~~372~~	~~376~~	~~380~~]

(2) The [~~tables~~] table in this Subsection (2) shall be used to:

(a) establish a child support order entered for the first time on or after January 1, 2008;

(b) modify a child support order entered for the first time on or after January 1, 2008; or

(c) modify a child support order entered on or before December 31, 2007, if the modification is made on or after January 1, 2010.

[~~BASE COMBINED CHILD SUPPORT OBLIGATION TABLE~~]

35957 [~~(Both Parents)~~]

35958 Monthly Combined							
35959 Adj. Gross Income		Number of Children					
35960		1	2	3	4	5	6
35961 From	To						
35962 726 -	750	138	245	286	319	351	382
35963 751 -	775	141	252	294	328	360	392
35964 776 -	800	146	259	301	336	370	402
35965 801 -	825	151	265	309	345	379	412
35966 826 -	850	155	272	317	353	389	423
35967 851 -	875	160	279	324	362	398	433
35968 876 -	900	165	285	332	370	407	443
35969 901 -	925	169	292	340	379	417	453
35970 926 -	950	174	299	348	387	426	464
35971 951 -	975	179	305	355	396	436	474
35972 976 -	1,000	183	312	363	405	445	484
35973 1,001 -	1,050	193	322	374	417	459	500
35974 1,051 -	1,100	201	335	390	435	478	520
35975 1,101 -	1,150	210	348	405	452	497	541
35976 1,151 -	1,200	220	362	420	469	516	561
35977 1,201 -	1,250	229	375	436	486	535	582
35978 1,251 -	1,300	238	388	451	503	553	602
35979 1,301 -	1,350	248	401	467	520	572	623
35980 1,351 -	1,400	256	414	481	536	590	642
35981 1,401 -	1,450	265	426	495	552	607	661
35982 1,451 -	1,500	275	438	510	568	625	680
35983 1,501 -	1,550	284	451	524	584	643	699
35984 1,551 -	1,600	293	463	538	600	660	718
35985 1,601 -	1,650	303	476	553	616	678	737
35986 1,651 -	1,700	311	488	567	632	695	757
35987 1,701 -	1,750	320	500	581	648	713	776

35988	1,751 - 1,800	330	513	596	664	731	795
35989	1,801 - 1,850	339	525	610	680	748	814
35990	1,851 - 1,900	348	538	624	696	766	833
35991	1,901 - 1,950	358	550	638	712	783	852
35992	1,951 - 2,000	366	562	652	727	800	870
35993	2,001 - 2,100	385	580	673	750	825	898
35994	2,101 - 2,200	399	604	701	781	859	935
35995	2,201 - 2,300	410	628	728	812	893	972
35996	2,301 - 2,400	420	652	756	843	927	1,009
35997	2,401 - 2,500	431	676	784	874	961	1,046
35998	2,501 - 2,600	443	700	811	904	995	1,082
35999	2,601 - 2,700	453	723	838	934	1,028	1,118
36000	2,701 - 2,800	464	747	865	964	1,060	1,154
36001	2,801 - 2,900	475	770	891	994	1,093	1,189
36002	2,901 - 3,000	485	794	918	1,024	1,126	1,225
36003	3,001 - 3,100	496	817	945	1,054	1,159	1,261
36004	3,101 - 3,200	508	838	970	1,081	1,189	1,294
36005	3,201 - 3,300	518	859	994	1,108	1,219	1,326
36006	3,301 - 3,400	529	881	1,018	1,135	1,248	1,358
36007	3,401 - 3,500	539	902	1,042	1,162	1,278	1,391
36008	3,501 - 3,600	548	923	1,066	1,189	1,308	1,423
36009	3,601 - 3,700	555	944	1,090	1,216	1,337	1,455
36010	3,701 - 3,800	564	965	1,115	1,243	1,367	1,487
36011	3,801 - 3,900	573	985	1,138	1,269	1,396	1,519
36012	3,901 - 4,000	581	1,004	1,160	1,294	1,423	1,548
36013	4,001 - 4,100	590	1,024	1,182	1,318	1,450	1,577
36014	4,101 - 4,200	599	1,043	1,204	1,342	1,477	1,607
36015	4,201 - 4,300	608	1,062	1,226	1,367	1,503	1,636
36016	4,301 - 4,400	616	1,081	1,248	1,391	1,530	1,665
36017	4,401 - 4,500	624	1,101	1,270	1,416	1,557	1,694
36018	4,501 - 4,600	633	1,119	1,291	1,439	1,583	1,722

36019	4,601 - 4,700	641	1,133	1,306	1,456	1,601	1,742
36020	4,701 - 4,800	650	1,147	1,321	1,473	1,620	1,762
36021	4,801 - 4,900	659	1,161	1,336	1,489	1,638	1,783
36022	4,901 - 5,000	668	1,175	1,351	1,506	1,657	1,803
36023	5,001 - 5,100	676	1,189	1,366	1,523	1,675	1,823
36024	5,101 - 5,200	684	1,203	1,381	1,540	1,694	1,843
36025	5,201 - 5,300	693	1,217	1,396	1,557	1,712	1,863
36026	5,301 - 5,400	701	1,227	1,408	1,570	1,726	1,878
36027	5,401 - 5,500	710	1,238	1,419	1,582	1,741	1,894
36028	5,501 - 5,600	719	1,248	1,431	1,595	1,755	1,909
36029	5,601 - 5,700	728	1,259	1,442	1,608	1,769	1,925
36030	5,701 - 5,800	733	1,269	1,454	1,621	1,783	1,940
36031	5,801 - 5,900	739	1,280	1,465	1,634	1,797	1,956
36032	5,901 - 6,000	745	1,290	1,477	1,647	1,812	1,971
36033	6,001 - 6,100	751	1,302	1,490	1,661	1,827	1,988
36034	6,101 - 6,200	756	1,313	1,503	1,676	1,843	2,005
36035	6,201 - 6,300	763	1,325	1,516	1,690	1,859	2,023
36036	6,301 - 6,400	769	1,336	1,528	1,704	1,874	2,039
36037	6,401 - 6,500	775	1,347	1,540	1,717	1,889	2,055
36038	6,501 - 6,600	780	1,358	1,553	1,731	1,904	2,072
36039	6,601 - 6,700	786	1,369	1,565	1,745	1,919	2,088
36040	6,701 - 6,800	786	1,380	1,577	1,759	1,934	2,105
36041	6,801 - 6,900	841	1,391	1,590	1,772	1,950	2,121
36042	6,901 - 7,000	850	1,402	1,602	1,786	1,965	2,138
36043	7,001 - 7,100	859	1,413	1,614	1,800	1,980	2,154
36044	7,101 - 7,200	868	1,417	1,618	1,804	1,985	2,159
36045	7,201 - 7,300	876	1,420	1,621	1,807	1,988	2,163
36046	7,301 - 7,400	883	1,423	1,624	1,811	1,992	2,167
36047	7,401 - 7,500	888	1,426	1,627	1,814	1,996	2,171
36048	7,501 - 7,600	894	1,429	1,630	1,818	1,999	2,175
36049	7,601 - 7,700	899	1,432	1,633	1,821	2,003	2,179

36050	7,701 - 7,800	904	1,436	1,636	1,824	2,007	2,184
36051	7,801 - 7,900	910	1,439	1,639	1,828	2,011	2,188
36052	7,901 - 8,000	915	1,442	1,642	1,831	2,014	2,192
36053	8,001 - 8,100	921	1,445	1,646	1,835	2,018	2,196
36054	8,101 - 8,200	926	1,448	1,649	1,838	2,022	2,200
36055	8,201 - 8,300	933	1,451	1,652	1,842	2,026	2,204
36056	8,301 - 8,400	938	1,454	1,655	1,845	2,029	2,208
36057	8,401 - 8,500	944	1,460	1,661	1,852	2,037	2,216
36058	8,501 - 8,600	949	1,475	1,678	1,871	2,058	2,240
36059	8,601 - 8,700	954	1,491	1,696	1,891	2,080	2,263
36060	8,701 - 8,800	960	1,506	1,714	1,911	2,102	2,287
36061	8,801 - 8,900	965	1,522	1,732	1,931	2,124	2,311
36062	8,901 - 9,000	971	1,537	1,749	1,951	2,146	2,334
36063	9,001 - 9,100	976	1,553	1,767	1,970	2,167	2,358
36064	9,101 - 9,200	983	1,568	1,785	1,990	2,189	2,382
36065	9,201 - 9,300	988	1,584	1,803	2,010	2,211	2,405
36066	9,301 - 9,400	994	1,599	1,820	2,030	2,233	2,429
36067	9,401 - 9,500	999	1,614	1,838	2,049	2,254	2,453
36068	9,501 - 9,600	1,004	1,630	1,856	2,069	2,276	2,477
36069	9,601 - 9,700	1,010	1,645	1,874	2,089	2,298	2,500
36070	9,701 - 9,800	1,015	1,661	1,891	2,109	2,320	2,524
36071	9,801 - 9,900	1,021	1,673	1,905	2,124	2,336	2,542
36072	9,901 - 10,000	1,026	1,683	1,917	2,137	2,351	2,557
36073	10,001 - 10,100	1,033	1,694	1,928	2,150	2,365	2,573
36074	10,101 - 10,200	1,039	1,704	1,940	2,163	2,379	2,589
36075	10,201 - 10,300	1,045	1,715	1,951	2,176	2,394	2,604
36076	10,301 - 10,400	1,051	1,725	1,963	2,189	2,408	2,620
36077	10,401 - 10,500	1,058	1,736	1,975	2,202	2,422	2,635
36078	10,501 - 10,600	1,064	1,746	1,986	2,215	2,436	2,651
36079	10,601 - 10,700	1,070	1,757	1,998	2,228	2,451	2,666
36080	10,701 - 10,800	1,077	1,767	2,010	2,241	2,465	2,682

36081	10,801 - 10,900	1,083	1,778	2,021	2,254	2,479	2,697
36082	10,901 - 11,000	1,090	1,788	2,033	2,267	2,494	2,713
36083	11,001 - 11,100	1,096	1,799	2,045	2,280	2,508	2,729
36084	11,101 - 11,200	1,103	1,809	2,056	2,293	2,522	2,744
36085	11,201 - 11,300	1,109	1,820	2,068	2,306	2,537	2,760
36086	11,301 - 11,400	1,116	1,830	2,080	2,319	2,551	2,775
36087	11,401 - 11,500	1,123	1,841	2,091	2,332	2,565	2,791
36088	11,501 - 11,600	1,129	1,851	2,103	2,345	2,579	2,806
36089	11,601 - 11,700	1,136	1,862	2,115	2,358	2,594	2,822
36090	11,701 - 11,800	1,143	1,872	2,126	2,371	2,608	2,838
36091	11,801 - 11,900	1,150	1,882	2,138	2,383	2,622	2,852
36092	11,901 - 12,000	1,157	1,892	2,148	2,395	2,635	2,867
36093	12,001 - 12,100	1,164	1,901	2,159	2,407	2,648	2,881
36094	12,101 - 12,200	1,171	1,910	2,170	2,419	2,661	2,895
36095	12,201 - 12,300	1,178	1,919	2,180	2,431	2,674	2,910
36096	12,301 - 12,400	1,185	1,929	2,191	2,443	2,687	2,924
36097	12,401 - 12,500	1,192	1,938	2,202	2,455	2,700	2,938
36098	12,501 - 12,600	1,199	1,947	2,212	2,467	2,714	2,952
36099	12,601 - 12,700	1,206	1,956	2,223	2,479	2,727	2,967
36100	12,701 - 12,800	1,213	1,966	2,234	2,491	2,740	2,981
36101	12,801 - 12,900	1,220	1,975	2,245	2,503	2,753	2,995
36102	12,901 - 13,000	1,227	1,984	2,255	2,514	2,766	3,009
36103	13,001 - 13,100	1,233	1,993	2,265	2,525	2,778	3,022
36104	13,101 - 13,200	1,239	2,001	2,275	2,536	2,790	3,035
36105	13,201 - 13,300	1,245	2,010	2,285	2,547	2,802	3,049
36106	13,301 - 13,400	1,250	2,018	2,294	2,558	2,814	3,062
36107	13,401 - 13,500	1,256	2,027	2,304	2,569	2,826	3,075
36108	13,501 - 13,600	1,262	2,035	2,314	2,580	2,838	3,088
36109	13,601 - 13,700	1,267	2,044	2,324	2,591	2,850	3,101
36110	13,701 - 13,800	1,273	2,052	2,334	2,602	2,862	3,114
36111	13,801 - 13,900	1,279	2,061	2,344	2,613	2,875	3,127

36112	13,901 - 14,000	1,284	2,069	2,354	2,624	2,887	3,141
36113	14,001 - 14,100	1,290	2,078	2,363	2,635	2,899	3,154
36114	14,101 - 14,200	1,296	2,087	2,373	2,646	2,911	3,167
36115	14,201 - 14,300	1,301	2,095	2,383	2,657	2,923	3,180
36116	14,301 - 14,400	1,306	2,104	2,393	2,668	2,935	3,193
36117	14,401 - 14,500	1,312	2,112	2,403	2,679	2,947	3,206
36118	14,501 - 14,600	1,317	2,121	2,413	2,690	2,959	3,220
36119	14,601 - 14,700	1,323	2,129	2,423	2,701	2,971	3,233
36120	14,701 - 14,800	1,329	2,138	2,432	2,712	2,983	3,246
36121	14,801 - 14,900	1,334	2,146	2,442	2,723	2,995	3,259
36122	14,901 - 15,000	1,340	2,155	2,452	2,734	3,008	3,272
36123	15,001 - 15,100	1,345	2,163	2,461	2,744	3,018	3,284
36124	15,101 - 15,200	1,351	2,170	2,469	2,752	3,028	3,294
36125	15,201 - 15,300	1,357	2,177	2,476	2,761	3,037	3,304
36126	15,301 - 15,400	1,362	2,184	2,484	2,769	3,046	3,314
36127	15,401 - 15,500	1,368	2,191	2,491	2,778	3,056	3,325
36128	15,501 - 15,600	1,373	2,198	2,499	2,786	3,065	3,335
36129	15,601 - 15,700	1,379	2,205	2,507	2,795	3,074	3,345
36130	15,701 - 15,800	1,384	2,211	2,514	2,803	3,084	3,355
36131	15,801 - 15,900	1,390	2,218	2,522	2,812	3,093	3,365
36132	15,901 - 16,000	1,395	2,225	2,529	2,820	3,102	3,375
36133	16,001 - 16,100	1,401	2,232	2,537	2,829	3,112	3,385
36134	16,101 - 16,200	1,407	2,239	2,545	2,837	3,121	3,396
36135	16,201 - 16,300	1,412	2,246	2,552	2,846	3,130	3,406
36136	16,301 - 16,400	1,418	2,253	2,560	2,854	3,140	3,416
36137	16,401 - 16,500	1,423	2,260	2,567	2,863	3,149	3,426
36138	16,501 - 16,600	1,429	2,267	2,575	2,871	3,158	3,436
36139	16,601 - 16,700	1,434	2,274	2,583	2,880	3,168	3,446
36140	16,701 - 16,800	1,440	2,281	2,590	2,888	3,177	3,457
36141	16,801 - 16,900	1,445	2,288	2,598	2,897	3,186	3,467
36142	16,901 - 17,000	1,451	2,295	2,605	2,905	3,196	3,477

36143	17,001 - 17,100	1,456	2,302	2,613	2,914	3,205	3,487
36144	17,101 - 17,200	1,462	2,309	2,621	2,922	3,214	3,497
36145	17,201 - 17,300	1,467	2,316	2,628	2,931	3,224	3,507
36146	17,301 - 17,400	1,473	2,323	2,636	2,939	3,233	3,517
36147	17,401 - 17,500	1,478	2,330	2,643	2,947	3,242	3,528
36148	17,501 - 17,600	1,483	2,337	2,651	2,956	3,252	3,538
36149	17,601 - 17,700	1,489	2,344	2,659	2,964	3,261	3,548
36150	17,701 - 17,800	1,494	2,351	2,666	2,973	3,270	3,558
36151	17,801 - 17,900	1,499	2,358	2,674	2,981	3,280	3,568
36152	17,901 - 18,000	1,505	2,365	2,682	2,990	3,289	3,578
36153	18,001 - 18,100	1,510	2,372	2,689	2,998	3,298	3,588
36154	18,101 - 18,200	1,516	2,379	2,697	3,007	3,308	3,599
36155	18,201 - 18,300	1,520	2,386	2,704	3,015	3,317	3,609
36156	18,301 - 18,400	1,525	2,392	2,712	3,024	3,326	3,619
36157	18,401 - 18,500	1,530	2,399	2,720	3,032	3,336	3,629
36158	18,501 - 18,600	1,535	2,406	2,727	3,041	3,345	3,639
36159	18,601 - 18,700	1,540	2,413	2,735	3,049	3,354	3,649
36160	18,701 - 18,800	1,545	2,420	2,742	3,058	3,364	3,659
36161	18,801 - 18,900	1,550	2,427	2,750	3,066	3,373	3,670
36162	18,901 - 19,000	1,555	2,434	2,758	3,075	3,382	3,680
36163	19,001 - 19,100	1,560	2,441	2,765	3,083	3,391	3,690
36164	19,101 - 19,200	1,565	2,448	2,773	3,092	3,401	3,700
36165	19,201 - 19,300	1,570	2,455	2,780	3,100	3,410	3,710
36166	19,301 - 19,400	1,575	2,462	2,788	3,109	3,419	3,720
36167	19,401 - 19,500	1,580	2,469	2,796	3,117	3,429	3,731
36168	19,501 - 19,600	1,585	2,476	2,803	3,126	3,438	3,741
36169	19,601 - 19,700	1,590	2,483	2,811	3,134	3,447	3,751
36170	19,701 - 19,800	1,595	2,490	2,818	3,143	3,457	3,761
36171	19,801 - 19,900	1,600	2,497	2,826	3,151	3,466	3,771
36172	19,901 - 20,000	1,605	2,504	2,834	3,159	3,475	3,781
36173	20,001 - 22,000	1,766	2,754	3,117	3,475	3,822	4,159

36174	22,001 - 24,000	1,926	3,005	3,401	3,791	4,170	4,537
36175	24,001 - 26,000	2,087	3,255	3,684	4,107	4,518	4,915
36176	26,001 - 28,000	2,247	3,506	3,968	4,423	4,865	5,293
36177	28,001 - 30,000	2,408	3,756	4,251	4,739	5,213	5,672
36178	30,001 - 32,000	2,508	3,916	4,451	4,979	5,473	5,952
36179	32,001 - 34,000	2,608	4,076	4,651	5,219	5,733	6,232
36180	34,001 - 36,000	2,708	4,236	4,851	5,459	5,993	6,512
36181	36,001 - 38,000	2,808	4,396	5,051	5,699	6,253	6,792
36182	38,001 - 40,000	2,908	4,556	5,251	5,939	6,513	7,072
36183	40,001 - 42,000	3,008	4,716	5,451	6,179	6,773	7,352
36184	42,001 - 44,000	3,108	4,876	5,651	6,419	7,033	7,632
36185	44,001 - 46,000	3,208	5,036	5,851	6,659	7,293	7,912
36186	46,001 - 48,000	3,308	5,196	6,051	6,899	7,553	8,192
36187	48,001 - 50,000	3,408	5,356	6,251	7,139	7,813	8,472
36188	50,001 - 52,000	3,508	5,476	6,391	7,299	7,993	8,672
36189	52,001 - 54,000	3,608	5,596	6,531	7,459	8,173	8,872
36190	54,001 - 56,000	3,708	5,716	6,671	7,619	8,353	9,072
36191	56,001 - 58,000	3,808	5,836	6,811	7,779	8,533	9,272
36192	58,001 - 60,000	3,908	5,956	6,951	7,939	8,713	9,472
36193	60,001 - 62,000	4,008	6,076	7,091	8,099	8,893	9,672
36194	62,001 - 64,000	4,108	6,196	7,231	8,259	9,073	9,872
36195	64,001 - 66,000	4,208	6,316	7,371	8,419	9,253	10,072
36196	66,001 - 68,000	4,308	6,436	7,511	8,579	9,433	10,272
36197	68,001 - 70,000	4,408	6,556	7,651	8,739	9,613	10,472
36198	70,001 - 72,000	4,508	6,676	7,791	8,899	9,793	10,672
36199	72,001 - 74,000	4,608	6,796	7,931	9,059	9,973	10,872
36200	74,001 - 76,000	4,708	6,916	8,071	9,219	10,153	11,072
36201	76,001 - 78,000	4,808	7,036	8,211	9,379	10,333	11,272
36202	78,001 - 80,000	4,908	7,156	8,351	9,539	10,513	11,472
36203	80,001 - 82,000	5,008	7,276	8,491	9,699	10,693	11,672
36204	82,001 - 84,000	5,108	7,396	8,631	9,859	10,873	11,872

84,001 - 86,000	5,208	7,516	8,771	10,019	11,053	12,072
86,001 - 88,000	5,308	7,636	8,911	10,179	11,233	12,272
88,001 - 90,000	5,408	7,756	9,051	10,339	11,413	12,472
90,001 - 92,000	5,508	7,876	9,191	10,499	11,593	12,672
92,001 - 94,000	5,608	7,996	9,331	10,659	11,773	12,872
94,001 - 96,000	5,708	8,116	9,471	10,819	11,953	13,072
96,001 - 98,000	5,808	8,236	9,611	10,979	12,133	13,272
98,001 - 100,000	5,908	8,356	9,751	11,139	12,313	13,472

[~~LOW INCOME TABLE~~]

[~~(Obligor Parent Only)~~]

[~~Monthly Combined~~]

[~~Adj. Gross Income Number of Children~~]

[~~From To~~]	[~~1~~	~~2~~	~~3~~	~~4~~	~~5~~	~~6~~]
[~~0 - 649~~	~~30~~	~~30~~	~~30~~	~~30~~	~~30~~	~~30~~]
[~~650 - 675~~	~~30~~	~~30~~	~~30~~	~~30~~	~~31~~	~~31~~]
[~~676 - 700~~	~~58~~	~~60~~	~~60~~	~~61~~	~~61~~	~~62~~]
[~~701 - 725~~	~~88~~	~~88~~	~~90~~	~~91~~	~~92~~	~~92~~]
[~~726 - 750~~	~~117~~	~~118~~	~~119~~	~~120~~	~~122~~	~~123~~]
[~~751 - 775~~		~~148~~	~~149~~	~~151~~	~~153~~	~~155~~]
[~~776 - 800~~		~~178~~	~~179~~	~~182~~	~~183~~	~~186~~]
[~~801 - 825~~		~~207~~	~~209~~	~~212~~	~~214~~	~~216~~]
[~~826 - 850~~		~~236~~	~~239~~	~~242~~	~~244~~	~~247~~]
[~~851 - 875~~		~~266~~	~~269~~	~~272~~	~~275~~	~~278~~]
[~~876 - 900~~			~~299~~	~~303~~	~~305~~	~~309~~]
[~~901 - 925~~			~~329~~	~~333~~	~~337~~	~~339~~]
[~~926 - 950~~				~~363~~	~~366~~	~~370~~]
[~~951 - 975~~				~~393~~	~~398~~	~~402~~]
[~~976 - 1,000~~					~~428~~	~~433~~]
[~~1,001 - 1,050~~						~~494~~]

Section 1263. Section **78B-12-302** is enacted to read:

36236 **78B-12-302. Low income table -- Obligor parent only.**

36237 (1) If a child support order is established or modified on or before December 31, 2007,
36238 the table in this Subsection (1) shall be used for a modification to that order made on or before
36239 December 31, 2009.

36240 Monthly Adj.

36241 Gross Income		Number of Children					
36242		1	2	3	4	5	6
36243 From	To						
36244 650 -	675	23	23	23	23	24	24
36245 676 -	700	45	46	46	47	47	48
36246 701 -	725	68	68	69	70	71	71
36247 726 -	750	90	91	92	93	94	95
36248 751 -	775	113	114	115	116	118	119
36249 776 -	800		137	138	140	141	143
36250 801 -	825		159	161	163	165	166
36251 826 -	850		182	184	186	188	190
36252 851 -	875		205	207	209	212	214
36253 876 -	900		228	230	233	235	238
36254 901 -	925		250	253	256	259	261
36255 926 -	950			276	279	282	285
36256 951 -	975			299	302	306	309
36257 976 -	1,000				326	329	333
36258 1,001 -	1,050				372	376	380

36259 (2) The table in this Subsection (2) shall be used to:
36260 (a) establish a child support order entered for the first time on or after January 1, 2008;
36261 (b) modify a child support order entered for the first time on or after January 1, 2008;
36262 or
36263 (c) modify a child support order entered on or before December 31, 2007, if the
36264 modification is made on or after January 1, 2010.

36265 Monthly Combined

36266 Adj. Gross Income Number of Children

	1	2	3	4	5	6
From To						
0 - 649	30	30	30	30	30	30
650 - 675	30	30	30	30	31	31
676 - 700	58	60	60	61	61	62
701 - 725	88	88	90	91	92	92
726 - 750	117	118	119	120	122	123
751 - 775		148	149	151	153	155
776 - 800		178	179	182	183	186
801 - 825		207	209	212	214	216
826 - 850		236	239	242	244	247
851 - 875		266	269	272	275	278
876 - 900			299	303	305	309
901 - 925			329	333	337	339
926 - 950				363	366	370
951 - 975				393	398	402
976 - 1,000					428	433
1,001 - 1,050						494

Section 1264. Section **78B-12-401**, which is renumbered from Section 78-45-7.13 is renumbered and amended to read:

Part 4. Advisory Committee

[~~78-45-7.13~~]. 78B-12-401. Advisory committee -- Membership -- Expiration.

(1) On or before [~~March 1, 2007 and then on or before~~] March 1 of every fourth year [~~subsequently~~], the governor shall appoint [~~an~~] a child support guidelines advisory committee consisting of:

(a) one representative recommended by the Office of Recovery Services;

(b) one representative recommended by the Judicial Council;

(c) two representatives recommended by the Utah State Bar Association;

(d) two representatives of noncustodial parents;

(e) two representatives of custodial parents;

36298 (f) one representative with expertise in economics; and
36299 (g) two representatives from diverse interests related to child support issues, as the
36300 governor may consider appropriate. However, none of the individuals appointed under this
36301 subsection may be members of the Utah State Bar Association.
36302 (2) The term of the committee members expires one month after the report of the
36303 committee is submitted to the Legislature under [~~Subsection (4)~~] Section 78B-12-402.
36304 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
36305 appointed for the unexpired term.
36306 [~~(4) (a) The advisory committee shall review the child support guidelines to ensure~~
36307 ~~their application results in the determination of appropriate child support award amounts.~~]
36308 [~~(b) The committee shall report to the Legislative Judiciary Interim Committee on or~~
36309 ~~before October 1 in 2007 and then on or before October 1 of every fourth year subsequently.~~]
36310 [~~(c) The committee's report shall include recommendations of the majority of the~~
36311 ~~committee, as well as specific recommendations of individual members of the committee.~~]
36312 [~~(5) (a) (i) Members who are not government employees shall receive no compensation~~
36313 ~~or benefits for their services, but may receive per diem and expenses incurred in the~~
36314 ~~performance of the member's official duties at the rates established by the Division of Finance~~
36315 ~~under Sections 63A-3-106 and 63A-3-107.~~]
36316 [~~(ii) Members may decline to receive per diem and expenses for their service.~~]
36317 [~~(b) (i) State government officer and employee members who do not receive salary, per~~
36318 ~~diem, or expenses from their agency for their service may receive per diem and expenses~~
36319 ~~incurred in the performance of their official duties from the committee at the rates established~~
36320 ~~by the Division of Finance under Sections 63A-3-106 and 63A-3-107.~~]
36321 [~~(ii) State government officer and employee members may decline to receive per diem~~
36322 ~~and expenses for their service.~~]
36323 [~~(6) Staff for the committee shall be provided from the existing budgets of the~~
36324 ~~Department of Human Services.~~]
36325 [~~(7)~~] (4) The committee ceases to exist no later than [~~November 1, 2003 and then on~~]
36326 November 1 of [~~every fourth~~] each year [~~subsequently~~] it is created.
36327 [~~(8) Any committee appointed by the governor prior to October 1, 2003 ceases to exist~~
36328 ~~on November 1, 2003.~~]

36329 Section 1265. Section **78B-12-402** is enacted to read:
36330 **78B-12-402. Duties -- Report -- Staff.**
36331 (1) The advisory committee shall review the child support guidelines to ensure their
36332 application results in the determination of appropriate child support award amounts.
36333 (2) The committee shall report to the Legislative Judiciary Interim Committee on or
36334 before October 1 of every year in which it is created.
36335 (3) The committee's report shall include recommendations of the majority of the
36336 committee, as well as specific recommendations of individual members of the committee.
36337 (4) Staff for the committee shall be provided from the existing budget of the
36338 Department of Human Services.
36339 Section 1266. Section **78B-12-403** is enacted to read:
36340 **78B-12-403. Compensation -- Expenses -- Per diem.**
36341 (1) (a) Members who are not government employees shall receive no compensation or
36342 benefits for their services, but may receive per diem and expenses incurred in the performance
36343 of the member's official duties at the rates established by the Division of Finance under
36344 Sections 63A-3-106 and 63A-3-107.
36345 (b) Members may decline to receive per diem and expenses for their service.
36346 (2) (a) State government officer and employee members who do not receive salary, per
36347 diem, or expenses from their agency for their service may receive per diem and expenses
36348 incurred in the performance of their official duties from the committee at the rates established
36349 by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
36350 (b) State government officer and employee members may decline to receive per diem
36351 and expenses for their service.
36352 Section 1267. Section **78B-13-101**, which is renumbered from Section 78-45c-101 is
36353 renumbered and amended to read:
36354 **Part 1. General Provisions**
36355 **[~~78-45c-101~~]. 78B-13-101. Title.**
36356 This chapter is known as the "Utah Uniform Child Custody Jurisdiction and
36357 Enforcement Act."
36358 Section 1268. Section **78B-13-102**, which is renumbered from Section 78-45c-102 is
36359 renumbered and amended to read:

36360 **[~~78-45c-102~~]. 78B-13-102. Definitions.**
36361 As used in this chapter:
36362 (1) "Abandoned" means left without provision for reasonable and necessary care or
36363 supervision.
36364 (2) "Child" means an individual under 18 years of age and not married.
36365 (3) "Child custody determination" means a judgment, decree, or other order of a court
36366 providing for the legal custody, physical custody, or parent-time with respect to a child. The
36367 term includes a permanent, temporary, initial, and modification order. The term does not
36368 include an order relating to child support or other monetary obligation of an individual.
36369 (4) "Child custody proceeding" means a proceeding in which legal custody, physical
36370 custody, or parent-time with respect to a child is an issue. The term includes a proceeding for
36371 divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of
36372 parental rights, and protection from domestic violence, in which the issue may appear. The
36373 term does not include a proceeding involving juvenile delinquency, contractual emancipation,
36374 or enforcement under Part 3, Enforcement.
36375 (5) "Commencement" means the filing of the first pleading in a proceeding.
36376 (6) "Court" means an entity authorized under the law of a state to establish, enforce, or
36377 modify a child custody determination.
36378 (7) "Home state" means the state in which a child lived with a parent or a person acting
36379 as a parent for at least six consecutive months immediately before the commencement of a
36380 child custody proceeding. In the case of a child less than six months of age, the term means the
36381 state in which the child lived from birth with any of the persons mentioned. A period of
36382 temporary absence of any of the mentioned persons is part of the period.
36383 (8) "Initial determination" means the first child custody determination concerning a
36384 particular child.
36385 (9) "Issuing court" means the court that makes a child custody determination for which
36386 enforcement is sought under this chapter.
36387 (10) "Issuing state" means the state in which a child custody determination is made.
36388 (11) "Modification" means a child custody determination that changes, replaces,
36389 supersedes, or is otherwise made after a previous determination concerning the same child,
36390 whether or not it is made by the court that made the previous determination.

36391 (12) "Person" includes government, governmental subdivision, agency, or
36392 instrumentality, or any other legal or commercial entity.
36393 (13) "Person acting as a parent" means a person, other than a parent, who:
36394 (a) has physical custody of the child or has had physical custody for a period of six
36395 consecutive months, including any temporary absence, within one year immediately before the
36396 commencement of a child custody proceeding; and
36397 (b) has been awarded legal custody by a court or claims a right to legal custody under
36398 the law of this state.
36399 (14) "Physical custody" means the physical care and supervision of a child.
36400 (15) "State" means a state of the United States, the District of Columbia, Puerto Rico,
36401 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
36402 of the United States.
36403 (16) "Tribe" means an Indian tribe, or band, or Alaskan Native village which is
36404 recognized by federal law or formally acknowledged by a state.
36405 (17) "Writ of assistance" means an order issued by a court authorizing law enforcement
36406 officers to take physical custody of a child.
36407 Section 1269. Section **78B-13-103**, which is renumbered from Section 78-45c-103 is
36408 renumbered and amended to read:
36409 **[~~78-45c-103~~]. 78B-13-103. Proceedings governed by other law.**
36410 (1) For purposes of this section, "adoption proceeding" means any proceeding under
36411 Title [~~78~~] 78B, Chapter [~~30,~~] 6, Part 1, Utah Adoption Act.
36412 (2) This chapter does not govern:
36413 (a) an adoption proceeding; or
36414 (b) a proceeding pertaining to the authorization of emergency medical care for a child.
36415 Section 1270. Section **78B-13-104**, which is renumbered from Section 78-45c-104 is
36416 renumbered and amended to read:
36417 **[~~78-45c-104~~]. 78B-13-104. Application to Indian tribes.**
36418 (1) A child custody proceeding that pertains to an Indian child as defined in the Indian
36419 Child Welfare Act, 25 U.S.C. 1901 et seq., is not subject to this chapter to the extent that it is
36420 governed by the Indian Child Welfare Act.
36421 (2) A court of this state shall treat a tribe as a state of the United States for purposes of

36422 Part 1, General Provisions, and Part 2, Jurisdiction.
36423 (3) A child custody determination made by a tribe under factual circumstances in
36424 substantial conformity with the jurisdictional standards of this chapter shall be recognized and
36425 enforced under the provisions of Part 3, Enforcement.
36426 Section 1271. Section **78B-13-105**, which is renumbered from Section 78-45c-105 is
36427 renumbered and amended to read:
36428 **[~~78-45c-105~~]. 78B-13-105. International application of chapter.**
36429 (1) A court of this state shall treat a foreign country as a state of the United States for
36430 purposes of applying Part 1, General Provisions, and Part 2, Jurisdiction.
36431 (2) A child custody determination made in a foreign country under factual
36432 circumstances in substantial conformity with the jurisdictional standards of this chapter shall be
36433 recognized and enforced under Part 3, Enforcement.
36434 (3) The court need not apply the provisions of this chapter when the child custody law
36435 of the other country violates fundamental principles of human rights.
36436 Section 1272. Section **78B-13-106**, which is renumbered from Section 78-45c-106 is
36437 renumbered and amended to read:
36438 **[~~78-45c-106~~]. 78B-13-106. Binding force of child custody determination.**
36439 A child custody determination made by a court of this state that had jurisdiction under
36440 this chapter binds all persons who have been served in accordance with the laws of this state or
36441 notified in accordance with Section [~~78-45c-108~~] 78B-13-108 or who have submitted to the
36442 jurisdiction of the court, and who have been given an opportunity to be heard. The
36443 determination is conclusive as to them as to all decided issues of law and fact except to the
36444 extent the determination is modified.
36445 Section 1273. Section **78B-13-107**, which is renumbered from Section 78-45c-107 is
36446 renumbered and amended to read:
36447 **[~~78-45c-107~~]. 78B-13-107. Priority.**
36448 If a question of existence or exercise of jurisdiction under this chapter is raised in a
36449 child custody proceeding, the question, upon request of a party, shall be given priority on the
36450 calendar and handled expeditiously.
36451 Section 1274. Section **78B-13-108**, which is renumbered from Section 78-45c-108 is
36452 renumbered and amended to read:

36453 **[~~78-45c-108~~]. 78B-13-108. Notice to persons outside state.**
36454 (1) Notice required for the exercise of jurisdiction when a person is outside this state
36455 may be given in a manner prescribed by the law of this state for the service of process or by the
36456 law of the state in which the service is made. Notice shall be given in a manner reasonably
36457 calculated to give actual notice, but may be by publication if other means are not effective.
36458 (2) Proof of service may be made in the manner prescribed by the law of this state or by
36459 the law of the state in which the service is made.
36460 (3) Notice is not required for the exercise of jurisdiction with respect to a person who
36461 submits to the jurisdiction of the court.
36462 Section 1275. Section **78B-13-109**, which is renumbered from Section 78-45c-109 is
36463 renumbered and amended to read:
36464 **[~~78-45c-109~~]. 78B-13-109. Appearance and limited immunity.**
36465 (1) A party to a child custody proceeding who is not subject to personal jurisdiction in
36466 this state and is a responding party under Part 2, Jurisdiction, a party in a proceeding to modify
36467 a child custody determination under Part 2, Jurisdiction, or a petitioner in a proceeding to
36468 enforce or register a child custody determination under Part 3, Enforcement, may appear and
36469 participate in the proceeding without submitting to personal jurisdiction over the party for
36470 another proceeding or purpose.
36471 (2) A party is not subject to personal jurisdiction in this state solely by being physically
36472 present for the purpose of participating in a proceeding under this chapter. If a party is subject
36473 to personal jurisdiction in this state on a basis other than physical presence, the party may be
36474 served with process in this state. If a party present in this state is subject to the jurisdiction of
36475 another state, service of process allowable under the laws of that state may be accomplished in
36476 this state.
36477 (3) The immunity granted by this section does not extend to civil litigation based on
36478 acts unrelated to the participation in a proceeding under this chapter committed by an
36479 individual while present in this state.
36480 Section 1276. Section **78B-13-110**, which is renumbered from Section 78-45c-110 is
36481 renumbered and amended to read:
36482 **[~~78-45c-110~~]. 78B-13-110. Communication between courts.**
36483 (1) A court of this state may communicate with a court in another state concerning a

36484 proceeding arising under this chapter.
36485 (2) The court may allow the parties to participate in the communication. If the parties
36486 are not able to participate in the communication, the parties shall be given the opportunity to
36487 present facts and legal arguments before a decision on jurisdiction is made.
36488 (3) A communication between courts on schedules, calendars, court records, and
36489 similar matters may occur without informing the parties. A record need not be made of that
36490 communication.
36491 (4) Except as provided in Subsection (3), a record shall be made of the communication.
36492 The parties shall be informed promptly of the communication and granted access to the record.
36493 (5) For the purposes of this section, "record" means information that is inscribed on a
36494 tangible medium or that which is stored in an electronic or other medium and is retrievable in
36495 perceivable form. A record includes notes or transcripts of a court reporter who listened to a
36496 conference call between the courts, an electronic recording of a telephone call, a memorandum
36497 or an electronic record of the communication between the courts, or a memorandum or an
36498 electronic record made by a court after the communication.
36499 Section 1277. Section **78B-13-111**, which is renumbered from Section 78-45c-111 is
36500 renumbered and amended to read:
36501 **[~~78-45c-111~~]. 78B-13-111. Taking testimony in another state.**
36502 (1) In addition to other procedures available to a party, a party to a child custody
36503 proceeding may offer testimony of witnesses who are located in another state, including
36504 testimony of the parties and the child, by deposition or other means allowable in this state for
36505 testimony taken in another state. The court on its own motion may order that the testimony of a
36506 person be taken in another state and may prescribe the manner in which and the terms upon
36507 which the testimony is taken.
36508 (2) A court of this state may permit an individual residing in another state to be
36509 deposed or to testify by telephone, audiovisual means, or other electronic means before a
36510 designated court or at another location in that state. A court of this state shall cooperate with
36511 courts of other states in designating an appropriate location for the deposition or testimony.
36512 (3) Documentary evidence transmitted from another state to a court of this state by
36513 technological means that do not produce an original writing may not be excluded from
36514 evidence on an objection based on the means of transmission.

36515 Section 1278. Section **78B-13-112**, which is renumbered from Section 78-45c-112 is
36516 renumbered and amended to read:
36517 **[~~78-45c-112~~]. 78B-13-112. Cooperation between courts -- Preservation of**
36518 **records.**
36519 (1) A court of this state may request the appropriate court of another state to:
36520 (a) hold an evidentiary hearing;
36521 (b) order a person to produce or give evidence under procedures of that state;
36522 (c) order that an evaluation be made with respect to the custody of a child involved in a
36523 pending proceeding;
36524 (d) forward to the court of this state a certified copy of the transcript of the record of
36525 the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with
36526 the request; and
36527 (e) order a party to a child custody proceeding or any person having physical custody of
36528 the child to appear in the proceeding with or without the child.
36529 (2) Upon request of a court of another state, a court of this state may:
36530 (a) hold a hearing or enter an order described in Subsection (1); or
36531 (b) order a person in this state to appear alone or with the child in a custody proceeding
36532 in another state.
36533 (3) A court of this state may condition compliance with a request under Subsection
36534 (2)(b) upon assurance by the other state that travel and other necessary expenses will be
36535 advanced or reimbursed. If the person who has physical custody of the child cannot be served
36536 or fails to obey the order, or it appears the order will be ineffective, the court may issue a
36537 warrant of arrest against the person to secure his appearance with the child in the other state.
36538 (4) Travel and other necessary and reasonable expenses incurred under Subsections (1)
36539 and (2) may be assessed against the parties according to the law of this state.
36540 (5) A court of this state shall preserve the pleadings, orders, decrees, records of
36541 hearings, evaluations, and other pertinent records with respect to a child custody proceeding
36542 until the child attains 18 years of age. Upon appropriate request by a court or law enforcement
36543 official of another state, the court shall forward a certified copy of these records.
36544 Section 1279. Section **78B-13-201**, which is renumbered from Section 78-45c-201 is
36545 renumbered and amended to read:

36546 **Part 2. Jurisdiction**

36547 **[~~78-45c-201~~]. 78B-13-201. Initial child custody jurisdiction.**

36548 (1) Except as otherwise provided in Section [~~78-45c-204~~] 78B-13-204, a court of this
36549 state has jurisdiction to make an initial child custody determination only if:

36550 (a) this state is the home state of the child on the date of the commencement of the
36551 proceeding, or was the home state of the child within six months before the commencement of
36552 the proceeding and the child is absent from this state but a parent or person acting as a parent
36553 continues to live in this state;

36554 (b) a court of another state does not have jurisdiction under Subsection (1)(a), or a
36555 court of the home state of the child has declined to exercise jurisdiction on the ground that this
36556 state is the more appropriate forum under Section [~~78-45c-207~~] 78B-13-207 or [~~78-45c-208~~]
36557 78B-13-208; and

36558 (i) the child and the child's parents, or the child and at least one parent or a person
36559 acting as a parent have a significant connection with this state other than mere physical
36560 presence; and

36561 (ii) substantial evidence is available in this state concerning the child's care, protection,
36562 training, and personal relationships;

36563 (c) all courts having jurisdiction under Subsection (1)(a) or (b) have declined to
36564 exercise jurisdiction on the ground that a court of this state is the more appropriate forum to
36565 determine the custody of the child under Section [~~78-45c-207~~] 78B-13-207 or [~~78-45c-208~~]
36566 78B-13-208; or

36567 (d) no state would have jurisdiction under Subsection (1)(a), (b), or (c).

36568 (2) Subsection (1) is the exclusive jurisdictional basis for making a child custody
36569 determination by a court of this state.

36570 (3) Physical presence of, or personal jurisdiction over, a party or a child is neither
36571 necessary nor sufficient to make a child custody determination.

36572 Section 1280. Section **78B-13-202**, which is renumbered from Section 78-45c-202 is
36573 renumbered and amended to read:

36574 **[~~78-45c-202~~]. 78B-13-202. Exclusive, continuing jurisdiction.**

36575 (1) Except as otherwise provided in Section [~~78-45c-204~~] 78B-13-204, a court of this
36576 state that has made a child custody determination consistent with Section [~~78-45c-201~~]

36577 78B-13-201 or [~~78-45c-203~~] 78B-13-203 has exclusive, continuing jurisdiction over the
36578 determination until:
36579 (a) a court of this state determines that neither the child, the child and one parent, nor
36580 the child and a person acting as a parent have a significant connection with this state and that
36581 substantial evidence is no longer available in this state concerning the child's care, protection,
36582 training, and personal relationships; or
36583 (b) a court of this state or a court of another state determines that neither the child, nor
36584 a parent, nor any person acting as a parent presently resides in this state.
36585 (2) A court of this state that has exclusive, continuing jurisdiction under this section
36586 may decline to exercise its jurisdiction if the court determines that it is an inconvenient forum
36587 under Section [~~78-45c-207~~] 78B-13-207.
36588 (3) A court of this state that has made a child custody determination and does not have
36589 exclusive, continuing jurisdiction under this section may modify that determination only if it
36590 has jurisdiction to make an initial determination under Section [~~78-45c-201~~] 78B-13-201.
36591 Section 1281. Section **78B-13-203**, which is renumbered from Section 78-45c-203 is
36592 renumbered and amended to read:
36593 **[~~78-45c-203~~]. 78B-13-203. Jurisdiction to modify determination.**
36594 Except as otherwise provided in Section [~~78-45c-204~~] 78B-13-204, a court of this state
36595 may not modify a child custody determination made by a court of another state unless a court of
36596 this state has jurisdiction to make an initial determination under Subsection [~~78-45c-201~~]
36597 78B-13-201(1)(a) or (b) and:
36598 (1) the court of the other state determines it no longer has exclusive, continuing
36599 jurisdiction under Section [~~78-45c-202~~] 78B-13-202 or that a court of this state would be a
36600 more convenient forum under Section [~~78-45c-207~~] 78B-13-207; or
36601 (2) a court of this state or a court of the other state determines that neither the child, nor
36602 a parent, nor any person acting as a parent presently resides in the other state.
36603 Section 1282. Section **78B-13-204**, which is renumbered from Section 78-45c-204 is
36604 renumbered and amended to read:
36605 **[~~78-45c-204~~]. 78B-13-204. Temporary emergency jurisdiction.**
36606 (1) A court of this state has temporary emergency jurisdiction if the child is present in
36607 this state and the child has been abandoned or it is necessary in an emergency to protect the

36608 child because the child, or a sibling or parent of the child, is subjected to or threatened with
36609 mistreatment or abuse.
36610 (2) If there is no previous child custody determination that is entitled to be enforced
36611 under this chapter, and if no child custody proceeding has been commenced in a court of a state
36612 having jurisdiction under Sections [~~78-45c-201~~] 78B-13-201 through [~~78-45c-203~~]
36613 78B-13-203, a child custody determination made under this section remains in effect until an
36614 order is obtained from a court of a state having jurisdiction under Sections [~~78-45c-201~~]
36615 78B-13-201 through [~~78-45c-203~~] 78B-13-203. If a child custody proceeding has not been or
36616 is not commenced in a court of a state having jurisdiction under Sections [~~78-45c-201~~]
36617 78B-13-201 through [~~78-45c-203~~] 78B-13-203, a child custody determination made under this
36618 section becomes a final determination, if:
36619 (a) it so provides; and
36620 (b) this state becomes the home state of the child.
36621 (3) If there is a previous child custody determination that is entitled to be enforced
36622 under this chapter, or a child custody proceeding has been commenced in a court of a state
36623 having jurisdiction under Sections [~~78-45c-201~~] 78B-13-201 through [~~78-45c-203~~]
36624 78B-13-203, any order issued by a court of this state under this section shall specify in the
36625 order a period of time which the court considers adequate to allow the person seeking an order
36626 to obtain an order from the state having jurisdiction under Sections [~~78-45c-201~~] 78B-13-201
36627 through [~~78-45c-203~~] 78B-13-203. The order issued in this state remains in effect until an
36628 order is obtained from the other state within the period specified or the period expires.
36629 (4) A court of this state that has been asked to make a child custody determination
36630 under this section, upon being informed that a child custody proceeding has been commenced,
36631 or a child custody determination has been made, by a court of a state having jurisdiction under
36632 Sections [~~78-45c-201~~] 78B-13-201 through [~~78-45c-203~~] 78B-13-203, shall immediately
36633 communicate with the other court. A court of this state that is exercising jurisdiction pursuant
36634 to Sections [~~78-45c-201~~] 78B-13-201 through [~~78-45c-203~~] 78B-13-203, upon being informed
36635 that a child custody proceeding has been commenced, or a child custody determination has
36636 been made by a court of another state under a statute similar to this section shall immediately
36637 communicate with the court of that state. The purpose of the communication is to resolve the
36638 emergency, protect the safety of the parties and the child, and determine a period for the

36639 duration of the temporary order.
36640 Section 1283. Section **78B-13-205**, which is renumbered from Section 78-45c-205 is
36641 renumbered and amended to read:
36642 **[~~78-45c-205~~]. 78B-13-205. Notice -- Opportunity to be heard -- Joinder.**
36643 (1) Before a child custody determination is made under this chapter, notice and an
36644 opportunity to be heard in accordance with the standards of Section [~~78-45c-108~~] 78B-13-108
36645 shall be given to all persons entitled to notice under the law of this state as in child custody
36646 proceedings between residents of this state, any parent whose parental rights have not been
36647 previously terminated, and any person having physical custody of the child.
36648 (2) This chapter does not govern the enforceability of a child custody determination
36649 made without notice and an opportunity to be heard.
36650 (3) The obligation to join a party and the right to intervene as a party in a child custody
36651 proceeding under this chapter are governed by the law of this state as in child custody
36652 proceedings between residents of this state.
36653 Section 1284. Section **78B-13-206**, which is renumbered from Section 78-45c-206 is
36654 renumbered and amended to read:
36655 **[~~78-45c-206~~]. 78B-13-206. Simultaneous proceedings.**
36656 (1) Except as otherwise provided in Section [~~78-45c-204~~] 78B-13-204, a court of this
36657 state may not exercise its jurisdiction under this chapter if at the time of the commencement of
36658 the proceeding a proceeding concerning the custody of the child had been previously
36659 commenced in a court of another state having jurisdiction substantially in conformity with this
36660 chapter, unless the proceeding has been terminated or is stayed by the court of the other state
36661 because a court of this state is a more convenient forum under Section [~~78-45c-207~~]
36662 78B-13-207.
36663 (2) Except as otherwise provided in Section [~~78-45c-204~~] 78B-13-204, a court of this
36664 state, before hearing a child custody proceeding, shall examine the court documents and other
36665 information supplied by the parties pursuant to Section [~~78-45c-209~~] 78B-13-209. If the court
36666 determines that a child custody proceeding was previously commenced in a court in another
36667 state having jurisdiction substantially in accordance with this chapter, the court of this state
36668 shall stay its proceeding and communicate with the court of the other state. If the court of the
36669 state having jurisdiction substantially in accordance with this chapter does not determine that

36670 the court of this state is a more appropriate forum, the court of this state shall dismiss the
36671 proceeding.
36672 (3) In a proceeding to modify a child custody determination, a court of this state shall
36673 determine whether a proceeding to enforce the determination has been commenced in another
36674 state. If a proceeding to enforce a child custody determination has been commenced in another
36675 state, the court may:
36676 (a) stay the proceeding for modification pending the entry of an order of a court of the
36677 other state enforcing, staying, denying, or dismissing the proceeding for enforcement;
36678 (b) enjoin the parties from continuing with the proceeding for enforcement; or
36679 (c) proceed with the modification under conditions it considers appropriate.
36680 Section 1285. Section **78B-13-207**, which is renumbered from Section 78-45c-207 is
36681 renumbered and amended to read:
36682 **[~~78-45c-207~~]. 78B-13-207. Inconvenient forum.**
36683 (1) A court of this state that has jurisdiction under this chapter to make a child custody
36684 determination may decline to exercise its jurisdiction at any time if it determines that it is an
36685 inconvenient forum under the circumstances and that a court of another state is a more
36686 appropriate forum. The issue of inconvenient forum may be raised upon the court's own
36687 motion, request of another court, or motion of a party.
36688 (2) Before determining whether it is an inconvenient forum, a court of this state shall
36689 consider whether it is appropriate that a court of another state exercise jurisdiction. For this
36690 purpose, the court shall allow the parties to submit information and shall consider all relevant
36691 factors, including:
36692 (a) whether domestic violence has occurred and is likely to continue in the future and
36693 which state could best protect the parties and the child;
36694 (b) the length of time the child has resided outside this state;
36695 (c) the distance between the court in this state and the court in the state that would
36696 assume jurisdiction;
36697 (d) the relative financial circumstances of the parties;
36698 (e) any agreement of the parties as to which state should assume jurisdiction;
36699 (f) the nature and location of the evidence required to resolve the pending litigation,
36700 including the testimony of the child;

36701 (g) the ability of the court of each state to decide the issue expeditiously and the
36702 procedures necessary to present the evidence; and
36703 (h) the familiarity of the court of each state with the facts and issues of the pending
36704 litigation.
36705 (3) If a court of this state determines that it is an inconvenient forum and that a court of
36706 another state is a more appropriate forum, it shall stay the proceedings upon condition that a
36707 child custody proceeding be promptly commenced in another designated state and may impose
36708 any other condition the court considers just and proper.
36709 (4) A court of this state may decline to exercise its jurisdiction under this chapter if a
36710 child custody determination is incidental to an action for divorce or another proceeding while
36711 still retaining jurisdiction over the divorce or other proceeding.
36712 Section 1286. Section **78B-13-208**, which is renumbered from Section 78-45c-208 is
36713 renumbered and amended to read:
36714 **[~~78-45c-208~~]. 78B-13-208. Jurisdiction declined by reason of conduct.**
36715 (1) Except as otherwise provided in Section [~~78-45c-204~~] 78B-13-204 or by other law
36716 of this state, if a court of this state has jurisdiction under this chapter because a person invoking
36717 the jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its
36718 jurisdiction unless:
36719 (a) the parents and all persons acting as parents have acquiesced in the exercise of
36720 jurisdiction;
36721 (b) a court of the state otherwise having jurisdiction under Sections [~~78-45c-201~~]
36722 78B-13-201 through [~~78-45c-203~~] 78B-13-203 determines that this state is a more appropriate
36723 forum under Section [~~78-45c-207~~] 78B-13-207; or
36724 (c) no other state would have jurisdiction under Sections [~~78-45c-201~~] 78B-13-201
36725 through [~~78-45c-203~~] 78B-13-203.
36726 (2) If a court of this state declines to exercise its jurisdiction pursuant to Subsection (1),
36727 it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition
36728 of the wrongful conduct, including staying the proceeding until a child custody proceeding is
36729 commenced in a court having jurisdiction under Sections [~~78-45c-201~~] 78B-13-201 through
36730 [~~78-45c-203~~] 78B-13-203.
36731 (3) If a court dismisses a petition or stays a proceeding because it declines to exercise

36732 its jurisdiction pursuant to Subsection (1), it shall charge the party invoking the jurisdiction of
36733 the court with necessary and reasonable expenses including costs, communication expenses,
36734 [~~attorney's~~] attorney fees, investigative fees, expenses for witnesses, travel expenses, and child
36735 care during the course of the proceedings, unless the party from whom fees are sought
36736 establishes that the award would be clearly inappropriate. The court may not assess fees, costs,
36737 or expenses against this state except as otherwise provided by law other than this chapter.
36738 Section 1287. Section **78B-13-209**, which is renumbered from Section 78-45c-209 is
36739 renumbered and amended to read:
36740 **[~~78-45c-209~~]. 78B-13-209. Information to be submitted to court.**
36741 (1) In a child custody proceeding, each party, in its first pleading or in an attached
36742 affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present
36743 address, the places where the child has lived during the last five years, and the names and
36744 present addresses of the persons with whom the child has lived during that period. The
36745 pleading or affidavit shall state whether the party:
36746 (a) has participated, as a party or witness or in any other capacity, in any other
36747 proceeding concerning the custody of or parent-time with the child and, if so, identify the court,
36748 the case number of the proceeding, and the date of the child custody determination, if any;
36749 (b) knows of any proceeding that could affect the current proceeding, including
36750 proceedings for enforcement and proceedings relating to domestic violence, protective orders,
36751 termination of parental rights, and adoptions and, if so, identify the court and the case number
36752 and the nature of the proceeding; and
36753 (c) knows the names and addresses of any person not a party to the proceeding who has
36754 physical custody of the child or claims rights of legal custody or physical custody of, or
36755 parent-time with, the child and, if so, the names and addresses of those persons.
36756 (2) If the information required by Subsection (1) is not furnished, the court, upon its
36757 own motion or that of a party, may stay the proceeding until the information is furnished.
36758 (3) If the declaration as to any of the items described in Subsection (1) is in the
36759 affirmative, the declarant shall give additional information under oath as required by the court.
36760 The court may examine the parties under oath as to details of the information furnished and
36761 other matters pertinent to the court's jurisdiction and the disposition of the case.
36762 (4) Each party has a continuing duty to inform the court of any proceeding in this or

36763 any other state that could affect the current proceeding.
36764 (5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or
36765 liberty of a party or child would be put at risk by the disclosure of identifying information, that
36766 information shall be sealed and not disclosed to the other party or the public unless the court
36767 orders the disclosure to be made after a hearing in which the court takes into consideration the
36768 health, safety, or liberty of the party or child and determines that the disclosure is in the interest
36769 of justice.
36770 Section 1288. Section **78B-13-210**, which is renumbered from Section 78-45c-210 is
36771 renumbered and amended to read:
36772 **[~~78-45c-210~~]. 78B-13-210. Appearance of parties and child.**
36773 (1) A court of this state may order a party to a child custody proceeding who is in this
36774 state to appear before the court personally with or without the child. The court may order any
36775 person who is in this state and who has physical custody or control of the child to appear
36776 physically with the child.
36777 (2) If a party to a child custody proceeding whose presence is desired by the court is
36778 outside this state, the court may order that a notice given pursuant to Section [~~78-45c-108~~]
36779 78B-13-108 include a statement directing the party to appear personally with or without the
36780 child and declaring that failure to appear may result in a decision adverse to the party.
36781 (3) The court may enter any orders necessary to ensure the safety of the child and of
36782 any person ordered to appear under this section.
36783 (4) If a party to a child custody proceeding who is outside this state is directed to
36784 appear under Subsection (2) or desires to appear personally before the court with or without the
36785 child, the court may require another party to pay reasonable and necessary travel and other
36786 expenses of the party so appearing and of the child.
36787 Section 1289. Section **78B-13-301**, which is renumbered from Section 78-45c-301 is
36788 renumbered and amended to read:
36789 **Part 3. Enforcement**
36790 **[~~78-45c-301~~]. 78B-13-301. Definitions.**
36791 As used in this part:
36792 (1) "Petitioner" means a person who seeks enforcement of a child custody
36793 determination or enforcement of an order for the return of the child under the Hague

36794 Convention on the Civil Aspects of International Child Abduction.
36795 (2) "Respondent" means a person against whom a proceeding has been commenced for
36796 enforcement of a child custody determination or enforcement of an order for the return of the
36797 child under the Hague Convention on the Civil Aspects of International Child Abduction.
36798 Section 1290. Section **78B-13-302**, which is renumbered from Section 78-45c-302 is
36799 renumbered and amended to read:
36800 **[~~78-45c-302~~]. 78B-13-302. Scope -- Hague Convention Enforcement.**
36801 This chapter may be invoked to enforce:
36802 (1) a child custody determination; and
36803 (2) an order for the return of the child made under the Hague Convention on the Civil
36804 Aspects of International Child Abduction.
36805 Section 1291. Section **78B-13-303**, which is renumbered from Section 78-45c-303 is
36806 renumbered and amended to read:
36807 **[~~78-45c-303~~]. 78B-13-303. Duty to enforce.**
36808 (1) A court of this state shall recognize and enforce a child custody determination of a
36809 court of another state if the latter court exercised jurisdiction that was in substantial conformity
36810 with this chapter or the determination was made under factual circumstances meeting the
36811 jurisdictional standards of this chapter and the determination has not been modified in
36812 accordance with this chapter.
36813 (2) A court may utilize any remedy available under other law of this state to enforce a
36814 child custody determination made by a court of another state. The procedure provided by this
36815 part does not affect the availability of other remedies to enforce a child custody determination.
36816 Section 1292. Section **78B-13-304**, which is renumbered from Section 78-45c-304 is
36817 renumbered and amended to read:
36818 **[~~78-45c-304~~]. 78B-13-304. Temporary parent-time.**
36819 (1) A court of this state which does not have jurisdiction to modify a child custody
36820 determination may issue a temporary order enforcing:
36821 (a) a parent-time schedule made by a court of another state; or
36822 (b) the parent-time provisions of a child custody determination of another state that
36823 does not provide for a specific parent-time schedule.
36824 (2) If a court of this state makes an order under Subsection (1)(b), it shall specify in the

36825 order a period that it considers adequate to allow the petitioner to obtain an order from a court
36826 having jurisdiction under the criteria specified in Part 2, Jurisdiction. The order remains in
36827 effect until an order is obtained from the other court or the period expires.
36828 Section 1293. Section **78B-13-305**, which is renumbered from Section 78-45c-305 is
36829 renumbered and amended to read:
36830 **[~~78-45c-305~~]. 78B-13-305. Registration of child custody determination.**
36831 (1) A child custody determination issued by a court of another state may be registered
36832 in this state, with or without a simultaneous request for enforcement, by sending to the district
36833 court in this state:
36834 (a) a letter or other document requesting registration;
36835 (b) two copies, including one certified copy, of the determination sought to be
36836 registered, and a statement under penalty of perjury that to the best of the knowledge and belief
36837 of the person seeking registration the order has not been modified; and
36838 (c) except as otherwise provided in Section [~~78-45c-209~~] 78B-13-209, the name and
36839 address of the person seeking registration and any parent or person acting as a parent who has
36840 been awarded custody or parent-time in the child custody determination sought to be registered.
36841 (2) On receipt of the documents required by Subsection (1), the registering court shall:
36842 (a) cause the determination to be filed as a foreign judgment, together with one copy of
36843 any accompanying documents and information, regardless of their form; and
36844 (b) serve notice upon the persons named pursuant to Subsection (1)(c) and provide
36845 them with an opportunity to contest the registration in accordance with this section.
36846 (3) The notice required by Subsection (2)(b) shall state:
36847 (a) that a registered determination is enforceable as of the date of the registration in the
36848 same manner as a determination issued by a court of this state;
36849 (b) that a hearing to contest the validity of the registered determination shall be
36850 requested within 20 days after service of notice; and
36851 (c) that failure to contest the registration will result in confirmation of the child custody
36852 determination and preclude further contest of that determination with respect to any matter that
36853 could have been asserted.
36854 (4) A person seeking to contest the validity of a registered order shall request a hearing
36855 within 20 days after service of the notice. At that hearing, the court shall confirm the registered

36856 order unless the person contesting registration establishes that:
36857 (a) the issuing court did not have jurisdiction under Part 2, Jurisdiction;
36858 (b) the child custody determination sought to be registered has been vacated, stayed, or
36859 modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction; or
36860 (c) the person contesting registration was entitled to notice, but notice was not given in
36861 accordance with the standards of Section [~~78-45c-108~~] 78B-13-108 in the proceedings before
36862 the court that issued the order for which registration is sought.
36863 (5) If a timely request for a hearing to contest the validity of the registration is not
36864 made, the registration is confirmed as a matter of law and the person requesting registration and
36865 all persons served shall be notified of the confirmation.
36866 (6) Confirmation of a registered order, whether by operation of law or after notice and
36867 hearing, precludes further contest of the order with respect to any matter which could have been
36868 asserted at the time of registration.
36869 Section 1294. Section **78B-13-306**, which is renumbered from Section 78-45c-306 is
36870 renumbered and amended to read:
36871 **[~~78-45c-306~~]. 78B-13-306. Enforcement of registered determination.**
36872 (1) A court of this state may grant any relief normally available under the law of this
36873 state to enforce a registered child custody determination made by a court of another state.
36874 (2) A court of this state shall recognize and enforce, but may not modify except in
36875 accordance with Part 2, Jurisdiction, a registered child custody determination of another state.
36876 Section 1295. Section **78B-13-307**, which is renumbered from Section 78-45c-307 is
36877 renumbered and amended to read:
36878 **[~~78-45c-307~~]. 78B-13-307. Simultaneous proceedings.**
36879 If a proceeding for enforcement under this part has been or is commenced in this state
36880 and a court of this state determines that a proceeding to modify the determination has been
36881 commenced in another state having jurisdiction to modify the determination under Part 2,
36882 Jurisdiction, the enforcing court shall immediately communicate with the modifying court. The
36883 proceeding for enforcement continues unless the enforcing court, after consultation with the
36884 modifying court, stays or dismisses the proceeding.
36885 Section 1296. Section **78B-13-308**, which is renumbered from Section 78-45c-308 is
36886 renumbered and amended to read:

36887 **[~~78-45c-308~~]. 78B-13-308. Expedited enforcement of child custody**
36888 **determination.**
36889 (1) A petition under this part shall be verified. Certified copies of all orders sought to
36890 be enforced and of the order confirming registration, if any, shall be attached to the petition. A
36891 copy of a certified copy of an order may be attached instead of the original.
36892 (2) A petition for enforcement of a child custody determination shall state:
36893 (a) whether the court that issued the determination identified the jurisdictional basis it
36894 relied upon in exercising jurisdiction and, if so, what the basis was;
36895 (b) whether the determination for which enforcement is sought has been vacated,
36896 stayed, or modified by a court whose decision shall be enforced under this chapter or federal
36897 law and, if so, identify the court, the case number of the proceeding, and the action taken;
36898 (c) whether any proceeding has been commenced that could affect the current
36899 proceeding, including proceedings relating to domestic violence, protective orders, termination
36900 of parental rights, and adoptions and, if so, identify the court and the case number and the
36901 nature of the proceeding;
36902 (d) the present physical address of the child and the respondent, if known; and
36903 (e) whether relief in addition to the immediate physical custody of the child and
36904 [~~attorney's~~] attorney fees is sought, including a request for assistance from law enforcement
36905 officials and, if so, the relief sought.
36906 (3) If the child custody determination has been registered and confirmed under Section
36907 [~~78-45c-305~~] 78B-13-305, the petition shall also state the date and place of registration.
36908 (4) The court shall issue an order directing the respondent to appear with or without the
36909 child at a hearing and may enter any orders necessary to ensure the safety of the parties and the
36910 child.
36911 (5) The hearing shall be held on the next judicial day following service of process
36912 unless that date is impossible. In that event, the court shall hold the hearing on the first day
36913 possible. The court may extend the date of hearing at the request of the petitioner.
36914 (6) The order shall state the time and place of the hearing and shall advise the
36915 respondent that at the hearing the court will order the delivery of the child and the payment of
36916 fees, costs, and expenses under Section [~~78-45c-312~~] 78B-13-312, and may set an additional
36917 hearing to determine whether further relief is appropriate, unless the respondent appears and

36918 establishes that:
36919 (a) the child custody determination has not been registered and confirmed under
36920 Section [~~78-45c-305~~] 78B-13-305, and that:
36921 (i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;
36922 (ii) the child custody determination for which enforcement is sought has been vacated,
36923 stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction,
36924 or federal law; or
36925 (iii) the respondent was entitled to notice, but notice was not given in accordance with
36926 the standards of Section [~~78-45c-108~~] 78B-13-108 in the proceedings before the court that
36927 issued the order for which enforcement is sought; or
36928 (b) the child custody determination for which enforcement is sought was registered and
36929 confirmed under Section [~~78-45c-305~~] 78B-13-305, but has been vacated, stayed, or modified
36930 by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law.
36931 Section 1297. Section **78B-13-309**, which is renumbered from Section 78-45c-309 is
36932 renumbered and amended to read:
36933 **[~~78-45c-309~~]. 78B-13-309. Service of petition and order.**
36934 Except as otherwise provided in Section [~~78-45c-311~~] 78B-13-311, the petition and
36935 order shall be served, by any method authorized by the law of this state, upon respondent and
36936 any person who has physical custody of the child.
36937 Section 1298. Section **78B-13-310**, which is renumbered from Section 78-45c-310 is
36938 renumbered and amended to read:
36939 **[~~78-45c-310~~]. 78B-13-310. Hearing and order.**
36940 (1) Unless the court enters a temporary emergency order pursuant to Section
36941 [~~78-45c-204~~] 78B-13-204, upon a finding that a petitioner is entitled to the physical custody of
36942 the child immediately, the court shall order the child delivered to the petitioner unless the
36943 respondent establishes that:
36944 (a) the child custody determination has not been registered and confirmed under
36945 Section [~~78-45c-305~~] 78B-13-305, and that:
36946 (i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;
36947 (ii) the child custody determination for which enforcement is sought has been vacated,
36948 stayed, or modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction,

36949 or federal law; or
36950 (iii) the respondent was entitled to notice, but notice was not given in accordance with
36951 the standards of Section [~~78-45c-108~~] 78B-13-108 in the proceedings before the court that
36952 issued the order for which enforcement is sought; or
36953 (b) the child custody determination for which enforcement is sought was registered and
36954 confirmed under Section [~~78-45c-305~~] 78B-13-305, but has been vacated, stayed, or modified
36955 by a court of a state having jurisdiction to do so under Part 2, Jurisdiction, or federal law.
36956 (2) The court shall award the fees, costs, and expenses authorized under Section
36957 [~~78-45c-312~~] 78B-13-312 and may grant additional relief, including a request for the assistance
36958 of law enforcement officials, and set a further hearing to determine whether additional relief is
36959 appropriate.
36960 (3) If a party called to testify refuses to answer on the ground that the testimony may be
36961 self-incriminating, the court may draw an adverse inference from the refusal.
36962 (4) A privilege against disclosure of communications between spouses and a defense of
36963 immunity based on the relationship of husband and wife or parent and child may not be
36964 invoked in a proceeding under this chapter.
36965 Section 1299. Section **78B-13-311**, which is renumbered from Section 78-45c-311 is
36966 renumbered and amended to read:
36967 **[~~78-45c-311~~]. 78B-13-311. Writ to take physical custody of child.**
36968 (1) Upon the filing of a petition seeking enforcement of a child custody determination,
36969 the petitioner may file a verified application for the issuance of a writ of assistance to take
36970 physical custody of the child if the child is likely to suffer serious imminent physical harm or
36971 removal from this state.
36972 (2) If the court, upon the testimony of the petitioner or other witness, finds that the
36973 child is likely to suffer serious imminent physical harm or be imminently removed from this
36974 state, it may issue a writ of assistance to take physical custody of the child. The petition shall
36975 be heard within 72 hours after the writ is executed. The writ shall include the statements
36976 required by Subsection [~~78-45c-308~~] 78B-13-308(2).
36977 (3) A writ to take physical custody of a child shall:
36978 (a) recite the facts upon which a conclusion of serious imminent physical harm or
36979 removal from the jurisdiction is based;

36980 (b) direct law enforcement officers to take physical custody of the child immediately;
36981 and
36982 (c) provide for the placement of the child pending final relief.
36983 (4) The respondent shall be served with the petition, writ, and order immediately after
36984 the child is taken into physical custody.
36985 (5) A writ of assistance to take physical custody of a child is enforceable throughout
36986 this state. If the court finds on the basis of the testimony of the petitioner or other witness that
36987 a less intrusive remedy is not effective, it may authorize law enforcement officers to enter
36988 private property to take physical custody of the child. If required by the exigency of the case,
36989 the court may authorize law enforcement officers to make a forcible entry at any hour.
36990 (6) The court may impose conditions upon placement of a child to ensure the
36991 appearance of the child and the child's custodian.
36992 Section 1300. Section **78B-13-312**, which is renumbered from Section 78-45c-312 is
36993 renumbered and amended to read:
36994 **[~~78-45c-312~~]. 78B-13-312. Costs, fees, and expenses.**
36995 (1) The court shall award the prevailing party, including a state, necessary and
36996 reasonable expenses incurred by or on behalf of the party, including costs, communication
36997 expenses, [~~attorney's~~] attorney fees, investigative fees, expenses for witnesses, travel expenses,
36998 and child care during the course of the proceedings, unless the party from whom fees or
36999 expenses are sought establishes that the award would be clearly inappropriate.
37000 (2) The court may not assess fees, costs, or expenses against a state except as otherwise
37001 provided by law other than this chapter.
37002 Section 1301. Section **78B-13-313**, which is renumbered from Section 78-45c-313 is
37003 renumbered and amended to read:
37004 **[~~78-45c-313~~]. 78B-13-313. Recognition and enforcement.**
37005 A court of this state shall accord full faith and credit to an order made consistently with
37006 this chapter which enforces a child custody determination by a court of another state unless the
37007 order has been vacated, stayed, or modified by a court authorized to do so under Part 2,
37008 Jurisdiction.
37009 Section 1302. Section **78B-13-314**, which is renumbered from Section 78-45c-314 is
37010 renumbered and amended to read:

37011 **[~~78-45c-314~~]. 78B-13-314. Appeals.**
37012 An appeal may be taken from an order in a proceeding under this chapter in accordance
37013 with expedited appellate procedures in other civil cases. Unless the court enters a temporary
37014 emergency order under Section [~~78-45c-204~~] 78B-13-204, the enforcing court may not stay an
37015 order enforcing a child custody determination pending appeal.
37016 Section 1303. Section **78B-13-315**, which is renumbered from Section 78-45c-315 is
37017 renumbered and amended to read:
37018 **[~~78-45c-315~~]. 78B-13-315. Role of prosecutor or attorney general.**
37019 (1) In a case arising under this chapter or involving the Hague Convention on the Civil
37020 Aspects of International Child Abduction, the prosecutor or Attorney General may take any
37021 lawful action, including resort to a proceeding under this chapter or any other available civil
37022 proceeding to locate a child, obtain the return of a child, or enforce a child custody
37023 determination if there is:
37024 (a) an existing child custody determination;
37025 (b) a request from a court in a pending child custody case;
37026 (c) a reasonable belief that a criminal statute has been violated; or
37027 (d) a reasonable belief that the child has been wrongfully removed or retained in
37028 violation of the Hague Convention on the Civil Aspects of International Child Abduction.
37029 (2) A prosecutor or attorney general acts on behalf of the court and may not represent
37030 any party to a child custody determination.
37031 Section 1304. Section **78B-13-316**, which is renumbered from Section 78-45c-316 is
37032 renumbered and amended to read:
37033 **[~~78-45c-316~~]. 78B-13-316. Role of law enforcement.**
37034 At the request of a prosecutor or the attorney general acting under Section
37035 [~~78-45c-315,~~] 78B-13-315 a law enforcement officer may take any lawful action reasonably
37036 necessary to locate a child or a party and assist a prosecutor or attorney general with
37037 responsibilities under Section [~~78-45c-315~~] 78B-13-315.
37038 Section 1305. Section **78B-13-317**, which is renumbered from Section 78-45c-317 is
37039 renumbered and amended to read:
37040 **[~~78-45c-317~~]. 78B-13-317. Costs and expenses.**
37041 If the respondent is not the prevailing party, the court may assess against the respondent

37042 all direct expenses and costs incurred by the prosecutor or attorney general and law
37043 enforcement officers under Section [~~78-45c-315~~] 78B-13-315 or [~~78-45c-316~~] 78B-13-316.
37044 Section 1306. Section **78B-13-318**, which is renumbered from Section 78-45c-318 is
37045 renumbered and amended to read:
37046 **[~~78-45c-318~~]. 78B-13-318. Transitional provision.**
37047 A motion or other request for relief made in a child custody or enforcement proceeding
37048 which was commenced before the effective date of this chapter is governed by the law in effect
37049 at the time the motion or other request was made.
37050 Section 1307. Section **78B-14-101**, which is renumbered from Section 78-45f-100 is
37051 renumbered and amended to read:
37052 **CHAPTER 14. UNIFORM INTERSTATE FAMILY SUPPORT ACT**
37053 **Part 1. General Provisions**
37054 **[~~78-45f-100~~]. 78B-14-101. Title.**
37055 This chapter is known as the "Uniform Interstate Family Support Act."
37056 Section 1308. Section **78B-14-102**, which is renumbered from Section 78-45f-101 is
37057 renumbered and amended to read:
37058 **[~~78-45f-101~~]. 78B-14-102. Definitions.**
37059 In this chapter:
37060 (1) "Child" means an individual, whether over or under the age of majority, who is or is
37061 alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the
37062 beneficiary of a support order directed to the parent.
37063 (2) "Child-support order" means a support order for a child, including a child who has
37064 attained the age of majority under the law of the issuing state.
37065 (3) "Duty of support" means an obligation imposed or imposable by law to provide
37066 support for a child, spouse, or former spouse, including an unsatisfied obligation to provide
37067 support.
37068 (4) "Home state" means the state in which a child lived with a parent or a person acting
37069 as parent for at least six consecutive months immediately preceding the time of filing of a
37070 petition or comparable pleading for support and, if a child is less than six months old, the state
37071 in which the child lived from birth with any of them. A period of temporary absence of any of
37072 them is counted as part of the six-month or other period.

37073 (5) "Income" includes earnings or other periodic entitlements to money from any
37074 source and any other property subject to withholding for support under the law of this state.
37075 (6) "Income-withholding order" means an order or notice directed to an obligor's
37076 employer or other source of income as defined in Section 62A-11-103, to withhold support
37077 from the income of the obligor in accordance with Title 62A, Chapter 11, Part 4, Income
37078 Withholding in IV-D Cases, or Part 5, Income Withholding in Non IV-D Cases.
37079 (7) "Initiating state" means a state from which a proceeding is forwarded or in which a
37080 proceeding is filed for forwarding to a responding state under this chapter or a law or procedure
37081 substantially similar to this chapter.
37082 (8) "Initiating tribunal" means the authorized tribunal in an initiating state.
37083 (9) "Issuing state" means the state in which a tribunal issues a support order or renders
37084 a judgment determining parentage.
37085 (10) "Issuing tribunal" means the tribunal that issues a support order or renders a
37086 judgment determining parentage.
37087 (11) "Law" includes decisional and statutory law and rules and regulations having the
37088 force of law.
37089 (12) "Obligee" means:
37090 (a) an individual to whom a duty of support is or is alleged to be owed or in whose
37091 favor a support order has been issued or a judgment determining parentage has been rendered;
37092 (b) a state or political subdivision to which the rights under a duty of support or support
37093 order have been assigned or which has independent claims based on financial assistance
37094 provided to an individual obligee; or
37095 (c) an individual seeking a judgment determining parentage of the individual's child.
37096 (13) "Obligor" means an individual, or the estate of a decedent who:
37097 (a) owes or is alleged to owe a duty of support;
37098 (b) is alleged but has not been adjudicated to be a parent of a child; or
37099 (c) is liable under a support order.
37100 (14) "Person" means an individual, corporation, business trust, estate, trust,
37101 partnership, limited liability company, association, joint venture, government, governmental
37102 subdivision, agency, or instrumentality, public corporation, or any other legal or commercial
37103 entity.

37104 (15) "Record" means information that is inscribed on a tangible medium or that is
37105 stored in an electronic or other medium and is retrievable in perceivable form.
37106 (16) "Register" means to file a support order or judgment determining parentage in the
37107 district court.
37108 (17) "Registering tribunal" means a tribunal in which a support order is registered.
37109 (18) "Responding state" means a state in which a proceeding is filed or to which a
37110 proceeding is forwarded for filing from an initiating state under this chapter or a law or
37111 procedure substantially similar to this chapter.
37112 (19) "Responding tribunal" means the authorized tribunal in a responding state.
37113 (20) "Spousal-support order" means a support order for a spouse or former spouse of
37114 the obligor.
37115 (21) "State" means a state of the United States, the District of Columbia, Puerto Rico,
37116 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
37117 of the United States. The term includes:
37118 (a) an Indian tribe; and
37119 (b) a foreign country or political subdivision that:
37120 (i) has been declared to be a foreign reciprocating country or political subdivision
37121 under federal law;
37122 (ii) has established a reciprocal arrangement for child-support with this state as
37123 provided in Section [~~78-45f-208~~] 78B-14-208; or
37124 (iii) has enacted a law or established procedures for issuance and enforcement of
37125 support orders which are substantially similar to the procedures under this chapter.
37126 (22) "Support-enforcement agency" means a public official or agency authorized to
37127 seek:
37128 (a) enforcement of support orders or laws relating to the duty of support;
37129 (b) establishment or modification of child-support;
37130 (c) determination of parentage;
37131 (d) location of obligors or their assets; or
37132 (e) determination of the controlling child-support order.
37133 (23) "Support order" means a judgment, decree, order, or directive, whether temporary,
37134 final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a

37135 former spouse, which provides for monetary support, health care, arrearages, or reimbursement,
37136 and may include related costs and fees, interest, income withholding, [~~attorney's~~] attorney fees,
37137 and other relief.
37138 (24) "Tribunal" means a court, administrative agency, or quasi-judicial entity
37139 authorized to establish, enforce, or modify support orders or to determine parentage.
37140 Section 1309. Section **78B-14-103**, which is renumbered from Section 78-45f-102 is
37141 renumbered and amended to read:
37142 **[~~78-45f-102~~]. 78B-14-103. Tribunal of state.**
37143 The district court and the Department of Human Services are the tribunals of this state.
37144 Section 1310. Section **78B-14-104**, which is renumbered from Section 78-45f-103 is
37145 renumbered and amended to read:
37146 **[~~78-45f-103~~]. 78B-14-104. Remedies cumulative.**
37147 (1) Remedies provided by this chapter are cumulative and do not affect the availability
37148 of remedies under other law, including the recognition of a support order of a foreign country
37149 or political subdivision on the basis of comity.
37150 (2) This chapter does not:
37151 (a) provide the exclusive method of establishing or enforcing a support order under the
37152 law of this state; or
37153 (b) grant a tribunal of this state jurisdiction to render judgment or issue an order
37154 relating to child custody or parent-time in a proceeding under this chapter.
37155 Section 1311. Section **78B-14-201**, which is renumbered from Section 78-45f-201 is
37156 renumbered and amended to read:
37157 **Part 2. Jurisdiction**
37158 **[~~78-45f-201~~]. 78B-14-201. Bases for jurisdiction over nonresident.**
37159 (1) In a proceeding to establish or enforce a support order or to determine parentage, a
37160 tribunal of this state may exercise personal jurisdiction over a nonresident individual, or the
37161 individual's guardian or conservator, if:
37162 (a) the individual is personally served with notice within this state;
37163 (b) the individual submits to the jurisdiction of this state by consent, by entering a
37164 general appearance, or by filing a responsive document having the effect of waiving any contest
37165 to personal jurisdiction;

37166 (c) the individual resided with the child in this state;
37167 (d) the individual resided in this state and provided prenatal expenses or support for the
37168 child;
37169 (e) the child resides in this state as a result of the acts or directives of the individual;
37170 (f) the individual engaged in sexual intercourse in this state and the child may have
37171 been conceived by that act of intercourse;
37172 (g) the individual asserted parentage in the putative father registry maintained in this
37173 state by the state registrar of vital records in the Department of Health pursuant to Title [~~78~~]
37174 78B, Chapter [~~30~~] 6, Part 1, Utah Adoption Act; or
37175 (h) there is any other basis consistent with the constitutions of this state and the United
37176 States for the exercise of personal jurisdiction.
37177 (2) The bases of personal jurisdiction set forth in Subsection (1) or in any other law of
37178 this state may not be used to acquire personal jurisdiction for a tribunal of the state to modify a
37179 child-support order of another state unless the requirements of Section [~~78-45f-611 or~~
37180 ~~78-45f-615~~] 78B-14-611 or 78B-14-615 are met.
37181 Section 1312. Section **78B-14-202**, which is renumbered from Section 78-45f-202 is
37182 renumbered and amended to read:
37183 **[~~78-45f-202~~]. 78B-14-202. Duration of personal jurisdiction.**
37184 Personal jurisdiction acquired by a tribunal of this state in a proceeding under this
37185 chapter or other law of this state relating to a support order continues as long as a tribunal of
37186 this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to
37187 enforce its order as provided by Sections [~~78-45f-205, 78-45f-206, and 78-45f-211~~]
37188 78B-14-205, 78B-14-206, and 78B-14-211.
37189 Section 1313. Section **78B-14-203**, which is renumbered from Section 78-45f-203 is
37190 renumbered and amended to read:
37191 **[~~78-45f-203~~]. 78B-14-203. Initiating and responding tribunal of state.**
37192 Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward
37193 proceedings to another state and as a responding tribunal for proceedings initiated in another
37194 state.
37195 Section 1314. Section **78B-14-204**, which is renumbered from Section 78-45f-204 is
37196 renumbered and amended to read:

37197 **[~~78-45f-204~~]. 78B-14-204. Simultaneous proceedings in another state.**
37198 (1) A tribunal of this state may exercise jurisdiction to establish a support order if the
37199 petition is filed after a petition or comparable pleading is filed in another state only:
37200 (a) if the petition in this state is filed before the expiration of the time allowed in the
37201 other state for filing a responsive pleading challenging the exercise of jurisdiction by the other
37202 state;
37203 (b) if the contesting party timely challenges the exercise of jurisdiction in the other
37204 state; and
37205 (c) if relevant, this state is the home state of the child.
37206 (2) A tribunal of this state may not exercise jurisdiction to establish a support order if
37207 the petition is filed before a petition or comparable pleading is filed in another state:
37208 (a) if the petition or comparable pleading in the other state is filed before the expiration
37209 of the time allowed in this state for filing a responsive pleading challenging the exercise of
37210 jurisdiction by this state;
37211 (b) if the contesting party timely challenges the exercise of jurisdiction in this state; and
37212 (c) if relevant, the other state is the home state of the child.
37213 Section 1315. Section **78B-14-205**, which is renumbered from Section 78-45f-205 is
37214 renumbered and amended to read:
37215 **[~~78-45f-205~~]. 78B-14-205. Continuing, exclusive jurisdiction.**
37216 (1) A tribunal of this state that has issued a child-support order consistent with the law
37217 of this state has and shall exercise continuing, exclusive jurisdiction to modify its child-support
37218 order if the order is the controlling order, and:
37219 (a) at the time of the filing of a request for modification, this state is the residence of
37220 the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
37221 (b) even if this state is not the residence of the obligor, the individual obligee, or the
37222 child for whose benefit the support order is issued, the parties consent in a record or in open
37223 court that the tribunal of this state may continue to exercise jurisdiction to modify its order.
37224 (2) A tribunal of this state that has issued a child-support order consistent with the law
37225 of this state may not exercise continuing, exclusive jurisdiction to modify the order if:
37226 (a) all of the parties who are individuals file consent in a record with the tribunal of this
37227 state that a tribunal of another state that has jurisdiction over at least one of the parties who is

37228 an individual or that is located in the state of residence of the child may modify the order and
37229 assume continuing, exclusive jurisdiction; or
37230 (b) its order is not the controlling order.
37231 (3) If a tribunal of another state has issued a child-support order pursuant to this
37232 chapter or a law substantially similar to this chapter which modifies a child-support order of a
37233 tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction
37234 of the tribunal of the other state.
37235 (4) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a
37236 child-support order may serve as an initiating tribunal to request a tribunal or another state to
37237 modify a support order issued in that state.
37238 (5) A temporary support order issued ex parte or pending resolution of a jurisdictional
37239 conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.
37240 Section 1316. Section **78B-14-206**, which is renumbered from Section 78-45f-206 is
37241 renumbered and amended to read:
37242 **[~~78-45f-206~~]. 78B-14-206. Enforcement and modification of support order**
37243 **by tribunal having continuing jurisdiction.**
37244 (1) A tribunal of this state that has issued a child-support order consistent with the law
37245 of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:
37246 (a) the order if the order is the controlling order and has not been modified by a
37247 tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family
37248 Support Act; or
37249 (b) a money judgment for arrears of support and interest on the order accrued before a
37250 determination that an order of another state is the controlling order.
37251 (2) A tribunal of this state having continuing jurisdiction over a support order may act
37252 as a responding tribunal to enforce the order.
37253 Section 1317. Section **78B-14-207**, which is renumbered from Section 78-45f-207 is
37254 renumbered and amended to read:
37255 **[~~78-45f-207~~]. 78B-14-207. Recognition of controlling child-support order.**
37256 (1) If a proceeding is brought under this chapter and only one tribunal has issued a
37257 child-support order, the order of that tribunal controls and must be so recognized.
37258 (2) If a proceeding is brought under this chapter, and two or more child-support orders

37259 have been issued by tribunals of this state or another state with regard to the same obligor and
37260 same child, a tribunal of this state having personal jurisdiction over both the obligor and
37261 individual obligee shall apply the following rules and by order shall determine which order
37262 controls:
37263 (a) If only one of the tribunals would have continuing, exclusive jurisdiction under this
37264 chapter, the order of that tribunal controls and must be so recognized.
37265 (b) If more than one of the tribunals would have continuing, exclusive jurisdiction
37266 under this chapter, an order issued by a tribunal in the current home state of the child controls,
37267 but if an order has not been issued in the current home state of the child, the order most
37268 recently issued controls.
37269 (c) If none of the tribunals would have continuing, exclusive jurisdiction under this
37270 chapter, the tribunal of this state shall issue a child-support order, which controls.
37271 (3) If two or more child-support orders have been issued for the same obligor and same
37272 child, upon request of a party who is an individual or a support-enforcement agency, a tribunal
37273 of this state having personal jurisdiction over both the obligor and the obligee who is an
37274 individual shall determine which order controls under Subsection (2). The request may be filed
37275 with a registration for enforcement or registration for modification pursuant to Part 6,
37276 Registration, Enforcement, and Modification of Support Order, or may be filed as a separate
37277 proceeding.
37278 (4) A request to determine which is the controlling order must be accompanied by a
37279 copy of every child-support order in effect and the applicable record of payments. The
37280 requesting party shall give notice of the request to each party whose rights may be affected by
37281 the determination.
37282 (5) The tribunal that issued the controlling order under Subsection (1), (2), or (3) has
37283 continuing jurisdiction to the extent provided in Section [~~78-45f-205 or 78-45f-206~~]
37284 78B-14-205 or 78B-14-206.
37285 (6) A tribunal of this state that determines by order which is the controlling order under
37286 Subsection (2)(a), (b) or, (3) that issues a new controlling order under Subsection (2)(c), shall
37287 state in that order:
37288 (a) the basis upon which the tribunal made its determination;
37289 (b) the amount of prospective support, if any; and

37290 (c) the total amount of consolidated arrears and accrued interest, if any, under all of the
37291 orders after all payments made are credited as provided by Section [~~78-45f-209~~] 78B-14-209.
37292 (7) Within 30 days after issuance of an order determining which is the controlling
37293 order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or
37294 registered an earlier order of child-support. A party or support-enforcement agency obtaining
37295 the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in
37296 which the issue of failure to file arises. The failure to file does not affect the validity or
37297 enforceability of the controlling order.
37298 (8) An order that has been determined to be the controlling order, or a judgment for
37299 consolidated arrears of support and interest, if any, made pursuant to this section must be
37300 recognized in proceedings under this chapter.
37301 Section 1318. Section **78B-14-208**, which is renumbered from Section 78-45f-208 is
37302 renumbered and amended to read:
37303 **[~~78-45f-208~~]. 78B-14-208. Child-support orders for two or more obligees.**
37304 In responding to registrations or petitions for enforcement of two or more child-support
37305 orders in effect at the same time with regard to the same obligor and different individual
37306 obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state
37307 shall enforce those orders in the same manner as if the orders had been issued by a tribunal of
37308 this state.
37309 Section 1319. Section **78B-14-209**, which is renumbered from Section 78-45f-209 is
37310 renumbered and amended to read:
37311 **[~~78-45f-209~~]. 78B-14-209. Credit for payments.**
37312 A tribunal of this state shall credit amounts collected for a particular period pursuant to
37313 any child-support order against the amounts owed for the same period under any other
37314 child-support order for support of the same child issued by a tribunal of this or another state.
37315 Section 1320. Section **78B-14-210**, which is renumbered from Section 78-45f-210 is
37316 renumbered and amended to read:
37317 **[~~78-45f-210~~]. 78B-14-210. Application to nonresident subject to personal**
37318 **jurisdiction.**
37319 A tribunal of this state exercising personal jurisdiction over a nonresident in a
37320 proceeding under this chapter, under other law of this state relating to a support order, or

37321 recognizing a support order of a foreign country or political subdivision on the basis of comity
37322 may receive evidence from another state pursuant to Section [~~78-45f-316~~] 78B-14-316,
37323 communicate with a tribunal of another state pursuant to Section [~~78-45f-317~~] 78B-14-317,
37324 and obtain discovery through a tribunal of another state pursuant to Section [~~78-45f-318~~]
37325 78B-14-318. In all other respects, Parts 3 through 7 do not apply and the tribunal shall apply
37326 the procedural and substantive law of this state.
37327 Section 1321. Section **78B-14-211**, which is renumbered from Section 78-45f-211 is
37328 renumbered and amended to read:
37329 **[~~78-45f-211~~]. 78B-14-211. Continuing, exclusive jurisdiction to modify**
37330 **spousal-support order.**
37331 (1) A tribunal of this state issuing a spousal-support order consistent with the law of
37332 this state has continuing, exclusive jurisdiction to modify the spousal-support order throughout
37333 the existence of the support obligation.
37334 (2) A tribunal of this state may not modify a spousal-support order issued by a tribunal
37335 of another state having continuing, exclusive jurisdiction over that order under the law of that
37336 state.
37337 (3) A tribunal of this state that has continuing, exclusive jurisdiction over a
37338 spousal-support order may serve as:
37339 (a) an initiating tribunal to request a tribunal of another state to enforce the
37340 spousal-support order issued in this state; or
37341 (b) a responding tribunal to enforce or modify its own spousal-support order.
37342 Section 1322. Section **78B-14-301**, which is renumbered from Section 78-45f-301 is
37343 renumbered and amended to read:
37344 **Part 3. Proceedings**
37345 **[~~78-45f-301~~]. 78B-14-301. Proceedings under chapter.**
37346 (1) Except as otherwise provided in this chapter, this part applies to all proceedings
37347 under this chapter.
37348 (2) An individual petitioner or a support-enforcement agency may initiate a proceeding
37349 authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a
37350 responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of
37351 another state which has or can obtain personal jurisdiction over the respondent.

37352 Section 1323. Section **78B-14-302**, which is renumbered from Section 78-45f-302 is
37353 renumbered and amended to read:
37354 **[~~78-45f-302~~]. 78B-14-302. Action by minor parent.**
37355 A minor parent, or a guardian or other legal representative of a minor parent, may
37356 maintain a proceeding on behalf of or for the benefit of the minor's child.
37357 Section 1324. Section **78B-14-303**, which is renumbered from Section 78-45f-303 is
37358 renumbered and amended to read:
37359 **[~~78-45f-303~~]. 78B-14-303. Application of law of state.**
37360 Except as otherwise provided in this chapter, a responding tribunal of this state shall:
37361 (1) apply the procedural and substantive law generally applicable to similar
37362 proceedings originating in this state and may exercise all powers and provide all remedies
37363 available in those proceedings; and
37364 (2) determine the duty of support and the amount payable in accordance with the law
37365 and support guidelines of this state.
37366 Section 1325. Section **78B-14-304**, which is renumbered from Section 78-45f-304 is
37367 renumbered and amended to read:
37368 **[~~78-45f-304~~]. 78B-14-304. Duties of initiating tribunal.**
37369 (1) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this
37370 state shall forward the petition and its accompanying documents:
37371 (a) to the responding tribunal or appropriate support-enforcement agency in the
37372 responding state; or
37373 (b) if the identity of the responding tribunal is unknown, to the state information
37374 agency of the responding state with a request that they be forwarded to the appropriate tribunal
37375 and that receipt be acknowledged.
37376 (2) If requested by the responding tribunal, a tribunal of this state shall issue a
37377 certificate or other document and make findings required by the law of the responding state. If
37378 the responding state is a foreign country or political subdivision, upon request, the tribunal
37379 shall specify the amount of support sought, convert that amount into the equivalent amount in
37380 the foreign currency under applicable official or market exchange rate as publicly reported, and
37381 provide any other documents necessary to satisfy the requirements of the responding state.
37382 Section 1326. Section **78B-14-305**, which is renumbered from Section 78-45f-305 is

37383 renumbered and amended to read:

37384 **[~~78-45f-305~~]. 78B-14-305. Duties and powers of responding tribunal.**

37385 (1) When a responding tribunal of this state receives a petition or comparable pleading
37386 from an initiating tribunal or directly pursuant to Subsection [~~78-45f-301~~] 78B-14-301(2), it
37387 shall cause the petition or pleading to be filed and notify the petitioner where and when it was
37388 filed.

37389 (2) A responding tribunal of this state, to the extent not prohibited by other law, may
37390 do one or more of the following:

37391 (a) issue or enforce a support order, modify a child-support order, determine the
37392 controlling child-support order, or determine parentage;

37393 (b) order an obligor to comply with a support order, specifying the amount and the
37394 manner of compliance;

37395 (c) order income withholding;

37396 (d) determine the amount of any arrearages and specify a method of payment;

37397 (e) enforce orders by civil or criminal contempt, or both;

37398 (f) set aside property for satisfaction of the support order;

37399 (g) place liens and order execution on the obligor's property;

37400 (h) order an obligor to keep the tribunal informed of the obligor's current residential
37401 address, telephone number, employer, address of employment, and telephone number at the
37402 place of employment;

37403 (i) issue a bench warrant for an obligor who has failed after proper notice to appear at a
37404 hearing ordered by the tribunal and enter the bench warrant in any local and state computer
37405 systems for criminal warrants;

37406 (j) order the obligor to seek appropriate employment by specified methods;

37407 (k) award reasonable [~~attorneys'~~] attorney fees and other fees and costs; and

37408 (l) grant any other available remedy.

37409 (3) A responding tribunal of this state shall include in a support order issued under this
37410 chapter, or in the documents accompanying the order, the calculations on which the support
37411 order is based.

37412 (4) A responding tribunal of this state may not condition the payment of a support
37413 order issued under this chapter upon compliance by a party with provisions for parent-time.

37414 (5) If a responding tribunal of this state issues an order under this chapter, the tribunal
37415 shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal,
37416 if any.
37417 (6) If requested to enforce a support order, arrears, or judgment or modify a support
37418 order stated in a foreign currency, a responding tribunal of this state shall convert the amount
37419 stated in the foreign currency to the equivalent amount in dollars under the applicable official
37420 or market exchange rate as publicly reported.
37421 Section 1327. Section **78B-14-306**, which is renumbered from Section 78-45f-306 is
37422 renumbered and amended to read:
37423 **[~~78-45f-306~~]. 78B-14-306. Inappropriate tribunal.**
37424 If a petition or comparable pleading is received by an inappropriate tribunal of this
37425 state, the tribunal shall forward the pleading and accompanying documents to an appropriate
37426 tribunal in this state or another state and notify the petitioner where and when the pleading was
37427 sent.
37428 Section 1328. Section **78B-14-307**, which is renumbered from Section 78-45f-307 is
37429 renumbered and amended to read:
37430 **[~~78-45f-307~~]. 78B-14-307. Duties of support-enforcement agency.**
37431 (1) A support-enforcement agency of this state, upon request, shall provide services to
37432 a petitioner in a proceeding under this chapter.
37433 (2) A support-enforcement agency of this state that is providing services to the
37434 petitioner shall:
37435 (a) take all steps necessary to enable an appropriate tribunal in this state or another
37436 state to obtain jurisdiction over the respondent;
37437 (b) request an appropriate tribunal to set a date, time, and place for a hearing;
37438 (c) make a reasonable effort to obtain all relevant information, including information as
37439 to income and property of the parties;
37440 (d) within ten days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of
37441 a written notice in a record from an initiating, responding, or registering tribunal, send a copy
37442 of the notice to the petitioner;
37443 (e) within ten days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of
37444 a written communication in a record from the respondent or the respondent's attorney, send a

37445 copy of the communication to the petitioner; and
37446 (f) notify the petitioner if jurisdiction over the respondent cannot be obtained.
37447 (3) A support-enforcement agency of this state that requests registration of a
37448 child-support order in this state for enforcement or for modification shall make reasonable
37449 efforts:
37450 (a) to ensure that the order to be registered is the controlling order; or
37451 (b) if two or more child-support orders exist and the identity of the controlling order
37452 has not been determined, to ensure that a request for such a determination is made in a tribunal
37453 having jurisdiction to do so.
37454 (4) A support-enforcement agency of this state that requests registration and
37455 enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert
37456 the amounts stated in the foreign currency into the equivalent amounts in dollars under the
37457 applicable official or market exchange rate as publicly reported.
37458 (5) A support-enforcement agency of this state shall issue or request a tribunal of this
37459 state to issue a child-support order and an income-withholding order that redirects payment of
37460 current support, arrears, and interest if requested to do so by a support-enforcement agency of
37461 another state pursuant to Section [~~78-45f-319~~] 78B-14-319.
37462 (6) This chapter does not create or negate a relationship of attorney and client or other
37463 fiduciary relationship between a support-enforcement agency or the attorney for the agency and
37464 the individual being assisted by the agency.
37465 Section 1329. Section **78B-14-308**, which is renumbered from Section 78-45f-308 is
37466 renumbered and amended to read:
37467 **[~~78-45f-308~~]. 78B-14-308. Duty of attorney general.**
37468 (1) If the attorney general determines that the support-enforcement agency is neglecting
37469 or refusing to provide services to an individual, the attorney general may order the agency to
37470 perform its duties under this chapter or may provide those services directly to the individual.
37471 (2) The attorney general may determine that a foreign country or political subdivision
37472 has established a reciprocal arrangement for child-support with this state and take appropriate
37473 action for notification of the determination.
37474 Section 1330. Section **78B-14-309**, which is renumbered from Section 78-45f-309 is
37475 renumbered and amended to read:

37476 **[~~78-45f-309~~]. 78B-14-309. Private counsel.**
37477 An individual may employ private counsel to represent the individual in proceedings
37478 authorized by this chapter.
37479 Section 1331. Section **78B-14-310**, which is renumbered from Section 78-45f-310 is
37480 renumbered and amended to read:
37481 **[~~78-45f-310~~]. 78B-14-310. Duties of state information agency.**
37482 (1) The Office of Recovery Services is the state information agency under this chapter.
37483 (2) The state information agency shall:
37484 (a) compile and maintain a current list, including addresses, of the tribunals in this state
37485 which have jurisdiction under this chapter and any support-enforcement agencies in this state
37486 and transmit a copy to the state information agency of every other state;
37487 (b) maintain a register of names and addresses of tribunals and support-enforcement
37488 agencies received from other states;
37489 (c) forward to the appropriate tribunal in the county in this state in which the obligee
37490 who is an individual or the obligor resides, or in which the obligor's property is believed to be
37491 located, all documents concerning a proceeding under this chapter received from an initiating
37492 tribunal or the state information agency of the initiating state; and
37493 (d) obtain information concerning the location of the obligor and the obligor's property
37494 within this state not exempt from execution, by such means as postal verification and federal or
37495 state locator services, examination of telephone directories, requests for the obligor's address
37496 from employers, and examination of governmental records, including, to the extent not
37497 prohibited by law, those relating to real property, vital records, law enforcement, taxation,
37498 motor vehicles, driver's licenses, and Social Security number.
37499 Section 1332. Section **78B-14-311**, which is renumbered from Section 78-45f-311 is
37500 renumbered and amended to read:
37501 **[~~78-45f-311~~]. 78B-14-311. Pleadings and accompanying documents.**
37502 (1) In a proceeding under this chapter, a petitioner seeking to establish a support order,
37503 to determine parentage, or to register and modify a support order of another state must file a
37504 petition. Unless otherwise ordered under Section [~~78-45f-312~~] 78B-14-312, the petition or
37505 accompanying documents must provide, so far as known, the name, residential address, and
37506 Social Security numbers of the obligor and the obligee or the parent and alleged parent, and the

37507 name, sex, residential address, Social Security number, and date of birth of each child for
37508 whose benefit support is sought or whose parentage is to be determined. Unless filed at the
37509 time of registration, the petition must be accompanied by a copy of any support order known to
37510 have been issued by another tribunal. The petition may include any other information that may
37511 assist in locating or identifying the respondent.
37512 (2) The petition must specify the relief sought. The petition and accompanying
37513 documents must conform substantially with the requirements imposed by the forms mandated
37514 by federal law for use in cases filed by a support-enforcement agency.
37515 Section 1333. Section **78B-14-312**, which is renumbered from Section 78-45f-312 is
37516 renumbered and amended to read:
37517 **[~~78-45f-312~~]. 78B-14-312. Nondisclosure of information in exceptional**
37518 **circumstances.**
37519 If a party alleges in an affidavit or a pleading under oath that the health, safety, or
37520 liberty of a party or child would be jeopardized by disclosure of specific identifying
37521 information, that information must be sealed and may not be disclosed to the other party or the
37522 public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty
37523 of the party or child, the tribunal may order disclosure of information that the tribunal
37524 determines to be in the interest of justice.
37525 Section 1334. Section **78B-14-313**, which is renumbered from Section 78-45f-313 is
37526 renumbered and amended to read:
37527 **[~~78-45f-313~~]. 78B-14-313. Costs and fees.**
37528 (1) The petitioner may not be required to pay a filing fee or other costs.
37529 (2) If an obligee prevails, a responding tribunal may assess against an obligor filing
37530 fees, reasonable [~~attorneys'~~] attorney fees, other costs, and necessary travel and other
37531 reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not
37532 assess fees, costs, or expenses against the obligee or the support enforcement agency of either
37533 the initiating or the responding state, except as provided by law. [~~Attorney's~~] Attorney fees
37534 may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the
37535 order in the attorney's own name. Payment of support owed to the obligee has priority over
37536 fees, costs, and expenses.
37537 (3) The tribunal shall order the payment of costs and reasonable [~~attorneys'~~] attorney

37538 fees if it determines that a hearing was requested primarily for delay. In a proceeding under
37539 Part 6, Registration, Enforcement, and Modification of Support Order, a hearing is presumed to
37540 have been requested primarily for delay if a registered support order is confirmed or enforced
37541 without change.
37542 Section 1335. Section **78B-14-314**, which is renumbered from Section 78-45f-314 is
37543 renumbered and amended to read:
37544 **[~~78-45f-314~~]. 78B-14-314. Limited immunity of petitioner.**
37545 (1) Participation by a petitioner in a proceeding under this chapter before a responding
37546 tribunal, whether in person, by private attorney, or through services provided by the
37547 support-enforcement agency, does not confer personal jurisdiction over the petitioner in
37548 another proceeding.
37549 (2) A petitioner is not amenable to service of civil process while physically present in
37550 this state to participate in a proceeding under this chapter.
37551 (3) The immunity granted by this section does not extend to civil litigation based on
37552 acts unrelated to a proceeding under this chapter committed by a party while present in this
37553 state to participate in the proceeding.
37554 Section 1336. Section **78B-14-315**, which is renumbered from Section 78-45f-315 is
37555 renumbered and amended to read:
37556 **[~~78-45f-315~~]. 78B-14-315. Nonparentage as defense.**
37557 A party whose parentage of a child has been previously determined by or pursuant to
37558 law may not plead nonparentage as a defense to a proceeding under this chapter.
37559 Section 1337. Section **78B-14-316**, which is renumbered from Section 78-45f-316 is
37560 renumbered and amended to read:
37561 **[~~78-45f-316~~]. 78B-14-316. Special rules of evidence and procedure.**
37562 (1) The physical presence of a nonresident party who is an individual in a tribunal of
37563 this state is not required for the establishment, enforcement, or modification of a support order
37564 or the rendition of a judgment determining parentage.
37565 (2) An affidavit, a document substantially complying with federally mandated forms, or
37566 a document incorporated by reference in any of them, which would not be excluded under the
37567 hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a
37568 party or witness residing in another state.

37569 (3) A copy of the record of child-support payments certified as a true copy of the
37570 original by the custodian of the record may be forwarded to a responding tribunal. The copy is
37571 evidence of facts asserted in it and is admissible to show whether payments were made.
37572 (4) Copies of bills for testing for parentage, and for prenatal and postnatal health care
37573 of the mother and child, furnished to the adverse party at least ten days before trial, are
37574 admissible in evidence to prove the amount of the charges billed and that the charges were
37575 reasonable, necessary, and customary.
37576 (5) Documentary evidence transmitted from another state to a tribunal of this state by
37577 telephone, telecopier, or other means that do not provide an original record may not be
37578 excluded from evidence on an objection based on the means of transmission.
37579 (6) In a proceeding under this chapter, a tribunal of this state shall permit a party or
37580 witness residing in another state to be deposed or to testify by telephone, audiovisual means, or
37581 other electronic means at a designated tribunal or other location in that state. A tribunal of this
37582 state shall cooperate with tribunals of other states in designating an appropriate location for the
37583 deposition or testimony.
37584 (7) If a party called to testify at a civil hearing refuses to answer on the ground that the
37585 testimony may be self-incriminating, the trier of fact may draw an adverse inference from the
37586 refusal.
37587 (8) A privilege against disclosure of communications between spouses does not apply
37588 in a proceeding under this chapter.
37589 (9) The defense of immunity based on the relationship of husband and wife or parent
37590 and child does not apply in a proceeding under this chapter.
37591 (10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to
37592 establish parentage of the child.
37593 Section 1338. Section **78B-14-317**, which is renumbered from Section 78-45f-317 is
37594 renumbered and amended to read:
37595 **[~~78-45f-317~~]. 78B-14-317. Communications between tribunals.**
37596 A tribunal of this state may communicate with a tribunal of another state or foreign
37597 country or political subdivision in a record, or by telephone or other means, to obtain
37598 information concerning the laws, the legal effect of a judgment, decree, or order of that
37599 tribunal, and the status of a proceeding in the other state or a foreign country or political

37600 subdivision. A tribunal of this state may furnish similar information by similar means to a
37601 tribunal of another state or foreign country or political subdivision.
37602 Section 1339. Section **78B-14-318**, which is renumbered from Section 78-45f-318 is
37603 renumbered and amended to read:
37604 **[~~78-45f-318~~]. 78B-14-318. Assistance with discovery.**
37605 A tribunal of this state may:
37606 (1) request a tribunal of another state to assist in obtaining discovery; and
37607 (2) upon request, compel a person over whom it has jurisdiction to respond to a
37608 discovery order issued by a tribunal of another state.
37609 Section 1340. Section **78B-14-319**, which is renumbered from Section 78-45f-319 is
37610 renumbered and amended to read:
37611 **[~~78-45f-319~~]. 78B-14-319. Receipt and disbursement of payments.**
37612 (1) A support-enforcement agency or tribunal of this state shall disburse promptly any
37613 amounts received pursuant to a support order, as directed by the order. The agency or tribunal
37614 shall furnish to a requesting party or tribunal of another state a certified statement by the
37615 custodian of the record of the amounts and dates of all payments received.
37616 (2) If neither the obligor, nor the obligee who is an individual, nor the child resides in
37617 this state, upon request from the support-enforcement agency of this state or another state, the
37618 Office of Recovery Services or a tribunal of this state shall:
37619 (a) direct that the support payment be made to the support-enforcement agency in the
37620 state in which the obligee is receiving services; and
37621 (b) issue and send to the obligor's employer a conforming income-withholding order or
37622 an administrative notice of change of payee, reflecting the redirected payments.
37623 (3) The support-enforcement agency of this state receiving redirected payments from
37624 another state pursuant to a law similar to Subsection (2) shall furnish to a requesting party or
37625 tribunal of the other state a certified statement by the custodian of the record of the amount and
37626 dates of all payments received.
37627 Section 1341. Section **78B-14-401**, which is renumbered from Section 78-45f-401 is
37628 renumbered and amended to read:
37629 **Part 4. Support Order**
37630 **[~~78-45f-401~~]. 78B-14-401. Petition to establish support order.**

37631 (1) If a support order entitled to recognition under this chapter has not been issued, a
37632 responding tribunal of this state may issue a support order if:
37633 (a) the individual seeking the order resides in another state; or
37634 (b) the support-enforcement agency seeking the order is located in another state.
37635 (2) The tribunal may issue a temporary child-support order if the tribunal determines
37636 that [~~such~~] an order is appropriate and the individual ordered to pay is:
37637 (a) a presumed father of the child;
37638 (b) petitioning to have his paternity adjudicated;
37639 (c) identified as the father of the child through genetic testing;
37640 (d) an alleged father who has declined to submit to genetic testing;
37641 (e) shown by clear and convincing evidence to be the father of the child;
37642 (f) an acknowledged father determined in accordance with Title [~~78~~] 78B, Chapter
37643 [~~45c~~] 15, Part 3, Voluntary Declaration of Paternity Act;
37644 (g) the mother of the child; or
37645 (h) an individual who has been ordered to pay child-support in a previous proceeding
37646 and the order has not been reversed or vacated.
37647 (3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty
37648 of support, the tribunal shall issue a support order directed to the obligor and may issue other
37649 orders pursuant to Section [~~78-45f-305~~] 78B-14-305.
37650 Section 1342. Section **78B-14-501**, which is renumbered from Section 78-45f-501 is
37651 renumbered and amended to read:
37652 **Part 5. Income Withholding Orders**
37653 **[~~78-45f-501~~]. 78B-14-501. Employer's receipt of income-withholding order**
37654 **of another state.**
37655 An income-withholding order issued in another state may be sent by or on behalf of the
37656 obligee, or by the support-enforcement agency, to the person defined as the obligor's employer
37657 under Title 62A, Chapter 11, Parts 4 and 5, Income Withholding, without first filing a petition
37658 or comparable pleading or registering the order with a tribunal of this state.
37659 Section 1343. Section **78B-14-502**, which is renumbered from Section 78-45f-502 is
37660 renumbered and amended to read:
37661 **[~~78-45f-502~~]. 78B-14-502. Employer's compliance with income**

37662 **withholding of another state.**
37663 (1) Upon receipt of an income-withholding order, the obligor's employer shall
37664 immediately provide a copy of the order to the obligor.
37665 (2) The employer shall treat an income-withholding order issued in another state which
37666 appears regular on its face as if it had been issued by a tribunal of this state.
37667 (3) Except as otherwise provided in Subsection (4) and Section [~~78-45f-503~~]
37668 78B-14-503, the employer shall withhold and distribute the funds as directed in the
37669 withholding order by complying with terms of the order which specify:
37670 (a) the duration and amount of periodic payments of current child-support, stated as a
37671 sum certain;
37672 (b) the person designated to receive payments and the address to which the payments
37673 are to be forwarded;
37674 (c) medical support, whether in the form of periodic cash payment, stated as a sum
37675 certain, or ordering the obligor to provide health insurance coverage for the child under a policy
37676 available through the obligor's employment;
37677 (d) the amount of periodic payments of fees and costs for a support-enforcement
37678 agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
37679 (e) the amount of periodic payments of arrearages and interest on arrearages, stated as
37680 sums certain.
37681 (4) An employer shall comply with the law of the state of the obligor's principal place
37682 of employment for withholding from income with respect to:
37683 (a) the employer's fee for processing an income withholding order;
37684 (b) the maximum amount permitted to be withheld from the obligor's income; and
37685 (c) the times within which the employer must implement the withholding order and
37686 forward the child-support payment.
37687 Section 1344. Section **78B-14-503**, which is renumbered from Section 78-45f-503 is
37688 renumbered and amended to read:
37689 **[~~78-45f-503~~]. 78B-14-503. Compliance with multiple income-withholding**
37690 **orders.**
37691 If an obligor's employer receives two or more income-withholding orders with respect
37692 to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the

37693 employer complies with the law of the state of the obligor's principal place of employment to
37694 establish the priorities for the withholding and allocating income withheld for two or more
37695 obligees.
37696 Section 1345. Section **78B-14-504**, which is renumbered from Section 78-45f-504 is
37697 renumbered and amended to read:
37698 **[~~78-45f-504~~]. 78B-14-504. Immunity from civil liability.**
37699 An employer who complies with an income withholding order issued in another state in
37700 accordance with this part is not subject to civil liability to an individual or agency with regard
37701 to the employer's withholding of child support from the obligor's income.
37702 Section 1346. Section **78B-14-505**, which is renumbered from Section 78-45f-505 is
37703 renumbered and amended to read:
37704 **[~~78-45f-505~~]. 78B-14-505. Penalties for noncompliance.**
37705 An employer who willfully fails to comply with an income withholding order issued by
37706 another state and received for enforcement is subject to the same penalties that may be imposed
37707 for noncompliance with an order issued by a tribunal of this state.
37708 Section 1347. Section **78B-14-506**, which is renumbered from Section 78-45f-506 is
37709 renumbered and amended to read:
37710 **[~~78-45f-506~~]. 78B-14-506. Contest by obligor.**
37711 (1) An obligor may contest the validity or enforcement of an income-withholding order
37712 issued in another state and received directly by an employer in this state by registering the order
37713 in a tribunal of this state and filing a contest to that order as provided in Part 6, Registration,
37714 Enforcement, and Modification of Support Order, or otherwise contesting the order in the same
37715 manner as if the order had been issued by a tribunal of this state.
37716 (2) The obligor shall give notice of the contest to:
37717 (a) a support-enforcement agency providing services to the obligee;
37718 (b) each employer that has directly received an income-withholding order relating to
37719 the obligor; and
37720 (c) the person designated to receive payments in the income-withholding order or if no
37721 person is designated, to the obligee.
37722 Section 1348. Section **78B-14-507**, which is renumbered from Section 78-45f-507 is
37723 renumbered and amended to read:

37724 **[~~78-45f-507~~]. 78B-14-507. Administrative enforcement of orders.**
37725 (1) A party or support-enforcement agency seeking to enforce a support order or an
37726 income-withholding order, or both, issued by a tribunal of another state may send the
37727 documents required for registering the order to a support-enforcement agency of this state.
37728 (2) Upon receipt of the documents, the support-enforcement agency, without initially
37729 seeking to register the order, shall consider and, if appropriate, use any administrative
37730 procedure authorized by the law of this state to enforce a support order or an
37731 income-withholding order, or both. If the obligor does not contest administrative enforcement,
37732 the order need not be registered. If the obligor contests the validity or administrative
37733 enforcement of the order, the support-enforcement agency shall register the order pursuant to
37734 this chapter.
37735 Section 1349. Section **78B-14-601**, which is renumbered from Section 78-45f-601 is
37736 renumbered and amended to read:
37737 **Part 6. Registration, Enforcement, and Modification of Support Order**
37738 **[~~78-45f-601~~]. 78B-14-601. Registration of order for enforcement.**
37739 A support order or income-withholding order issued by a tribunal of another state may
37740 be registered in this state for enforcement.
37741 Section 1350. Section **78B-14-602**, which is renumbered from Section 78-45f-602 is
37742 renumbered and amended to read:
37743 **[~~78-45f-602~~]. 78B-14-602. Procedure to register order for enforcement.**
37744 (1) A support order or income-withholding order of another state may be registered in
37745 this state by sending the following records and information to the appropriate tribunal in this
37746 state:
37747 (a) a letter of transmittal to the tribunal requesting registration and enforcement;
37748 (b) two copies, including one certified copy, of the order to be registered, including any
37749 modification of the order;
37750 (c) a sworn statement by the person requesting registration or a certified statement by
37751 the custodian of the records showing the amount of any arrearage;
37752 (d) the name of the obligor and, if known:
37753 (i) the obligor's address and Social Security number;
37754 (ii) the name and address of the obligor's employer and any other source of income of

37755 the obligor; and
37756 (iii) a description and the location of property of the obligor in this state not exempt
37757 from execution; and
37758 (e) except as otherwise provided in Section [~~78-45f-312~~] 78B-14-312, the name and
37759 address of the obligee and, if applicable, the person to whom support payments are to be
37760 remitted.
37761 (2) On receipt of a request for registration, the registering tribunal shall cause the order
37762 to be filed as a foreign judgment, together with one copy of the documents and information,
37763 regardless of their form.
37764 (3) A petition seeking a remedy that must be affirmatively sought under law of this
37765 state may be filed at the same time as the request for registration or later. The pleading must
37766 specify the grounds for the remedy sought.
37767 (4) If two or more orders are in effect, the person requesting registration shall:
37768 (a) furnish to the tribunal a copy of every support order asserted to be in effect in
37769 addition to the documents specified in this section;
37770 (b) specify the order alleged to be the controlling order, if any; and
37771 (c) specify the amount of consolidated arrears, if any.
37772 (5) A request for a determination of which is the controlling order may be filed
37773 separately or with a request for registration and enforcement or for registration and
37774 modification. The person requesting registration shall give notice of the request to each party
37775 whose rights may be affected by the determination.
37776 Section 1351. Section **78B-14-603**, which is renumbered from Section 78-45f-603 is
37777 renumbered and amended to read:
37778 **[~~78-45f-603~~]. 78B-14-603. Effect of registration for enforcement.**
37779 (1) A support order or income-withholding order issued in another state is registered
37780 when the order is filed in the registering tribunal of this state.
37781 (2) A registered order issued in another state is enforceable in the same manner and is
37782 subject to the same procedures as an order issued by a tribunal of this state.
37783 (3) Except as otherwise provided in this part, a tribunal of this state shall recognize and
37784 enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.
37785 Section 1352. Section **78B-14-604**, which is renumbered from Section 78-45f-604 is

37786 renumbered and amended to read:
37787 **[~~78-45f-604~~]. 78B-14-604. Choice of law.**
37788 (1) Except as otherwise provided in Subsection (4), the law of the issuing state
37789 governs:
37790 (a) the nature, extent, amount, and duration of current payments under a registered
37791 support order;
37792 (b) the computation and payment of arrearages and accrual of interest on the arrearages
37793 under the support order; and
37794 (c) the existence and satisfaction of other obligations under the support order.
37795 (2) In a proceeding for arrears under a registered support order, the statute of limitation
37796 of this state or of the issuing state, whichever is longer, applies.
37797 (3) A responding tribunal of this state shall apply the procedures and remedies of this
37798 state to enforce current support and collect arrears and interest due on a support order of
37799 another state registered in this state.
37800 (4) After a tribunal of this or another state determines which is the controlling order
37801 and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively
37802 apply the law of the state issuing the controlling order, including its law on interest on arrears,
37803 on current and future support, and on consolidated arrears.
37804 Section 1353. Section **78B-14-605**, which is renumbered from Section 78-45f-605 is
37805 renumbered and amended to read:
37806 **[~~78-45f-605~~]. 78B-14-605. Notice of registration of order.**
37807 (1) When a support order or income-withholding order issued in another state is
37808 registered, the registering tribunal shall notify the nonregistering party. The notice must be
37809 accompanied by a copy of the registered order and the documents and relevant information
37810 accompanying the order.
37811 (2) A notice must inform the nonregistering party:
37812 (a) that a registered order is enforceable as of the date of registration in the same
37813 manner as an order issued by a tribunal of this state;
37814 (b) that a hearing to contest the validity or enforcement of the registered order must be
37815 requested within 20 days after the date of mailing or personal service of the notice;
37816 (c) that failure to contest the validity or enforcement of the registered order in a timely

37817 manner will result in confirmation of the order and enforcement of the order and the alleged
37818 arrearages and precludes further contest of that order with respect to any matter that could have
37819 been asserted; and
37820 (d) of the amount of any alleged arrearages.
37821 (3) If the registering party asserts that two or more orders are in effect, a notice must
37822 also:
37823 (a) identify the two or more orders and the order alleged by the registering person to be
37824 the controlling order and the consolidated arrears, if any;
37825 (b) notify the nonregistering party of the right to a determination of which is the
37826 controlling order;
37827 (c) state that the procedures provided in Subsection (2) apply to the determination of
37828 which is the controlling order; and
37829 (d) state that failure to contest the validity or enforcement of the order alleged to be the
37830 controlling order in a timely manner may result in confirmation that the order is the controlling
37831 order.
37832 (4) Upon registration of an income-withholding order for enforcement, the registering
37833 tribunal shall notify the obligor's employer pursuant to Title 62A, Chapter 11, Part 4, Income
37834 Withholding In IV-D Cases.
37835 Section 1354. Section **78B-14-606**, which is renumbered from Section 78-45f-606 is
37836 renumbered and amended to read:
37837 **[~~78-45f-606~~]. 78B-14-606. Procedure to contest validity or enforcement of**
37838 **registered order.**
37839 (1) A nonregistering party seeking to contest the validity or enforcement of a registered
37840 order in this state shall request a hearing within 20 days after notice of the registration. The
37841 nonregistering party may seek to vacate the registration, to assert any defense to an allegation
37842 of noncompliance with the registered order, or to contest the remedies being sought or the
37843 amount of any alleged arrearages pursuant to Section [~~78-45f-607~~] 78B-14-607.
37844 (2) If the nonregistering party fails to contest the validity or enforcement of the
37845 registered order in a timely manner, the order is confirmed by operation of law.
37846 (3) If a nonregistering party requests a hearing to contest the validity or enforcement of
37847 the registered order, the registering tribunal shall schedule the matter for hearing and give

37848 notice to the parties of the date, time, and place of the hearing.
37849 Section 1355. Section **78B-14-607**, which is renumbered from Section 78-45f-607 is
37850 renumbered and amended to read:
37851 **[~~78-45f-607~~]. 78B-14-607. Contest of registration or enforcement.**
37852 (1) A party contesting the validity or enforcement of a registered order or seeking to
37853 vacate the registration has the burden of proving one or more of the following defenses:
37854 (a) the issuing tribunal lacked personal jurisdiction over the contesting party;
37855 (b) the order was obtained by fraud;
37856 (c) the order has been vacated, suspended, or modified by a later order;
37857 (d) the issuing tribunal has stayed the order pending appeal;
37858 (e) there is a defense under the law of this state to the remedy sought;
37859 (f) full or partial payment has been made;
37860 (g) the statute of limitation under Section [~~78-45f-604~~] 78B-14-604 precludes
37861 enforcement of some or all of the alleged arrearages; or
37862 (h) the alleged controlling order is not the controlling order.
37863 (2) If a party presents evidence establishing a full or partial defense under Subsection
37864 (1), a tribunal may stay enforcement of the registered order, continue the proceeding to permit
37865 production of additional relevant evidence, and issue other appropriate orders. An uncontested
37866 portion of the registered order may be enforced by all remedies available under the law of this
37867 state.
37868 (3) If the contesting party does not establish a defense under Subsection (1) to the
37869 validity or enforcement of the order, the registering tribunal shall issue an order confirming the
37870 order.
37871 Section 1356. Section **78B-14-608**, which is renumbered from Section 78-45f-608 is
37872 renumbered and amended to read:
37873 **[~~78-45f-608~~]. 78B-14-608. Confirmed order.**
37874 Confirmation of a registered order, whether by operation of law or after notice and
37875 hearing, precludes further contest of the order with respect to any matter that could have been
37876 asserted at the time of registration.
37877 Section 1357. Section **78B-14-609**, which is renumbered from Section 78-45f-609 is
37878 renumbered and amended to read:

37879 **[~~78-45f-609~~]. 78B-14-609. Procedure to register child support order of**
37880 **another state for modification.**
37881 A party or support enforcement agency seeking to modify, or to modify and enforce, a
37882 child support order issued in another state shall register that order in this state in the same
37883 manner provided in Sections [~~78-45f-601, 78-45f-602, 78-45f-603, and 78-45f-604~~]
37884 78B-14-601, 78B-14-602, 78B-14-603, and 78B-14-604 if the order has not been registered. A
37885 petition for modification may be filed at the same time as a request for registration, or later.
37886 The pleading must specify the grounds for modification.
37887 Section 1358. Section **78B-14-610**, which is renumbered from Section 78-45f-610 is
37888 renumbered and amended to read:
37889 **[~~78-45f-610~~]. 78B-14-610. Effect of registration for modification.**
37890 A tribunal of this state may enforce a child-support order of another state registered for
37891 purposes of modification, in the same manner as if the order had been issued by a tribunal of
37892 this state, but the registered order may be modified only if the requirements of Section
37893 [~~78-45f-611, 78-45f-613, or 78-45f-615~~] 78B-14-611, 78B-14-613, or 78B-14-615 have been
37894 met.
37895 Section 1359. Section **78B-14-611**, which is renumbered from Section 78-45f-611 is
37896 renumbered and amended to read:
37897 **[~~78-45f-611~~]. 78B-14-611. Modification of child-support order of another**
37898 **state.**
37899 (1) If Section [~~78-45f-613~~] 78B-14-613 does not apply, except as otherwise provided in
37900 Section [~~78-45f-615~~] 78B-14-615, upon petition a tribunal of this state may modify a
37901 child-support order issued in another state which is registered in this state if, after notice and
37902 hearing, the tribunal finds that:
37903 (a) the following requirements are met:
37904 (i) neither the child, nor the obligee who is an individual, nor the obligor resides in the
37905 issuing state;
37906 (ii) a petitioner who is a nonresident of this state seeks modification; and
37907 (iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or
37908 (b) this state is the state of residence of the child, or a party who is an individual, is
37909 subject to the personal jurisdiction of the tribunal of this state and all of the parties who are

37910 individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to
37911 modify the support order and assume continuing, exclusive jurisdiction.
37912 (2) Modification of a registered child-support order is subject to the same
37913 requirements, procedures, and defenses that apply to the modification of an order issued by a
37914 tribunal of this state and the order may be enforced and satisfied in the same manner.
37915 (3) Except as otherwise provided in Section [~~78-45f-615~~] 78B-14-615, a tribunal of
37916 this state may not modify any aspect of a child-support order that may not be modified under
37917 the law of the issuing state, including the duration of the obligation of support. If two or more
37918 tribunals have issued child-support orders for the same obligor and same child, the order that
37919 controls and must be so recognized under Section [~~78-45f-207~~] 78B-14-207 establishes the
37920 aspects of the support order which are nonmodifiable.
37921 (4) In a proceeding to modify a child-support order, the law of the state that is
37922 determined to have issued the initial controlling order governs the duration of the obligation of
37923 support. The obligor's fulfillment of the duty of support established by that order precludes
37924 imposition of a further obligation of support by a tribunal of this state.
37925 (5) On issuance of an order by a tribunal of this state modifying a child-support order
37926 issued in another state, the tribunal of this state becomes the tribunal of continuing, exclusive
37927 jurisdiction.
37928 Section 1360. Section **78B-14-612**, which is renumbered from Section 78-45f-612 is
37929 renumbered and amended to read:
37930 **[~~78-45f-612~~]. 78B-14-612. Recognition of order modified in another state.**
37931 If a child-support order issued by a tribunal of this state is modified by a tribunal of
37932 another state which assumed jurisdiction pursuant to this chapter, a tribunal of this state:
37933 (1) may enforce its order that was modified only as to arrears and interest accruing
37934 before the modification;
37935 (2) may provide appropriate relief for violations of its order which occurred before the
37936 effective date of the modification; and
37937 (3) shall recognize the modifying order of the other state, upon registration, for the
37938 purpose of enforcement.
37939 Section 1361. Section **78B-14-613**, which is renumbered from Section 78-45f-613 is
37940 renumbered and amended to read:

37941 **[~~78-45f-613~~]. 78B-14-613. Jurisdiction to modify child support order of**
37942 **another state when individual parties reside in this state.**
37943 (1) If all of the parties who are individuals reside in this state and the child does not
37944 reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the
37945 issuing state's child support order in a proceeding to register that order.
37946 (2) A tribunal of this state exercising jurisdiction under this section shall apply the
37947 provisions of Parts 1 and 2, this part, and the procedural and substantive law of this state to the
37948 proceeding for enforcement of modification. Parts 3, 4, 5, 7, and 8 do not apply.
37949 Section 1362. Section **78B-14-614**, which is renumbered from Section 78-45f-614 is
37950 renumbered and amended to read:
37951 **[~~78-45f-614~~]. 78B-14-614. Notice to issuing tribunal of modification.**
37952 Within 30 days after issuance of a modified child support order, the party obtaining the
37953 modification shall file a certified copy of the order with the issuing tribunal that had
37954 continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party
37955 knows the earlier order has been registered. A party who obtains the order and fails to file a
37956 certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to
37957 file arises. The failure to file does not affect the validity or enforceability of the modified order
37958 of the new tribunal having continuing, exclusive jurisdiction.
37959 Section 1363. Section **78B-14-615**, which is renumbered from Section 78-45f-615 is
37960 renumbered and amended to read:
37961 **[~~78-45f-615~~]. 78B-14-615. Jurisdiction to modify child-support order of**
37962 **foreign country or political subdivision.**
37963 (1) If a foreign country or political subdivision that is a state will not or may not
37964 modify its order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify
37965 the child-support order and bind all individuals subject to the personal jurisdiction of the
37966 tribunal whether or not the consent to modification of a child-support order otherwise required
37967 of the individual pursuant to Section [~~78-45f-611~~] 78B-14-611 has been given or whether the
37968 individual seeking modification is a resident of this state or of the foreign country or political
37969 subdivision.
37970 (2) An order issued pursuant to this section is the controlling order.
37971 Section 1364. Section **78B-14-701**, which is renumbered from Section 78-45f-701 is

37972 renumbered and amended to read:

37973 **Part 7. Proceeding to Determine Parentage**

37974 **[~~78-45f-701~~]. 78B-14-701. Proceeding to determine parentage.**

37975 A tribunal of this state authorized to determine parentage of a child may serve as a
37976 responding tribunal in a proceeding to determine parentage brought under this chapter or a law
37977 or procedure substantially similar to this chapter.

37978 Section 1365. Section **78B-14-801**, which is renumbered from Section 78-45f-801 is
37979 renumbered and amended to read:

37980 **Part 8. Rendition**

37981 **[~~78-45f-801~~]. 78B-14-801. Grounds for rendition.**

37982 (1) For purposes of this part, "governor" includes an individual performing the
37983 functions of governor or the executive authority of a state covered by this chapter.

37984 (2) The governor of this state may:

37985 (a) demand that the governor of another state surrender an individual found in the other
37986 state who is charged criminally in this state with having failed to provide for the support of an
37987 obligee; or

37988 (b) on the demand of the governor of another state, surrender an individual found in
37989 this state who is charged criminally in the other state with having failed to provide for the
37990 support of an obligee.

37991 (3) A provision for extradition of individuals not inconsistent with this chapter applies
37992 to the demand even if the individual whose surrender is demanded was not in the demanding
37993 state when the crime was allegedly committed and has not fled therefrom.

37994 Section 1366. Section **78B-14-802**, which is renumbered from Section 78-45f-802 is
37995 renumbered and amended to read:

37996 **[~~78-45f-802~~]. 78B-14-802. Conditions of rendition.**

37997 (1) Before making demand that the governor of another state surrender an individual
37998 charged criminally in this state with having failed to provide for the support of an obligee, the
37999 governor of this state may require a prosecutor of this state to demonstrate that at least 60 days
38000 previously the obligee had initiated proceedings for support pursuant to this chapter or that the
38001 proceeding would be of no avail.

38002 (2) If, under this chapter or a law substantially similar to this chapter, the governor of

38003 another state makes a demand that the governor of this state surrender an individual charged
38004 criminally in that state with having failed to provide for the support of a child or other
38005 individual to whom a duty of support is owed, the governor may require a prosecutor to
38006 investigate the demand and report whether a proceeding for support has been initiated or would
38007 be effective. If it appears that a proceeding would be effective but has not been initiated, the
38008 governor may delay honoring the demand for a reasonable time to permit the initiation of a
38009 proceeding.
38010 (3) If a proceeding for support has been initiated and the individual whose rendition is
38011 demanded prevails, the governor may decline to honor the demand. If the petitioner prevails
38012 and the individual whose rendition is demanded is subject to a support order, the governor may
38013 decline to honor the demand if the individual is complying with the support order.
38014 Section 1367. Section **78B-14-901**, which is renumbered from Section 78-45f-901 is
38015 renumbered and amended to read:
38016 **Part 9. Uniformity of Application**
38017 **[~~78-45f-901~~]. 78B-14-901. Uniformity of application and construction.**
38018 This chapter is a uniform act. In applying and construing it consideration must be given
38019 to the need to promote uniformity of the law with respect to its subject matter among states that
38020 enact it.
38021 Section 1368. Section **78B-15-101**, which is renumbered from Section 78-45g-101 is
38022 renumbered and amended to read:
38023 **Part 1. General Provisions**
38024 **[~~78-45g-101~~]. 78B-15-101. Title.**
38025 This chapter is known as the "Utah Uniform Parentage Act."
38026 Section 1369. Section **78B-15-102**, which is renumbered from Section 78-45g-102 is
38027 renumbered and amended to read:
38028 **[~~78-45g-102~~]. 78B-15-102. Definitions.**
38029 As used in this chapter:
38030 (1) "Adjudicated father" means a man who has been adjudicated by a tribunal to be the
38031 father of a child.
38032 (2) "Alleged father" means a man who alleges himself to be, or is alleged to be, the
38033 genetic father or a possible genetic father of a child, but whose paternity has not been

38034 determined.
38035 (3) "Assisted reproduction" means a method of causing pregnancy other than sexual
38036 intercourse. The term includes:
38037 (a) intrauterine insemination;
38038 (b) donation of eggs;
38039 (c) donation of embryos;
38040 (d) in vitro fertilization and transfer of embryos; and
38041 (e) intracytoplasmic sperm injection.
38042 (4) "Birth expenses" means all medical costs associated with the birth of a child,
38043 including the related expenses for the biological mother during her pregnancy and delivery.
38044 (5) "Birth mother" means the biological mother of a child.
38045 (6) "Child" means an individual of any age whose parentage may be determined under
38046 this chapter.
38047 (7) "Commence" means to file the initial pleading seeking an adjudication of parentage
38048 in the appropriate tribunal of this state.
38049 (8) "Declarant father" means a male who, along with the biological mother claims to be
38050 the genetic father of a child, and signs a voluntary declaration of paternity to establish the man's
38051 paternity.
38052 (9) "Determination of parentage" means the establishment of the parent-child
38053 relationship by the signing of a valid declaration of paternity under Part 3, Voluntary
38054 Declaration of Paternity Act, or adjudication by a tribunal.
38055 (10) "Donor" means an individual who produces eggs or sperm used for assisted
38056 reproduction, whether or not for consideration. The term does not include:
38057 (a) a husband who provides sperm, or a wife who provides eggs, to be used for assisted
38058 reproduction by the wife;
38059 (b) a woman who gives birth to a child by means of assisted reproduction, except as
38060 otherwise provided in Part 8, Gestational Agreement; or
38061 (c) a parent under Part 7, Child of Assisted Reproduction, or an intended parent under
38062 Part 8, Gestational Agreement.
38063 (11) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group
38064 that an individual identifies as all or part of the individual's ancestry or that is so identified by

38065 other information.
38066 (12) "Financial support" means a base child support award as defined in Section
38067 [~~78-45-2~~] 78B-12-102, all past-due support which accrues under an order for current periodic
38068 payments, and sum certain judgments for past-due support.
38069 (13) "Genetic testing" means an analysis of genetic markers to exclude or identify a
38070 man as the father or a woman as the mother of a child. The term includes an analysis of one or
38071 a combination of the following:
38072 (a) deoxyribonucleic acid; or
38073 (b) blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes,
38074 serum proteins, or red-cell enzymes.
38075 (14) "Gestational mother" means an adult woman who gives birth to a child under a
38076 gestational agreement.
38077 (15) "Man," as defined in this chapter, means a male individual of any age.
38078 (16) "Medical support" means a provision in a support order that requires the purchase
38079 and maintenance of appropriate insurance for health and dental expenses of dependent children,
38080 and assigns responsibility for uninsured medical expenses.
38081 (17) "Parent" means an individual who has established a parent-child relationship
38082 under Section [~~78-45g-201~~] 78B-15-201.
38083 (18) "Parent-child relationship" means the legal relationship between a child and a
38084 parent of the child. The term includes the mother-child relationship and the father-child
38085 relationship.
38086 (19) "Paternity index" means the likelihood of paternity calculated by computing the
38087 ratio between:
38088 (a) the likelihood that the tested man is the father, based on the genetic markers of the
38089 tested man and child, conditioned on the hypothesis that the tested man is the father of the
38090 child; and
38091 (b) the likelihood that the tested man is not the father, based on the genetic markers of
38092 the tested man and child, conditioned on the hypothesis that the tested man is not the father of
38093 the child and that the father is of the same ethnic or racial group as the tested man.
38094 (20) "Presumed father" means a man who, by operation of law under Section
38095 [~~78-45g-204~~] 78B-15-204, is recognized as the father of a child until that status is rebutted or

38096 confirmed as set forth in this chapter.
38097 (21) "Probability of paternity" means the measure, for the ethnic or racial group to
38098 which the alleged father belongs, of the probability that the man in question is the father of the
38099 child, compared with a random, unrelated man of the same ethnic or racial group, expressed as
38100 a percentage incorporating the paternity index and a prior probability.
38101 (22) "Record" means information that is inscribed on a tangible medium or that is
38102 stored in an electronic or other medium and is retrievable in perceivable form.
38103 (23) "Signatory" means an individual who authenticates a record and is bound by its
38104 terms.
38105 (24) "State" means a state of the United States, the District of Columbia, Puerto Rico,
38106 the United States Virgin Islands, any territory, Native American Tribe, or insular possession
38107 subject to the jurisdiction of the United States.
38108 (25) "Support-enforcement agency" means a public official or agency authorized under
38109 Title IV-D of the Social Security Act which has the authority to seek:
38110 (a) enforcement of support orders or laws relating to the duty of support;
38111 (b) establishment or modification of child support;
38112 (c) determination of parentage; or
38113 (d) location of child-support obligors and their income and assets.
38114 (26) "Tribunal" means a court of law, administrative agency, or quasi-judicial entity
38115 authorized to establish, enforce, or modify support orders or to determine parentage.
38116 Section 1370. Section **78B-15-103**, which is renumbered from Section 78-45g-103 is
38117 renumbered and amended to read:
38118 **[~~78-45g-103~~]. 78B-15-103. Scope -- Choice of law.**
38119 (1) This chapter applies to determinations of parentage in this state.
38120 (2) The tribunal shall apply the law of this state to adjudicate the parent-child
38121 relationship. The applicable law may not depend upon:
38122 (a) the place of birth of the child; or
38123 (b) the past or present residence of the child.
38124 (3) This chapter may not create, enlarge, or diminish parental rights or duties under
38125 other laws of this state.
38126 [~~(4) This chapter does not authorize or prohibit an agreement between a woman and a~~

38127 ~~man and another woman in which the woman relinquishes all rights as a parent of a child~~
38128 ~~conceived by means of assisted reproduction, and which provides that the man and other~~
38129 ~~woman become the parents of the child. If a birth results under such an agreement and the~~
38130 ~~agreement is unenforceable under the law of this state, the parent-child relationship is~~
38131 ~~determined as provided in Part 2, Parent-child Relationship.~~]
38132 Section 1371. Section **78B-15-104**, which is renumbered from Section 78-45g-104 is
38133 renumbered and amended to read:
38134 **[~~78-45g-104~~]. 78B-15-104. Adjudication -- Jurisdiction.**
38135 (1) The district court, the juvenile court, and the Office of Recovery Services in
38136 accordance with Section 62A-11-304.2 and Title 63, Chapter 46b, Administrative Procedures
38137 Act, are authorized to adjudicate parentage under Parts 1 through 6, and Part 9 of this chapter.
38138 (2) The district court and the juvenile court have jurisdiction over proceedings under
38139 Parts 7 and 8.
38140 Section 1372. Section **78B-15-105**, which is renumbered from Section 78-45g-105 is
38141 renumbered and amended to read:
38142 **[~~78-45g-105~~]. 78B-15-105. Protection of participants.**
38143 Proceedings under this chapter are subject to other laws of this state governing the
38144 health, safety, privacy, and liberty of a child or other individual who could be jeopardized by
38145 disclosure of identifying information, including address, telephone number, place of
38146 employment, Social Security number, the child's day-care facility, or school.
38147 Section 1373. Section **78B-15-106**, which is renumbered from Section 78-45g-106 is
38148 renumbered and amended to read:
38149 **[~~78-45g-106~~]. 78B-15-106. Determination of maternity.**
38150 Provisions of this chapter relating to determination of paternity also apply to
38151 determinations of maternity.
38152 Section 1374. Section **78B-15-107**, which is renumbered from Section 78-45g-107 is
38153 renumbered and amended to read:
38154 **[~~78-45g-107~~]. 78B-15-107. Effect.**
38155 An adjudication or declaration of paternity shall be filed with the state registrar in
38156 accordance with Section 26-2-5.
38157 Section 1375. Section **78B-15-108**, which is renumbered from Section 78-45g-108 is

38158 renumbered and amended to read:
38159 **[~~78-45g-108~~]. 78B-15-108. Obligation to provide address.**
38160 A party to an action under this chapter has a continuing obligation to keep the tribunal
38161 informed of the party's current address.
38162 Section 1376. Section **78B-15-109**, which is renumbered from Section 78-45g-109 is
38163 renumbered and amended to read:
38164 **[~~78-45g-109~~]. 78B-15-109. Limitation on recovery from the obligor.**
38165 The obligor's liabilities for past support are limited to the period of four years preceding
38166 the commencement of an action.
38167 Section 1377. Section **78B-15-110**, which is renumbered from Section 78-45g-110 is
38168 renumbered and amended to read:
38169 **[~~78-45g-110~~]. 78B-15-110. Duty of attorney general and county attorney.**
38170 Whenever the state commences an action under this chapter, it shall be the duty of the
38171 attorney general or the county attorney of the county where the obligee resides to represent the
38172 state. Neither the attorney general nor the county attorney represents or has an attorney-client
38173 relationship with the obligee or the obligor in carrying out his responsibilities under this
38174 chapter.
38175 Section 1378. Section **78B-15-111**, which is renumbered from Section 78-45g-111 is
38176 renumbered and amended to read:
38177 **[~~78-45g-111~~]. 78B-15-111. Default judgment.**
38178 Utah Rule of Civil Procedure 55, Default Judgment, shall apply to paternity actions
38179 commenced under this chapter.
38180 Section 1379. Section **78B-15-112**, which is renumbered from Section 78-45g-112 is
38181 renumbered and amended to read:
38182 **[~~78-45g-112~~]. 78B-15-112. Standard of proof.**
38183 The standard of proof in a trial to determine paternity is "by clear and convincing
38184 evidence."
38185 Section 1380. Section **78B-15-113**, which is renumbered from Section 78-45g-113 is
38186 renumbered and amended to read:
38187 **[~~78-45g-113~~]. 78B-15-113. Parent-time rights of father.**
38188 (1) If the tribunal determines that the alleged father is the father, it may upon its own

38189 motion or upon motion of the father, order parent-time rights in accordance with Sections
38190 30-3-32 through 30-3-37 as it considers appropriate under the circumstances.
38191 (2) Parent-time rights may not be granted to a father if the child has been subsequently
38192 adopted.
38193 Section 1381. Section **78B-15-114**, which is renumbered from Section 78-45g-114 is
38194 renumbered and amended to read:
38195 **[~~78-45g-114~~]. 78B-15-114. Social Security number in tribunal records.**
38196 The Social Security number of any individual who is subject to a paternity
38197 determination shall be placed in the records relating to the matter.
38198 Section 1382. Section **78B-15-115**, which is renumbered from Section 78-45g-115 is
38199 renumbered and amended to read:
38200 **[~~78-45g-115~~]. 78B-15-115. Settlement agreements.**
38201 An agreement of settlement with the alleged father is binding only when approved by
38202 the tribunal.
38203 Section 1383. Section **78B-15-201**, which is renumbered from Section 78-45g-201 is
38204 renumbered and amended to read:
38205 **Part 2. Parent and Child Relationship**
38206 **[~~78-45g-201~~]. 78B-15-201. Establishment of parent-child relationship.**
38207 (1) The mother-child relationship is established between a woman and a child by:
38208 (a) the woman's having given birth to the child, except as otherwise provided in Part 8,
38209 Gestational Agreement;
38210 (b) an adjudication of the woman's maternity;
38211 (c) adoption of the child by the woman; or
38212 (d) an adjudication confirming the woman as a parent of a child born to a gestational
38213 mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable
38214 under other law.
38215 (2) The father-child relationship is established between a man and a child by:
38216 (a) an unrebutted presumption of the man's paternity of the child under Section
38217 [~~78-45g-204~~] 78B-15-204;
38218 (b) an effective declaration of paternity by the man under Part 3, Voluntary Declaration
38219 of Paternity, unless the declaration has been rescinded or successfully challenged;

38220 (c) an adjudication of the man's paternity;
38221 (d) adoption of the child by the man;
38222 (e) the man having consented to assisted reproduction by a woman under Part 7, [~~Child~~
38223 ~~of~~] Assisted Reproduction, which resulted in the birth of the child; or
38224 (f) an adjudication confirming the man as a parent of a child born to a gestational
38225 mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable
38226 under other law.
38227 Section 1384. Section **78B-15-202**, which is renumbered from Section 78-45g-202 is
38228 renumbered and amended to read:
38229 **[~~78-45g-202~~]. 78B-15-202. No discrimination based on marital status.**
38230 A child born to parents who are not married to each other whose paternity has been
38231 determined under this chapter has the same rights under the law as a child born to parents who
38232 are married to each other.
38233 Section 1385. Section **78B-15-203**, which is renumbered from Section 78-45g-203 is
38234 renumbered and amended to read:
38235 **[~~78-45g-203~~]. 78B-15-203. Consequences of establishment of parentage.**
38236 Unless parental rights are terminated, a parent-child relationship established under this
38237 chapter applies for all purposes, except as otherwise specifically provided by other law of this
38238 state.
38239 Section 1386. Section **78B-15-204**, which is renumbered from Section 78-45g-204 is
38240 renumbered and amended to read:
38241 **[~~78-45g-204~~]. 78B-15-204. Presumption of paternity.**
38242 (1) A man is presumed to be the father of a child if:
38243 (a) he and the mother of the child are married to each other and the child is born during
38244 the marriage;
38245 (b) he and the mother of the child were married to each other and the child is born
38246 within 300 days after the marriage is terminated by death, annulment, declaration of invalidity,
38247 or divorce, or after a decree of separation;
38248 (c) before the birth of the child, he and the mother of the child married each other in
38249 apparent compliance with law, even if the attempted marriage is or could be declared invalid,
38250 and the child is born during the invalid marriage or within 300 days after its termination by

38251 death, annulment, declaration of invalidity, or divorce or after a decree of separation; or
38252 (d) after the birth of the child, he and the mother of the child married each other in
38253 apparent compliance with law, whether or not the marriage is, or could be declared, invalid, he
38254 voluntarily asserted his paternity of the child, and there is no other presumptive father of the
38255 child, and:
38256 (i) the assertion is in a record filed with the Office of Vital Records;
38257 (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
38258 (iii) he promised in a record to support the child as his own.
38259 (2) A presumption of paternity established under this section may only be rebutted in
38260 accordance with Section [~~78-45g-607~~] 78B-15-607.
38261 (3) If a child has an adjudicated father, the results of genetic testing are inadmissable to
38262 challenge paternity except as set forth in Section [~~78-45g-607~~] 78B-15-607.
38263 Section 1387. Section **78B-15-301**, which is renumbered from Section 78-45g-301 is
38264 renumbered and amended to read:
38265 **Part 3. Voluntary Declaration of Paternity Act**
38266 **[~~78-45g-301~~]. 78B-15-301. Declaration of paternity.**
38267 The mother of a child and a man claiming to be the genetic father of the child may sign
38268 a declaration of paternity to establish the paternity of the child.
38269 Section 1388. Section **78B-15-302**, which is renumbered from Section 78-45g-302 is
38270 renumbered and amended to read:
38271 **[~~78-45g-302~~]. 78B-15-302. Execution of declaration of paternity.**
38272 (1) A declaration of paternity must:
38273 (a) be in a record;
38274 (b) be signed, or otherwise authenticated, under penalty of perjury, by the mother and
38275 by the declarant father;
38276 (c) be signed by the birth mother and declarant father in the presence of two witnesses
38277 who are not related by blood or marriage; and
38278 (d) state that the child whose paternity is being declared:
38279 (i) does not have a presumed father, or has a presumed father whose full name is stated;
38280 and
38281 (ii) does not have another declarant or adjudicated father;

38282 (e) state whether there has been genetic testing and, if so, that the declarant man's claim
38283 of paternity is consistent with the results of the testing; and
38284 (f) state that the signatories understand that the declaration is the equivalent of a legal
38285 finding of paternity of the child and that a challenge to the declaration is permitted only under
38286 the limited circumstances described in Section [~~78-45g-307~~] 78B-15-307.
38287 (2) If either the birth mother or the declarant father is a minor, the voluntary declaration
38288 must also be signed by that minor's parent or legal guardian.
38289 (3) A declaration of paternity is void if it:
38290 (a) states that another man is a presumed father, unless a denial of paternity signed or
38291 otherwise authenticated by the presumed father is filed with the Office of Vital Records in
38292 accordance with Section [~~78-45g-303~~] 78B-15-303;
38293 (b) states that another man is a declarant or adjudicated father; or
38294 (c) falsely denies the existence of a presumed, declarant, or adjudicated father of the
38295 child.
38296 (4) A presumed father may sign or otherwise authenticate an acknowledgment of
38297 paternity.
38298 (5) The declaration of paternity shall be in a form prescribed by the Office of Vital
38299 Records and shall be accompanied with a written and verbal notice of the alternatives to, the
38300 legal consequences of, and the rights and responsibilities that arise from signing the
38301 declaration.
38302 (6) The Social Security number of any person who is subject to declaration of paternity
38303 shall be placed in the records relating to the matter.
38304 (7) The declaration of paternity shall become an amendment to the original birth
38305 certificate. The original certificate and the declaration shall be marked as to be distinguishable.
38306 The declaration may be included as part of subsequently issued certified copies of the birth
38307 certificate. Alternatively, electronically issued copies of a certificate may reflect the amended
38308 information and the date of the amendment only.
38309 (8) A declaration of paternity may be completed and signed any time after the birth of
38310 the child. A declaration of paternity may not be signed or filed after consent to or
38311 relinquishment for adoption has been signed.
38312 (9) A declaration of paternity shall be considered effective when filed and entered into

38313 a database established and maintained by the Office of Vital Records.
38314 Section 1389. Section **78B-15-303**, which is renumbered from Section 78-45g-303 is
38315 renumbered and amended to read:
38316 **[~~78-45g-303~~]. 78B-15-303. Denial of paternity.**
38317 A presumed or declarant father may sign a denial of his paternity. The denial is valid
38318 only if:
38319 (1) a declaration of paternity signed, or otherwise authenticated, by another man is filed
38320 pursuant to Section [~~78-45g-305~~] 78B-15-305;
38321 (2) the denial is in a form prescribed by and filed with the Office of Vital Records, and
38322 is signed, or otherwise authenticated, under penalty of perjury; and
38323 (3) the presumed or declarant father has not previously:
38324 (a) declared his paternity, unless the previous declaration has been rescinded pursuant
38325 to Section [~~78-45g-306~~] 78B-15-306 or successfully challenged pursuant to Section
38326 [~~78-45g-307~~] 78B-15-307; or
38327 (b) been adjudicated to be the father of the child.
38328 Section 1390. Section **78B-15-304**, which is renumbered from Section 78-45g-304 is
38329 renumbered and amended to read:
38330 **[~~78-45g-304~~]. 78B-15-304. Rules for declaration and denial of paternity.**
38331 (1) A declaration of paternity and a denial of paternity shall be contained in a single
38332 document. If the declaration and denial are both necessary, neither is valid until both are
38333 signed and filed.
38334 (2) A declaration of paternity or a denial of paternity may not be signed before the birth
38335 of the child.
38336 (3) Subject to Subsection (1), a declaration of paternity or denial of paternity takes
38337 effect on the birth of the child or the filing of the document with the Office of Vital Records,
38338 whichever occurs later.
38339 (4) A declaration of paternity or denial of paternity signed by a minor and by the
38340 minor's parent or legal guardian is valid if it is otherwise in compliance with this chapter.
38341 Section 1391. Section **78B-15-305**, which is renumbered from Section 78-45g-305 is
38342 renumbered and amended to read:
38343 **[~~78-45g-305~~]. 78B-15-305. Effect of declaration or denial of paternity.**

38344 (1) Except as otherwise provided in Sections [~~78-45g-306~~] 78B-15-306 and
38345 [~~78-45g-307~~] 78B-15-307, a valid declaration of paternity filed with the Office of Vital
38346 Records is equivalent to a legal finding of paternity of a child and confers upon the declarant
38347 father all of the rights and duties of a parent.
38348 (2) When a declaration of paternity is filed, it shall be recognized as a basis for a child
38349 support order without any further requirement or proceeding regarding the establishment of
38350 paternity.
38351 (a) The liabilities of the father include, but are not limited to, the reasonable expense of
38352 the mother's pregnancy and confinement and for the education, necessary support, and any
38353 funeral expenses for the child.
38354 (b) When a father declares paternity, his liability for past amounts due is limited to the
38355 period of four years immediately preceding the date that the voluntary declaration of paternity
38356 was filed.
38357 (3) Except as otherwise provided in Sections [~~78-45g-306~~] 78B-15-306 and
38358 [~~78-45g-307~~] 78B-15-307, a valid denial of paternity by a presumed or declarant father filed
38359 with the Office of Vital Records in conjunction with a valid declaration of paternity is
38360 equivalent to a legal finding of the nonpaternity of the presumed or declarant father and
38361 discharges the presumed or declarant father from all rights and duties of a parent. If a valid
38362 denial of paternity is filed with the Office of Vital Records, the declarant or presumed father
38363 may not recover child support he paid prior to the time of filing.
38364 Section 1392. Section **78B-15-306**, which is renumbered from Section 78-45g-306 is
38365 renumbered and amended to read:
38366 **[~~78-45g-306~~]. 78B-15-306. Proceeding for rescission.**
38367 (1) A signatory may rescind a declaration of paternity or denial of paternity by filing a
38368 voluntary rescission document with the Office of Vital Records in a form prescribed by the
38369 office before the earlier of:
38370 (a) 60 days after the effective date of the declaration or denial, as provided in Sections
38371 [~~78-45g-303~~] 78B-15-303 and [~~78-45g-304~~] 78B-15-304; or
38372 (b) the date of notice of the first adjudicative proceeding to which the signatory is a
38373 party, before a tribunal to adjudicate an issue relating to the child, including a proceeding that
38374 establishes support.

38375 (2) Upon receiving a voluntary rescission document from a signatory under Subsection
38376 (1), the Office of Vital Records shall provide notice of the rescission, by mail, to the other
38377 signatory at the last-known address of that signatory.
38378 Section 1393. Section **78B-15-307**, which is renumbered from Section 78-45g-307 is
38379 renumbered and amended to read:
38380 **[~~78-45g-307~~]. 78B-15-307. Challenge after expiration of period for**
38381 **rescission.**
38382 (1) After the period for rescission under Section [~~78-45g-306~~] 78B-15-306 has expired,
38383 a signatory of a declaration of paternity or denial of paternity, or a support-enforcement agency,
38384 may commence a proceeding to challenge the declaration or denial only on the basis of fraud,
38385 duress, or material mistake of fact.
38386 (2) A party challenging a declaration of paternity or denial of paternity has the burden
38387 of proof.
38388 (3) A challenge brought on the basis of fraud or duress may be commenced at any time.
38389 (4) A challenge brought on the basis of a material mistake of fact may be commenced
38390 within four years after the declaration is filed with the Office of Vital Records. For the
38391 purposes of this Subsection (4), if the declaration of paternity was filed with the Office of Vital
38392 Records prior to May 1, 2005, a challenge may be brought within four years after May 1, 2005.
38393 (5) For purposes of Subsection (4), genetic test results that exclude a declarant father or
38394 that rebuttably identify another man as the father in accordance with Section [~~78-45g-505~~]
38395 78B-15-505 constitute a material mistake of fact.
38396 Section 1394. Section **78B-15-308**, which is renumbered from Section 78-45g-308 is
38397 renumbered and amended to read:
38398 **[~~78-45g-308~~]. 78B-15-308. Procedure for rescission or challenge.**
38399 (1) Every signatory to a declaration of paternity and any related denial of paternity must
38400 be made a party to a proceeding to rescind or challenge the declaration or denial.
38401 (2) For the purpose of rescission of, or challenge to, a declaration of paternity or denial
38402 of paternity, a signatory submits to personal jurisdiction of this state by signing the declaration
38403 or denial, effective upon the filing of the document with the Office of Vital Records.
38404 (3) Except for good cause shown, during the pendency of a proceeding to rescind or
38405 challenge a declaration of paternity or denial of paternity, the tribunal may not suspend the

38406 legal responsibilities of a signatory arising from the declaration, including the duty to pay child
38407 support.
38408 (4) A proceeding to rescind or to challenge a declaration of paternity or denial of
38409 paternity must be conducted in the same manner as a proceeding to adjudicate parentage under
38410 Part 6, Adjudication of Parentage.
38411 (5) At the conclusion of a proceeding to rescind or challenge a declaration of paternity
38412 or denial of paternity, the tribunal shall order the Office of Vital Records to amend the birth
38413 record of the child, if appropriate.
38414 (6) If the declaration is rescinded, the declarant father may not recover child support he
38415 paid prior to the entry of an order of rescission.
38416 Section 1395. Section **78B-15-309**, which is renumbered from Section 78-45g-309 is
38417 renumbered and amended to read:
38418 **[~~78-45g-309~~]. 78B-15-309. Ratification barred.**
38419 A tribunal or administrative agency conducting a judicial or administrative proceeding
38420 may not ratify an unchallenged declaration of paternity.
38421 Section 1396. Section **78B-15-310**, which is renumbered from Section 78-45g-310 is
38422 renumbered and amended to read:
38423 **[~~78-45g-310~~]. 78B-15-310. Full faith and credit.**
38424 A tribunal of this state shall give full faith and credit to a declaration of paternity or
38425 denial of paternity effective in another state if the declaration or denial has been signed and is
38426 otherwise in compliance with the law of the other state.
38427 Section 1397. Section **78B-15-311**, which is renumbered from Section 78-45g-311 is
38428 renumbered and amended to read:
38429 **[~~78-45g-311~~]. 78B-15-311. Forms for declaration and denial of paternity**
38430 **and for rescission of paternity.**
38431 (1) To facilitate compliance with this part, the Office of Vital Records shall prescribe
38432 forms for the declaration, denial, and rescission of paternity.
38433 (2) A valid declaration of paternity or denial of paternity is not affected by a later
38434 modification of the prescribed form.
38435 Section 1398. Section **78B-15-312**, which is renumbered from Section 78-45g-312 is
38436 renumbered and amended to read:

38437 **[~~78-45g-312~~]. 78B-15-312. Release of information.**
38438 The Office of Vital Records may release information relating to the declaration of
38439 paternity or denial of paternity to a signatory of the declaration or denial and to tribunals and
38440 federal, tribal, and state support-enforcement agencies of this or another state.
38441 Section 1399. Section **78B-15-313**, which is renumbered from Section 78-45g-313 is
38442 renumbered and amended to read:
38443 **[~~78-45g-313~~]. 78B-15-313. Adoption of rules.**
38444 The Office of Vital Records may adopt rules in accordance with Title 63, Chapter 46a,
38445 Utah Administrative Rulemaking Act, to implement this part.
38446 Section 1400. Section **78B-15-401**, which is renumbered from Section 78-45g-401 is
38447 renumbered and amended to read:
38448 **Part 4. Registry**
38449 **[~~78-45g-401~~]. 78B-15-401. Maintenance of records.**
38450 (1) The Office of Vital Records shall register the following records which are filed
38451 with the office:
38452 (a) all declarations of paternity;
38453 (b) all judicial and administrative determinations of paternity; and
38454 (c) all notices of proceedings to establish paternity which are filed pursuant to Sections
38455 [~~78-30-4.13 and 78-30-4.14~~] 78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122.
38456 (2) A notice of initiation of paternity proceedings may not be accepted into the registry
38457 unless accompanied by a copy of the pleading which has been filed with the court to establish
38458 paternity.
38459 (3) A notice of initiation of paternity proceedings may not be filed if another man is the
38460 adjudicated or declarant father.
38461 Section 1401. Section **78B-15-402**, which is renumbered from Section 78-45g-402 is
38462 renumbered and amended to read:
38463 **[~~78-45g-402~~]. 78B-15-402. Effect of registration.**
38464 (1) An unmarried biological father who desires to be notified of a proceeding for
38465 adoption of a child must file a notice of the initiation of paternity proceedings as required by
38466 Sections [~~78-30-4.13 and 78-30-4.14~~] 78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122.
38467 (2) A registrant shall promptly notify the registry in a record of any change in the

38468 information registered. The Office of Vital Records shall incorporate all new information
38469 received into its records but need not affirmatively seek to obtain current information for
38470 incorporation in the registry.
38471 Section 1402. Section **78B-15-403**, which is renumbered from Section 78-45g-403 is
38472 renumbered and amended to read:
38473 **[~~78-45g-403~~]. 78B-15-403. Notice of proceeding.**
38474 Notice of an adoption proceeding shall be given to unmarried biological fathers
38475 pursuant to Section [~~78-30-4.13~~] 78B-6-110.
38476 Section 1403. Section **78B-15-404**, which is renumbered from Section 78-45g-404 is
38477 renumbered and amended to read:
38478 **[~~78-45g-404~~]. 78B-15-404. Required form.**
38479 (1) The Office of Vital Records shall prepare a form to be filed with the agency. The
38480 form shall require the signature of the registrant and state that the form is signed under penalty
38481 of perjury.
38482 (2) The form shall also state that:
38483 (a) a timely filing of notice of the initiation of paternity proceedings which is filed
38484 pursuant to Subsection [~~78-45g-402~~] 78B-15-402(1) entitles the registrant to notice of a
38485 proceeding for adoption of the child;
38486 (b) a timely filing does not commence a proceeding to establish paternity;
38487 (c) the information disclosed on the form may be used against the registrant to establish
38488 paternity;
38489 (d) services to assist in establishing paternity of a child who is not placed for adoption
38490 are available to the registrant through the Office of Recovery Services;
38491 (e) the registrant should also file in another state if conception or birth of the child
38492 occurred in the other state;
38493 (f) information on registries of other states is available from the Office of Vital
38494 Records; and
38495 (g) procedures exist to remove the filing of a proceeding to establish paternity if the
38496 proceeding is dismissed, or if a finding of paternity is rescinded or set aside under this chapter.
38497 Section 1404. Section **78B-15-405**, which is renumbered from Section 78-45g-405 is
38498 renumbered and amended to read:

38499 **[~~78-45g-405~~]. 78B-15-405. Furnishing of information -- Confidentiality.**
38500 (1) The Office of Vital Records shall send a copy of the filing to a person or entity set
38501 forth in Subsection (2), who has requested a copy. The copy of the filing shall be sent to the
38502 most recent address provided by the requestor.
38503 (2) Information contained in records which are filed pursuant to Section [~~78-45g-401~~]
38504 78B-15-401 is confidential and may be released on request only to:
38505 (a) a tribunal or a person designated by the tribunal;
38506 (b) the mother of the child who is the subject of the filing;
38507 (c) an agency authorized by other law to receive the information;
38508 (d) a licensed child-placing agency;
38509 (e) the Office of Recovery Services, the Office of the Attorney General, or a
38510 support-enforcement agency of another state or tribe;
38511 (f) a party or the party's attorney of record in a proceeding under this chapter or in a
38512 proceeding for adoption of, or for termination of parental rights regarding, a child who is the
38513 subject of the filing; and
38514 (g) the registry of paternity in another state.
38515 Section 1405. Section **78B-15-406**, which is renumbered from Section 78-45g-406 is
38516 renumbered and amended to read:
38517 **[~~78-45g-406~~]. 78B-15-406. Penalty for releasing information.**
38518 A person who intentionally or knowingly, releases confidential information from the
38519 Office of Vital Records which is filed pursuant to Section [~~78-45g-401~~] 78B-15-401 to a
38520 person or agency not authorized to receive the information under Section [~~78-45g-405~~]
38521 78B-15-405 is guilty of a class B misdemeanor.
38522 Section 1406. Section **78B-15-407**, which is renumbered from Section 78-45g-407 is
38523 renumbered and amended to read:
38524 **[~~78-45g-407~~]. 78B-15-407. Removal of registration.**
38525 The Office of Vital Records may remove a registration in accordance with rules adopted
38526 by the office in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
38527 Section 1407. Section **78B-15-408**, which is renumbered from Section 78-45g-408 is
38528 renumbered and amended to read:
38529 **[~~78-45g-408~~]. 78B-15-408. Fees for registry.**

38530 (1) A fee may not be charged to remove a registration.
38531 (2) Except as otherwise provided in Subsection (3), the Office of Vital Records may
38532 charge a reasonable fee for registering records pursuant to Section [~~78-45g-401~~] 78B-15-401,
38533 making a search of the registry, and for furnishing a certificate.
38534 (3) The Office of Recovery Services, the Office of the Attorney General, and
38535 support-enforcement agencies of other states or tribes may not be required to pay the fee
38536 authorized by Subsection (2).
38537 Section 1408. Section **78B-15-409**, which is renumbered from Section 78-45g-409 is
38538 renumbered and amended to read:
38539 **[~~78-45g-409~~]. 78B-15-409. Search of records -- Certificate.**
38540 (1) Upon the request of an individual, tribunal, or agency identified in Section
38541 [~~78-45g-405~~] 78B-15-405, the Office of Vital Records shall search its records for any
38542 registration made pursuant to Section [~~78-45g-401~~] 78B-15-401 and furnish to the requestor a
38543 certificate of search which shall be signed on behalf of the office and state that:
38544 (a) a search has been made of the records of the Office of Vital Records; and
38545 (b) a registration containing the information required to identify the registrant:
38546 (i) has been found and is attached to the certificate of search; or
38547 (ii) has not been found.
38548 (2) A petitioner shall file the certificate of search with the tribunal in connection with a
38549 proceeding for adoption.
38550 Section 1409. Section **78B-15-410**, which is renumbered from Section 78-45g-410 is
38551 renumbered and amended to read:
38552 **[~~78-45g-410~~]. 78B-15-410. Admissibility of information.**
38553 A certificate of search of the registry of paternity in this or another state is admissible in
38554 a proceeding for adoption of a child and, if relevant, in other legal proceedings.
38555 Section 1410. Section **78B-15-501**, which is renumbered from Section 78-45g-501 is
38556 renumbered and amended to read:
38557 **Part 5. Genetic Testing**
38558 **[~~78-45g-501~~]. 78B-15-501. Scope of part.**
38559 This part governs genetic testing of an individual to determine parentage, whether the
38560 individual:

38561 (1) voluntarily submits to testing; or
38562 (2) is tested pursuant to an order of a tribunal or a support-enforcement agency.
38563 Section 1411. Section **78B-15-502**, which is renumbered from Section 78-45g-502 is
38564 renumbered and amended to read:
38565 **[~~78-45g-502~~]. 78B-15-502. Order for testing.**
38566 (1) Upon the motion of any party to the action, except as otherwise provided in this
38567 part and Part 6, Adjudication of Parentage, the tribunal shall order the child and other
38568 designated individuals to submit to genetic testing if the request for testing is supported by the
38569 sworn statement of a party to the proceeding:
38570 (a) alleging paternity and stating facts establishing a reasonable probability of the
38571 requisite sexual contact between the individuals; or
38572 (b) denying paternity and stating facts establishing a possibility that sexual contact
38573 between the individuals, if any, did not result in the conception of the child.
38574 (2) If a request for genetic testing of a child is made before birth, the tribunal may not
38575 order in-utero testing.
38576 (3) If two or more men are subject to an order for genetic testing, the testing may be
38577 ordered concurrently or sequentially.
38578 Section 1412. Section **78B-15-503**, which is renumbered from Section 78-45g-503 is
38579 renumbered and amended to read:
38580 **[~~78-45g-503~~]. 78B-15-503. Requirements for genetic testing.**
38581 (1) Genetic testing must be of a type reasonably relied upon by experts in the field of
38582 genetic testing and performed in a testing laboratory accredited by:
38583 (a) the American Association of Blood Banks, or a successor to its functions;
38584 (b) the American Society for Histocompatibility and Immunogenetics, or a successor to
38585 its functions; or
38586 (c) an accrediting body designated by the federal Secretary of Health and Human
38587 Services.
38588 (2) A specimen used in genetic testing may consist of one or more samples, or a
38589 combination of samples, of blood, buccal cells, bone, hair, or other body tissue or fluid. The
38590 specimen used in the testing need not be of the same kind for each individual undergoing
38591 genetic testing.

38592 Section 1413. Section **78B-15-504**, which is renumbered from Section 78-45g-504 is
38593 renumbered and amended to read:
38594 **[~~78-45g-504~~]. 78B-15-504. Report of genetic testing.**
38595 (1) A report of genetic testing must be in a record and signed under penalty of perjury
38596 by a designee of the testing laboratory. A report made under the requirements of this part is
38597 self-authenticating.
38598 (2) Documentation from the testing laboratory of the following information is
38599 sufficient to establish a reliable chain of custody that allows the results of genetic testing to be
38600 admissible without testimony:
38601 (a) the names and photographs of the individuals whose specimens have been taken;
38602 (b) the names of the individuals who collected the specimens;
38603 (c) the places and dates the specimens were collected;
38604 (d) the names of the individuals who received the specimens in the testing laboratory;
38605 (e) the dates the specimens were received; and
38606 (f) the finger prints of the individuals whose specimens have been taken.
38607 Section 1414. Section **78B-15-505**, which is renumbered from Section 78-45g-505 is
38608 renumbered and amended to read:
38609 **[~~78-45g-505~~]. 78B-15-505. Genetic testing results -- Rebuttal.**
38610 (1) Under this chapter, a man is presumed to be identified as the father of a child if the
38611 genetic testing complies with this part and the results disclose that:
38612 (a) the man has at least a 99% probability of paternity, using a prior probability of 0.50,
38613 as calculated by using the combined paternity index obtained in the testing; and
38614 (b) a combined paternity index of at least 100 to 1.
38615 (2) A man identified under Subsection (1) as the father of the child may rebut the
38616 genetic testing results only by other genetic testing satisfying the requirements of this part
38617 which:
38618 (a) excludes the man as a genetic father of the child; or
38619 (b) identifies another man as the possible father of the child.
38620 (3) If an issue is raised as to whether the appropriate ethnic or racial group database
38621 was used by the testing laboratory, the testing laboratory will be asked to rerun the test using
38622 the correct ethnic or racial group database. If the testing laboratory does not have an adequate

38623 database, another testing laboratory may be engaged to perform the calculations.
38624 (4) If a presumption of paternity is not rebutted by a second test, the tribunal shall issue
38625 an order establishing paternity.
38626 Section 1415. Section **78B-15-506**, which is renumbered from Section 78-45g-506 is
38627 renumbered and amended to read:
38628 **[~~78-45g-506~~]. 78B-15-506. Costs of genetic testing.**
38629 (1) Subject to assessment of costs under Part 6, Adjudication of Parentage, the cost of
38630 initial genetic testing shall be advanced:
38631 (a) by a support-enforcement agency in a proceeding in which the support-enforcement
38632 agency is providing services;
38633 (b) by the individual who made the request;
38634 (c) as agreed by the parties; or
38635 (d) as ordered by the tribunal.
38636 (2) In cases in which the cost is advanced by the support-enforcement agency, the
38637 agency may seek reimbursement from a man who is rebuttably identified as the father.
38638 Section 1416. Section **78B-15-507**, which is renumbered from Section 78-45g-507 is
38639 renumbered and amended to read:
38640 **[~~78-45g-507~~]. 78B-15-507. Additional genetic testing.**
38641 The tribunal shall order additional genetic testing upon the request of a party who
38642 contests the result of the original testing. If the previous genetic testing identified a man as the
38643 father of the child under Section [~~78-45g-505~~] 78B-15-505, the tribunal may not order
38644 additional testing unless the party provides advance payment for the testing. If the tribunal
38645 orders a second genetic test in accordance with this section, the additional testing must be
38646 completed within 45 days of the tribunal's order or the requesting party's objection to the first
38647 test will be automatically denied. If failure to complete the test occurs because of
38648 noncooperation of the mother or unavailability of the child, the time will be tolled.
38649 Section 1417. Section **78B-15-508**, which is renumbered from Section 78-45g-508 is
38650 renumbered and amended to read:
38651 **[~~78-45g-508~~]. 78B-15-508. Genetic testing when specimens not available.**
38652 (1) Subject to Subsection (2), if a genetic-testing specimen is not available from a man
38653 who may be the father of a child, for good cause and under extraordinary circumstances the

38654 tribunal considers to be just, the tribunal may order the following individuals to submit
38655 specimens for genetic testing:
38656 (a) the parents of the man;
38657 (b) brothers and sisters of the man;
38658 (c) other children of the man and their mothers; and
38659 (d) other relatives of the man necessary to complete genetic testing.
38660 (2) Issuance of an order under this section requires a finding that a need for genetic
38661 testing outweighs the legitimate interests of the individual sought to be tested.
38662 Section 1418. Section **78B-15-509**, which is renumbered from Section 78-45g-509 is
38663 renumbered and amended to read:
38664 **[~~78-45g-509~~]. 78B-15-509. Deceased individual.**
38665 For good cause shown, the tribunal may order genetic testing of a deceased individual.
38666 Section 1419. Section **78B-15-510**, which is renumbered from Section 78-45g-510 is
38667 renumbered and amended to read:
38668 **[~~78-45g-510~~]. 78B-15-510. Identical brothers.**
38669 (1) The tribunal may order genetic testing of a brother of a man identified as the father
38670 of a child if the man is commonly believed to have an identical brother and evidence suggests
38671 that the brother may be the genetic father of the child.
38672 (2) If each brother satisfies the requirements as the identified father of the child under
38673 Section [~~78-45g-505~~] 78B-15-505 without consideration of another identical brother being
38674 identified as the father of the child, the tribunal may rely on nongenetic evidence to adjudicate
38675 which brother is the father of the child.
38676 Section 1420. Section **78B-15-511**, which is renumbered from Section 78-45g-511 is
38677 renumbered and amended to read:
38678 **[~~78-45g-511~~]. 78B-15-511. Confidentiality of genetic testing.**
38679 Release of the report of genetic testing for parentage is controlled by Title 63, Chapter
38680 2, Government Records Access and Management Act.
38681 Section 1421. Section **78B-15-601**, which is renumbered from Section 78-45g-601 is
38682 renumbered and amended to read:
38683 **Part 6. Adjudication of Parentage**
38684 **[~~78-45g-601~~]. 78B-15-601. Proceeding authorized -- Definition.**

38685 (1) An adjudicative proceeding may be maintained to determine the parentage of a
38686 child. A judicial proceeding is governed by the rules of civil procedure. An administrative
38687 proceeding is governed by Title 63, Chapter 46b, Administrative Procedures Act.
38688 (2) For the purposes of this part, "divorce" also includes an annulment.
38689 Section 1422. Section **78B-15-602**, which is renumbered from Section 78-45g-602 is
38690 renumbered and amended to read:
38691 **[~~78-45g-602~~]. 78B-15-602. Standing to maintain proceeding.**
38692 Subject to Part 3, Voluntary Declaration of Paternity, and Sections [~~78-45g-607~~]
38693 78B-15-607 and [~~78-45g-609~~] 78B-15-609, a proceeding to adjudicate parentage may be
38694 maintained by:
38695 (1) the child;
38696 (2) the mother of the child;
38697 (3) a man whose paternity of the child is to be adjudicated;
38698 (4) the support-enforcement agency or other governmental agency authorized by other
38699 law;
38700 (5) an authorized adoption agency or licensed child-placing agency;
38701 (6) a representative authorized by law to act for an individual who would otherwise be
38702 entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or
38703 (7) an intended parent under Part 8, Gestational Agreement.
38704 Section 1423. Section **78B-15-603**, which is renumbered from Section 78-45g-603 is
38705 renumbered and amended to read:
38706 **[~~78-45g-603~~]. 78B-15-603. Parties to proceeding.**
38707 The following individuals shall be joined as parties in a proceeding to adjudicate
38708 parentage:
38709 (1) the mother of the child;
38710 (2) a man whose paternity of the child is to be adjudicated; and
38711 (3) the state pursuant to Section [~~78-45-9~~] 78B-12-113.
38712 Section 1424. Section **78B-15-604**, which is renumbered from Section 78-45g-604 is
38713 renumbered and amended to read:
38714 **[~~78-45g-604~~]. 78B-15-604. Personal jurisdiction.**
38715 (1) An individual may not be adjudicated to be a parent unless the tribunal has personal

38716 jurisdiction over the individual.
38717 (2) A tribunal of this state having jurisdiction to adjudicate parentage may exercise
38718 personal jurisdiction over a nonresident individual, or the guardian or conservator of the
38719 individual, if the conditions prescribed in Section [~~78-45f-201~~] 78B-14-201 are fulfilled, or the
38720 individual has signed a declaration of paternity.
38721 (3) Lack of jurisdiction over one individual does not preclude the tribunal from making
38722 an adjudication of parentage binding on another individual over whom the tribunal has personal
38723 jurisdiction.
38724 Section 1425. Section **78B-15-605**, which is renumbered from Section 78-45g-605 is
38725 renumbered and amended to read:
38726 **[~~78-45g-605~~]. 78B-15-605. Venue.**
38727 Venue for a judicial proceeding to adjudicate parentage is in the county of this state in
38728 which:
38729 (1) the child resides or is found;
38730 (2) the respondent resides or is found if the child does not reside in this state; or
38731 (3) a proceeding for probate or administration of the presumed or alleged father's estate
38732 has been commenced.
38733 Section 1426. Section **78B-15-606**, which is renumbered from Section 78-45g-606 is
38734 renumbered and amended to read:
38735 **[~~78-45g-606~~]. 78B-15-606. No limitation -- Child having no declarant or**
38736 **adjudicated father.**
38737 A proceeding to adjudicate the parentage of a child having no declarant or adjudicated
38738 father may be commenced at any time. If initiated after the child becomes an adult, only the
38739 child may initiate the proceeding.
38740 Section 1427. Section **78B-15-607**, which is renumbered from Section 78-45g-607 is
38741 renumbered and amended to read:
38742 **[~~78-45g-607~~]. 78B-15-607. Limitation -- Child having presumed father.**
38743 (1) Paternity of a child conceived or born during a marriage with a presumed father as
38744 described in Subsection [~~78-45g-204~~] 78B-15-204(1)(a), (b), or (c), may be raised by the
38745 presumed father or the mother at any time prior to filing an action for divorce or in the
38746 pleadings at the time of the divorce of the parents.

38747 (a) If the issue is raised prior to the adjudication, genetic testing may be ordered by the
38748 tribunal in accordance with Section [~~78-45g-608~~] 78B-15-608. Failure of the mother of the
38749 child to appear for testing may result in an order allowing a motherless calculation of paternity.
38750 Failure of the mother to make the child available may not result in a determination that the
38751 presumed father is not the father, but shall allow for appropriate proceedings to compel the
38752 cooperation of the mother. If the question of paternity has been raised in the pleadings in a
38753 divorce and the tribunal addresses the issue and enters an order, the parties are estopped from
38754 raising the issue again, and the order of the tribunal may not be challenged on the basis of
38755 material mistake of fact.
38756 (b) If the presumed father seeks to rebut the presumption of paternity, then denial of a
38757 motion seeking an order for genetic testing or a decision to disregard genetic test results shall
38758 be based on a preponderance of the evidence.
38759 (c) If the mother seeks to rebut the presumption of paternity, the mother has the burden
38760 to show by a preponderance of the evidence that it would be in the best interests of the child to
38761 disestablish the parent-child relationship.
38762 (2) For the presumption outside of marriage described in Subsection [~~78-45g-204~~]
38763 78B-15-204(1)(d), the presumption may be rebutted at any time if the tribunal determines that
38764 the presumed father and the mother of the child neither cohabited nor engaged in sexual
38765 intercourse with each other during the probable time of conception.
38766 (3) The presumption may be rebutted by:
38767 (a) genetic test results that exclude the presumed father;
38768 (b) genetic test results that rebuttably identify another man as the father in accordance
38769 with Section [~~78-45g-505~~] 78B-15-505;
38770 (c) evidence that the presumed father and the mother of the child neither cohabited nor
38771 engaged in sexual intercourse with each other during the probable time of conception; or
38772 (d) an adjudication under this part.
38773 (4) There is no presumption to rebut if the presumed father was properly served and
38774 there has been a final adjudication of the issue.
38775 Section 1428. Section **78B-15-608**, which is renumbered from Section 78-45g-608 is
38776 renumbered and amended to read:
38777 **[~~78-45g-608~~]. 78B-15-608. Authority to deny motion for genetic testing or**

38778 **disregard test results.**
38779 (1) In a proceeding to adjudicate the parentage of a child having a presumed father or
38780 to challenge the paternity of a child having a declarant father, the tribunal may deny a motion
38781 seeking an order for genetic testing of the mother, the child, and the presumed or declarant
38782 father, or if testing has been completed, the tribunal may disregard genetic test results that
38783 exclude the presumed or declarant father if the tribunal determines that:
38784 (a) the conduct of the mother or the presumed or declarant father estops that party from
38785 denying parentage; and
38786 (b) it would be inequitable to disrupt the father-child relationship between the child and
38787 the presumed or declarant father.
38788 (2) In determining whether to deny a motion seeking an order for genetic testing or to
38789 disregard genetic test results under this section, the tribunal shall consider the best interest of
38790 the child, including the following factors:
38791 (a) the length of time between the proceeding to adjudicate parentage and the time that
38792 the presumed or declarant father was placed on notice that he might not be the genetic father;
38793 (b) the length of time during which the presumed or declarant father has assumed the
38794 role of father of the child;
38795 (c) the facts surrounding the presumed or declarant father's discovery of his possible
38796 nonpaternity;
38797 (d) the nature of the relationship between the child and the presumed or declarant
38798 father;
38799 (e) the age of the child;
38800 (f) the harm that may result to the child if presumed or declared paternity is
38801 successfully disestablished;
38802 (g) the nature of the relationship between the child and any alleged father;
38803 (h) the extent to which the passage of time reduces the chances of establishing the
38804 paternity of another man and a child-support obligation in favor of the child; and
38805 (i) other factors that may affect the equities arising from the disruption of the
38806 father-child relationship between the child and the presumed or declarant father or the chance
38807 of other harm to the child.
38808 (3) If the tribunal denies a motion seeking an order for genetic testing or disregards

38809 genetic test results that exclude the presumed or declarant father, it shall issue an order
38810 adjudicating the presumed or declarant father to be the father of the child.
38811 Section 1429. Section **78B-15-609**, which is renumbered from Section 78-45g-609 is
38812 renumbered and amended to read:
38813 **[~~78-45g-609~~]. 78B-15-609. Limitation -- Child having declarant father.**
38814 (1) If a child has a declarant father, a signatory to the declaration of paternity or denial
38815 of paternity or a support-enforcement agency may commence a proceeding seeking to rescind
38816 the declaration or denial or challenge the paternity of the child only within the time allowed
38817 under Section [~~78-45g-306~~] 78B-15-306 or [~~78-45g-307~~] 78B-15-307.
38818 (2) A proceeding under this section is subject to the application of the principles of
38819 estoppel established in Section [~~78-45g-608~~] 78B-15-608.
38820 Section 1430. Section **78B-15-610**, which is renumbered from Section 78-45g-610 is
38821 renumbered and amended to read:
38822 **[~~78-45g-610~~]. 78B-15-610. Joinder of judicial proceedings.**
38823 (1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate
38824 parentage may be joined with a proceeding for adoption, termination of parental rights, child
38825 custody or visitation, child support, divorce, annulment, legal separation or separate
38826 maintenance, probate or administration of an estate, or other appropriate proceeding.
38827 (2) A respondent may not join a proceeding described in Subsection (1) with a
38828 proceeding to adjudicate parentage brought under Title [~~78~~] 78B, Chapter [~~45f~~] 14, Uniform
38829 Interstate Family Support Act.
38830 Section 1431. Section **78B-15-611**, which is renumbered from Section 78-45g-611 is
38831 renumbered and amended to read:
38832 **[~~78-45g-611~~]. 78B-15-611. Proceeding before birth.**
38833 A proceeding to determine parentage may be commenced before the birth of the child,
38834 but may not be concluded until after the birth of the child. The following actions may be taken
38835 before the birth of the child:
38836 (1) service of process;
38837 (2) discovery; and
38838 (3) except as prohibited by Section [~~78-45g-502~~] 78B-15-502, collection of specimens
38839 for genetic testing.

38840 Section 1432. Section **78B-15-612**, which is renumbered from Section 78-45g-612 is
38841 renumbered and amended to read:
38842 **[~~78-45g-612~~]. 78B-15-612. Child as party -- Representation.**
38843 (1) A minor child is a permissible party, but is not a necessary party to a proceeding
38844 under this part.
38845 (2) The tribunal may appoint a guardian ad litem to represent a minor or incapacitated
38846 child if the child is a party or the tribunal finds that the interests of the child are not adequately
38847 represented.
38848 Section 1433. Section **78B-15-613**, which is renumbered from Section 78-45g-613 is
38849 renumbered and amended to read:
38850 **[~~78-45g-613~~]. 78B-15-613. Admissibility of results of genetic testing --**
38851 **Expenses.**
38852 (1) Except as otherwise provided in Subsection (3), a record of a genetic-testing expert
38853 is admissible as evidence of the truth of the facts asserted in the report unless a party objects to
38854 its admission within 14 days after its receipt by the objecting party and cites specific grounds
38855 for exclusion. Unless a party files a timely objection, testimony shall be in affidavit form. The
38856 admissibility of the report is not affected by whether the testing was performed:
38857 (a) voluntarily or pursuant to an order of the tribunal; or
38858 (b) before or after the commencement of the proceeding.
38859 (2) A party objecting to the results of genetic testing may call one or more
38860 genetic-testing experts to testify in person or by telephone, video conference, deposition, or
38861 another method approved by the tribunal. Unless otherwise ordered by the tribunal, the party
38862 offering the testimony bears the expense for the expert testifying.
38863 (3) If a child has a presumed or declarant father, the results of genetic testing are
38864 inadmissible to adjudicate parentage unless performed:
38865 (a) pursuant to Section [~~78-45g-503~~] 78B-15-503;
38866 (b) within the time periods set forth in this chapter; and
38867 (c) pursuant to a tribunal order or administrative process; or
38868 (d) with the consent of both the mother and the presumed or declarant father.
38869 (4) If a child has an adjudicated father, the results of genetic testing are inadmissible to
38870 challenge paternity except as set forth in Sections [~~78-45g-607~~] 78B-15-607 and [~~78-45g-608~~]

38871 78B-15-608.
38872 (5) Copies of bills for genetic testing and for prenatal and postnatal health care for the
38873 mother and child which are furnished to the adverse party not less than ten days before the date
38874 of a hearing are admissible to establish:
38875 (a) the amount of the charges billed; and
38876 (b) that the charges were reasonable, necessary, and customary.
38877 Section 1434. Section **78B-15-614**, which is renumbered from Section 78-45g-614 is
38878 renumbered and amended to read:
38879 **[~~78-45g-614~~]. 78B-15-614. Consequences of failing to submit to genetic**
38880 **testing.**
38881 (1) An order for genetic testing is enforceable by contempt.
38882 (2) If an individual whose paternity is being determined fails to submit to genetic
38883 testing ordered by the tribunal, the tribunal for that reason may adjudicate parentage contrary to
38884 the position of that individual.
38885 (3) Genetic testing of the mother of a child is not a condition precedent to testing the
38886 child and a man whose paternity is being determined. If the mother is unavailable or fails to
38887 submit to genetic testing, the tribunal may order the testing of the child and every man who is
38888 potentially the father of the child.
38889 Section 1435. Section **78B-15-615**, which is renumbered from Section 78-45g-615 is
38890 renumbered and amended to read:
38891 **[~~78-45g-615~~]. 78B-15-615. Admission of paternity authorized.**
38892 (1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of
38893 a child by filing a pleading to that effect or by admitting paternity under penalty of perjury
38894 when making an appearance or during a hearing.
38895 (2) If the tribunal finds that the admission of paternity satisfies the requirements of this
38896 section and finds that there is no reason to question the admission, the tribunal shall issue an
38897 order adjudicating the child to be the child of the man admitting paternity.
38898 Section 1436. Section **78B-15-616**, which is renumbered from Section 78-45g-616 is
38899 renumbered and amended to read:
38900 **[~~78-45g-616~~]. 78B-15-616. Temporary order.**
38901 (1) In a proceeding under this part, the tribunal shall issue a temporary order for

38902 support of a child if the order is appropriate and the individual ordered to pay support is:
38903 (a) a presumed father of the child;
38904 (b) petitioning to have his paternity adjudicated;
38905 (c) identified as the father through genetic testing under Section [~~78-45g-505~~]
38906 78B-15-505;
38907 (d) an alleged father who has failed to submit to genetic testing;
38908 (e) shown by clear and convincing evidence to be the father of the child; or
38909 (f) the mother of the child.
38910 (2) A temporary tribunal order may include provisions for custody and visitation as
38911 provided by other laws of this state.
38912 Section 1437. Section **78B-15-617**, which is renumbered from Section 78-45g-617 is
38913 renumbered and amended to read:
38914 **[~~78-45g-617~~]. 78B-15-617. Rules for adjudication of paternity.**
38915 The tribunal shall apply the following rules to adjudicate the paternity of a child:
38916 (1) The paternity of a child having a presumed, declarant, or adjudicated father may be
38917 disproved only by admissible results of genetic testing excluding that man as the father of the
38918 child or identifying another man as the father of the child.
38919 (2) Unless the results of genetic testing are admitted to rebut other results of genetic
38920 testing, a man identified as the father of a child under Section [~~78-45g-505~~] 78B-15-505 must
38921 be adjudicated the father of the child, unless an exception is granted under Section
38922 [~~78-45g-608~~] 78B-15-608.
38923 (3) If the tribunal finds that genetic testing under Section [~~78-45g-505~~] 78B-15-505
38924 neither identifies nor excludes a man as the father of a child, the tribunal may not dismiss the
38925 proceeding. In that event, the tribunal shall order further testing.
38926 (4) Unless the results of genetic testing are admitted to rebut other results of genetic
38927 testing, a man properly excluded as the father of a child by genetic testing must be adjudicated
38928 not to be the father of the child.
38929 Section 1438. Section **78B-15-618**, which is renumbered from Section 78-45g-618 is
38930 renumbered and amended to read:
38931 **[~~78-45g-618~~]. 78B-15-618. Adjudication of parentage -- Jury trial**
38932 **prohibited.**

38933 A jury trial is prohibited to adjudicate paternity of a child.
38934 Section 1439. Section **78B-15-619**, which is renumbered from Section 78-45g-619 is
38935 renumbered and amended to read:
38936 **[~~78-45g-619~~]. 78B-15-619. Adjudication of parentage -- Hearings --**
38937 **Inspection of records.**
38938 (1) On request of a party and for good cause shown, the tribunal may close a
38939 proceeding under this part.
38940 (2) A final order in a proceeding under this part is available for public inspection.
38941 Other papers and records are available only with the consent of the parties or on order of the
38942 tribunal for good cause.
38943 Section 1440. Section **78B-15-620**, which is renumbered from Section 78-45g-620 is
38944 renumbered and amended to read:
38945 **[~~78-45g-620~~]. 78B-15-620. Adjudication of parentage -- Order on default.**
38946 The tribunal shall issue an order adjudicating the paternity of a man who:
38947 (1) after service of process, is in default; and
38948 (2) is found by the tribunal to be the father of a child.
38949 Section 1441. Section **78B-15-621**, which is renumbered from Section 78-45g-621 is
38950 renumbered and amended to read:
38951 **[~~78-45g-621~~]. 78B-15-621. Adjudication of parentage -- Dismissal for want**
38952 **of prosecution.**
38953 The tribunal may issue an order dismissing a proceeding commenced under this chapter
38954 for want of prosecution only without prejudice. An order of dismissal for want of prosecution
38955 purportedly with prejudice is void and has only the effect of a dismissal without prejudice.
38956 Section 1442. Section **78B-15-622**, which is renumbered from Section 78-45g-622 is
38957 renumbered and amended to read:
38958 **[~~78-45g-622~~]. 78B-15-622. Order adjudicating parentage.**
38959 (1) The tribunal shall issue an order adjudicating whether a man alleged or claiming to
38960 be the father is the parent of the child.
38961 (2) An order adjudicating parentage must identify the child by name and date of birth.
38962 (3) Except as otherwise provided in Subsection (4), the tribunal may assess filing fees,
38963 reasonable [~~attorney's~~] attorney fees, fees for genetic testing, other costs, necessary travel, and

38964 other reasonable expenses incurred in a proceeding under this part. The tribunal may award
38965 [~~attorney's~~] attorney fees, which may be paid directly to the attorney, who may enforce the
38966 order in the attorney's own name.
38967 (4) The tribunal may not assess fees, costs, or expenses against the
38968 support-enforcement agency of this state or another state, except as provided by law.
38969 (5) On request of a party and for good cause shown, the tribunal may order that the
38970 name of the child be changed.
38971 (6) If the order of the tribunal is at variance with the child's birth certificate, the
38972 tribunal shall order the Office of Vital Records to issue an amended birth registration.
38973 Section 1443. Section **78B-15-623**, which is renumbered from Section 78-45g-623 is
38974 renumbered and amended to read:
38975 **[~~78-45g-623~~]. 78B-15-623. Binding effect of determination of parentage.**
38976 (1) Except as otherwise provided in Subsection (2), a determination of parentage is
38977 binding on:
38978 (a) all signatories to a declaration or denial of paternity as provided in Part 3, Voluntary
38979 Declaration of Paternity; and
38980 (b) all parties to an adjudication by a tribunal acting under circumstances that satisfy
38981 the jurisdictional requirements of Section [~~78-45f-201~~] 78B-14-201.
38982 (2) A child is not bound by a determination of parentage under this chapter unless:
38983 (a) the determination was based on an unrescinded declaration of paternity and the
38984 declaration is consistent with the results of genetic testing;
38985 (b) the adjudication of parentage was based on a finding consistent with the results of
38986 genetic testing and the consistency is declared in the determination or is otherwise shown; or
38987 (c) the child was a party or was represented in the proceeding determining parentage by
38988 a guardian ad litem.
38989 (3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an
38990 adjudication of the parentage of a child if the question of paternity is raised and the tribunal
38991 adjudicates according to Part 6, Adjudication of Parentage, and the final order:
38992 (a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or
38993 similar words indicating that the husband is the father of the child; or
38994 (b) provides for support of the child by the husband unless paternity is specifically

38995 disclaimed in the order.
38996 (4) The tribunal is not considered to have made an adjudication of the parentage of a
38997 child if the child was born at the time of entry of the order and other children are named as
38998 children of the marriage, but that child is specifically not named.
38999 (5) Once the paternity of a child has been adjudicated, an individual who was not a
39000 party to the paternity proceeding may not challenge the paternity, unless:
39001 (a) the party seeking to challenge can demonstrate a fraud upon the tribunal;
39002 (b) the challenger can demonstrate by clear and convincing evidence that the challenger
39003 did not know about the adjudicatory proceeding or did not have a reasonable opportunity to
39004 know of the proceeding; and
39005 (c) there would be harm to the child to leave the order in place.
39006 (6) A party to an adjudication of paternity may challenge the adjudication only under
39007 law of this state relating to appeal, vacation of judgments, or other judicial review.
39008 Section 1444. Section **78B-15-701**, which is renumbered from Section 78-45g-701 is
39009 renumbered and amended to read:
39010 **Part 7. Assisted Reproduction**
39011 **[~~78-45g-701~~]. 78B-15-701. Scope.**
39012 This part does not apply to the birth of a child conceived by means of sexual
39013 intercourse, or as result of a gestational agreement as provided in Part 8, Gestational
39014 Agreement.
39015 Section 1445. Section **78B-15-702**, which is renumbered from Section 78-45g-702 is
39016 renumbered and amended to read:
39017 **[~~78-45g-702~~]. 78B-15-702. Parental status of donor.**
39018 A donor is not a parent of a child conceived by means of assisted reproduction.
39019 Section 1446. Section **78B-15-703**, which is renumbered from Section 78-45g-703 is
39020 renumbered and amended to read:
39021 **[~~78-45g-703~~]. 78B-15-703. Husband's paternity of child of assisted**
39022 **reproduction.**
39023 If a husband provides sperm for, or consents to, assisted reproduction by his wife as
39024 provided in Section [~~78-45g-704~~] 78B-15-704, he is the father of a resulting child born to his
39025 wife.

39026 Section 1447. Section **78B-15-704**, which is renumbered from Section 78-45g-704 is
39027 renumbered and amended to read:
39028 **[~~78-45g-704~~]. 78B-15-704. Consent to assisted reproduction.**
39029 (1) A consent to assisted reproduction by a married woman must be in a record signed
39030 by the woman and her husband. This requirement does not apply to the donation of eggs for
39031 assisted reproduction by another woman.
39032 (2) Failure of the husband to sign a consent required by Subsection (1), before or after
39033 the birth of the child, does not preclude a finding that the husband is the father of a child born
39034 to his wife if the wife and husband openly treat the child as their own.
39035 Section 1448. Section **78B-15-705**, which is renumbered from Section 78-45g-705 is
39036 renumbered and amended to read:
39037 **[~~78-45g-705~~]. 78B-15-705. Limitation on husband's dispute of paternity.**
39038 (1) Except as otherwise provided in Subsection (2), the husband of a wife who gives
39039 birth to a child by means of assisted reproduction may not challenge his paternity of the child
39040 unless:
39041 (a) within two years after learning of the birth of the child he commences a proceeding
39042 to adjudicate his paternity; and
39043 (b) the tribunal finds that he did not consent to the assisted reproduction, before or after
39044 the birth of the child.
39045 (2) A proceeding to adjudicate paternity may be maintained at any time if the tribunal
39046 determines that:
39047 (a) the husband did not provide sperm for, or before or after the birth of the child
39048 consent to, assisted reproduction by his wife;
39049 (b) the husband and the mother of the child have not cohabited since the probable time
39050 of assisted reproduction; and
39051 (c) the husband never openly treated the child as his own.
39052 (3) The limitation provided in this section applies to a marriage declared invalid after
39053 assisted reproduction.
39054 Section 1449. Section **78B-15-706**, which is renumbered from Section 78-45g-706 is
39055 renumbered and amended to read:
39056 **[~~78-45g-706~~]. 78B-15-706. Effect of dissolution of marriage.**

39057 (1) If a marriage is dissolved before placement of eggs, sperm, or an embryo, the
39058 former spouse is not a parent of the resulting child unless the former spouse consented in a
39059 record that if assisted reproduction were to occur after a divorce, the former spouse would be a
39060 parent of the child.
39061 (2) The consent of the former spouse to assisted reproduction may be revoked by that
39062 individual in a record at any time before placement of eggs, sperm, or embryos.
39063 Section 1450. Section **78B-15-707**, which is renumbered from Section 78-45g-707 is
39064 renumbered and amended to read:
39065 **[~~78-45g-707~~]. 78B-15-707. Parental status of deceased spouse.**
39066 If a spouse dies before placement of eggs, sperm, or an embryo, the deceased spouse is
39067 not a parent of the resulting child unless the deceased spouse consented in a record that if
39068 assisted reproduction were to occur after death, the deceased spouse would be a parent of the
39069 child.
39070 Section 1451. Section **78B-15-801**, which is renumbered from Section 78-45g-801 is
39071 renumbered and amended to read:
39072 **Part 8. Gestational Agreement**
39073 **[~~78-45g-801~~]. 78B-15-801. Gestational agreement authorized.**
39074 (1) A prospective gestational mother, her husband if she is married, a donor or the
39075 donors, and the intended parents may enter into a written agreement providing that:
39076 (a) the prospective gestational mother agrees to pregnancy by means of assisted
39077 reproduction;
39078 (b) the prospective gestational mother, her husband if she is married, and the donors
39079 relinquish all rights and duties as the parents of a child conceived through assisted
39080 reproduction; and
39081 (c) the intended parents become the parents of the child.
39082 (2) The intended gestational mother may not currently be receiving Medicaid or any
39083 other state assistance.
39084 (3) The intended parents shall be married, and both spouses must be parties to the
39085 gestational agreement.
39086 (4) A gestational agreement is enforceable only if validated as provided in Section
39087 [~~78-45g-803~~] 78B-15-803.

39088 (5) A gestational agreement does not apply to the birth of a child conceived by means
39089 of sexual intercourse or if neither intended parent is a donor.
39090 (6) The parties to a gestational agreement shall be 21 years of age or older.
39091 (7) The gestational mother's eggs may not be used in the assisted reproduction
39092 procedure.
39093 (8) If the gestational mother is married, her husband's sperm may not be used in the
39094 assisted reproduction procedure.
39095 Section 1452. Section **78B-15-802**, which is renumbered from Section 78-45g-802 is
39096 renumbered and amended to read:
39097 **[~~78-45g-802~~]. 78B-15-802. Requirements of petition.**
39098 (1) The intended parents and the prospective gestational mother may file a petition in
39099 the district tribunal to validate a gestational agreement.
39100 (2) A petition to validate a gestational agreement may not be maintained unless either
39101 the mother or intended parents have been residents of this state for at least 90 days.
39102 (3) The prospective gestational mother's husband, if she is married, must join in the
39103 petition.
39104 (4) A copy of the gestational agreement must be attached to the petition.
39105 Section 1453. Section **78B-15-803**, which is renumbered from Section 78-45g-803 is
39106 renumbered and amended to read:
39107 **[~~78-45g-803~~]. 78B-15-803. Hearing to validate gestational agreement.**
39108 (1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order
39109 validating the gestational agreement and declaring that the intended parents will be the parents
39110 of a child born during the term of the agreement.
39111 (2) The tribunal may issue an order under Subsection (1) only on finding that:
39112 (a) the residence requirements of Section [~~78-45g-802~~] 78B-15-802 have been satisfied
39113 and the parties have submitted to jurisdiction of the tribunal under the jurisdictional standards
39114 of this part;
39115 (b) medical evidence shows that the intended mother is unable to bear a child or is
39116 unable to do so without unreasonable risk to her physical or mental health or to the unborn
39117 child;
39118 (c) unless waived by the tribunal, a home study of the intended parents has been

39119 conducted in accordance with [~~Section 78-30-3.5~~] Sections 78B-6-128 through 78B-6-131, and
39120 the intended parents meet the standards of fitness applicable to adoptive parents;
39121 (d) all parties have participated in counseling with a licensed mental health
39122 professional as evidenced by a certificate signed by the licensed mental health professional
39123 which affirms that all parties have discussed options and consequences of the agreement and
39124 presented to the tribunal;
39125 (e) all parties have voluntarily entered into the agreement and understand its terms;
39126 (f) the prospective gestational mother has had at least one pregnancy and delivery and
39127 her bearing another child will not pose an unreasonable health risk to the unborn child or to the
39128 physical or mental health of the prospective gestational mother;
39129 (g) adequate provision has been made for all reasonable health-care expense associated
39130 with the gestational agreement until the birth of the child, including responsibility for those
39131 expenses if the agreement is terminated;
39132 (h) the consideration, if any, paid to the prospective gestational mother is reasonable;
39133 (i) all the parties to the agreement are 21 years of age or older;
39134 (j) the gestational mother's eggs are not being used in the assisted reproduction
39135 procedure; and
39136 (k) if the gestational mother is married, her husband's sperm is not being used in the
39137 assisted reproduction procedure.
39138 (3) Whether to validate a gestational agreement is within the discretion of the tribunal,
39139 subject only to review for abuse of discretion.
39140 Section 1454. Section **78B-15-804**, which is renumbered from Section 78-45g-804 is
39141 renumbered and amended to read:
39142 **[~~78-45g-804~~]. 78B-15-804. Inspection of records.**
39143 The proceedings, records, and identities of the individuals to a gestational agreement
39144 under this part are subject to inspection under the confidentiality standards applicable to
39145 adoptions as provided under other laws of this state.
39146 Section 1455. Section **78B-15-805**, which is renumbered from Section 78-45g-805 is
39147 renumbered and amended to read:
39148 **[~~78-45g-805~~]. 78B-15-805. Exclusive, continuing jurisdiction.**
39149 Subject to the jurisdictional standards of Section [~~78-45c-201~~] 78B-13-201, the tribunal

39150 conducting a proceeding under this part has exclusive, continuing jurisdiction of all matters
39151 arising out of the gestational agreement until a child born to the gestational mother during the
39152 period governed by the agreement attains the age of 180 days.
39153 Section 1456. Section **78B-15-806**, which is renumbered from Section 78-45g-806 is
39154 renumbered and amended to read:
39155 **[~~78-45g-806~~]. 78B-15-806. Termination of gestational agreement.**
39156 (1) After issuance of an order under this part, but before the prospective gestational
39157 mother becomes pregnant by means of assisted reproduction, the prospective gestational
39158 mother, her husband, or either of the intended parents may terminate the gestational agreement
39159 only by giving written notice of termination to all other parties.
39160 (2) The tribunal for good cause shown also may terminate the gestational agreement.
39161 (3) An individual who terminates an agreement shall file notice of the termination with
39162 the tribunal. On receipt of the notice, the tribunal shall vacate the order issued under this part.
39163 An individual who does not notify the tribunal of the termination of the agreement is subject to
39164 appropriate sanctions.
39165 (4) Neither a prospective gestational mother nor her husband, if any, is liable to the
39166 intended parents for terminating an agreement pursuant to this section.
39167 Section 1457. Section **78B-15-807**, which is renumbered from Section 78-45g-807 is
39168 renumbered and amended to read:
39169 **[~~78-45g-807~~]. 78B-15-807. Parentage under validated gestational**
39170 **agreement.**
39171 (1) Upon birth of a child to a gestational mother, the intended parents shall file notice
39172 with the tribunal that a child has been born to the gestational mother within 300 days after
39173 assisted reproduction. Thereupon, the tribunal shall issue an order:
39174 (a) confirming that the intended parents are the parents of the child;
39175 (b) if necessary, ordering that the child be surrendered to the intended parents; and
39176 (c) directing the Office of Vital Records to issue a birth certificate naming the intended
39177 parents as parents of the child.
39178 (2) If the parentage of a child born to the gestational mother is in dispute as not the
39179 result of an assisted reproduction, the tribunal shall order genetic testing to determine the
39180 parentage of the child.

39181 Section 1458. Section **78B-15-808**, which is renumbered from Section 78-45g-808 is
39182 renumbered and amended to read:
39183 **[~~78-45g-808~~]. 78B-15-808. Gestational agreement -- Miscellaneous**
39184 **provisions.**
39185 (1) A gestational agreement may provide for payment of consideration.
39186 (2) A gestational agreement may not limit the right of the gestational mother to make
39187 decisions to safeguard her health or that of the embryo or fetus.
39188 (3) After the issuance of an order under this part, subsequent marriage of the
39189 gestational mother does not affect the validity of a gestational agreement, and her husband's
39190 consent to the agreement is not required, nor is her husband a presumed father of the resulting
39191 child.
39192 Section 1459. Section **78B-15-809**, which is renumbered from Section 78-45g-809 is
39193 renumbered and amended to read:
39194 **[~~78-45g-809~~]. 78B-15-809. Effect of nonvalidated gestational agreement.**
39195 (1) A gestational agreement, whether in a record or not, which is not validated by a
39196 tribunal is not enforceable.
39197 (2) If a birth results under a gestational agreement that is not judicially validated as
39198 provided in this part, the parent-child relationship is determined as provided in Part 2,
39199 Parent-child Relationship.
39200 (3) The individuals who are parties to a nonvalidated gestational agreement as intended
39201 parents may be held liable for support of the resulting child, even if the agreement is otherwise
39202 unenforceable. The liability under this Subsection (3) includes assessing all expenses and fees
39203 as provided in Section [~~78-45g-622~~] 78B-15-622.
39204 Section 1460. Section **78B-15-901**, which is renumbered from Section 78-45g-901 is
39205 renumbered and amended to read:
39206 **Part 9. Miscellaneous**
39207 **[~~78-45g-901~~]. 78B-15-901. Uniformity of application and construction.**
39208 This chapter is a uniform law. In applying and construing this chapter, consideration
39209 shall be given to the need to promote uniformity of the law with respect to its subject matter
39210 among the states that enact it.
39211 Section 1461. Section **78B-15-902**, which is renumbered from Section 78-45g-902 is

39212 renumbered and amended to read:
39213 **[~~78-45g-902~~]. 78B-15-902. Transitional provision.**
39214 A proceeding to adjudicate parentage which was commenced before May 1, 2005 is
39215 governed by the law in effect at the time the proceeding was commenced.
39216 Section 1462. Section **78B-16-101**, which is renumbered from Section 78-62-101 is
39217 renumbered and amended to read:
39218 **CHAPTER 16. UTAH UNIFORM CHILD ABDUCTION PREVENTION ACT**
39219 **[~~78-62-101~~]. 78B-16-101. Title.**
39220 This chapter is known as the "Utah Uniform Child Abduction Prevention Act."
39221 Section 1463. Section **78B-16-102**, which is renumbered from Section 78-62-102 is
39222 renumbered and amended to read:
39223 **[~~78-62-102~~]. 78B-16-102. Definitions.**
39224 In this chapter:
39225 (1) "Abduction" means the wrongful removal or wrongful retention of a child.
39226 (2) "Child" means an unemancipated individual who is less than 18 years of age.
39227 (3) "Child custody determination" means a judgment, decree, or other order of a court
39228 providing for the legal custody, physical custody, or visitation with respect to a child. The term
39229 includes a permanent, temporary, initial, and modification order.
39230 (4) "Child custody proceeding" means a proceeding in which legal custody, physical
39231 custody, visitation, or parent-time with respect to a child is at issue. The term includes a
39232 proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency,
39233 guardianship, paternity, termination of parental rights, or protection from domestic violence.
39234 (5) "Court" means an entity authorized under the law of a state to establish, enforce, or
39235 modify a child custody determination.
39236 (6) "Petition" includes a motion or its equivalent.
39237 (7) "Record" means information inscribed on a tangible medium or stored in an
39238 electronic or other medium and is retrievable in perceivable form.
39239 (8) "State" means a state of the United States, the District of Columbia, Puerto Rico,
39240 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
39241 of the United States. The term includes a federally recognized Indian tribe or nation.
39242 (9) "Travel document" means records relating to a travel itinerary, including travel

39243 tickets, passes, reservations for transportation, or accommodations. The term does not include
39244 a passport or visa.
39245 (10) "Wrongful removal" means the taking of a child that breaches rights of custody,
39246 visitation, or parent-time given or recognized under the law of this state.
39247 (11) "Wrongful retention" means the keeping or concealing of a child that breaches
39248 rights of custody, visitation, or parent-time given or recognized under the law of this state.
39249 Section 1464. Section **78B-16-103**, which is renumbered from Section 78-62-103 is
39250 renumbered and amended to read:
39251 **[~~78-62-103~~]. 78B-16-103. Cooperation and communication among courts.**
39252 Sections [~~78-45c-110, 78-45c-111, and 78-45c-112~~] 78B-13-110, 78B-13-111, and
39253 78B-13-112 apply to cooperation and communications among courts in proceedings under this
39254 chapter.
39255 Section 1465. Section **78B-16-104**, which is renumbered from Section 78-62-104 is
39256 renumbered and amended to read:
39257 **[~~78-62-104~~]. 78B-16-104. Actions for abduction prevention measures.**
39258 (1) A court on its own motion may order abduction prevention measures in a child
39259 custody proceeding if the court finds that the evidence establishes a credible risk of abduction
39260 of the child.
39261 (2) A party to a child custody determination or another individual or entity having a
39262 right under the law of this state or any other state to seek a child custody determination for the
39263 child may file a petition seeking abduction prevention measures to protect the child under this
39264 chapter.
39265 (3) A prosecutor or public authority designated under Section [~~78-45c-315~~]
39266 78B-13-315 may seek a warrant to take physical custody of a child under Section [~~78-62-109~~]
39267 78B-16-109 or other appropriate prevention measures.
39268 Section 1466. Section **78B-16-105**, which is renumbered from Section 78-62-105 is
39269 renumbered and amended to read:
39270 **[~~78-62-105~~]. 78B-16-105. Jurisdiction.**
39271 (1) A petition under this chapter may be filed only in a court that has jurisdiction to
39272 make a child custody determination with respect to the child at issue under Title [~~78~~] 78B,
39273 Chapter [~~45c~~] 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act.

39274 (2) A court of this state has temporary emergency jurisdiction under Section
39275 [~~78-45c-204~~] 78B-13-204 if the court finds a credible risk of abduction.
39276 Section 1467. Section **78B-16-106**, which is renumbered from Section 78-62-106 is
39277 renumbered and amended to read:
39278 **[~~78-62-106~~]. 78B-16-106. Contents of petition.**
39279 (1) A petition under this chapter must be verified and include a copy of any existing
39280 child custody determination, if available. The petition must specify the risk factors for
39281 abduction, including the relevant factors described in Section [~~78-62-107~~] 78B-16-107.
39282 (2) Subject to Subsection [~~78-45c-209~~] 78B-13-209(5), if reasonably ascertainable, the
39283 petition must contain:
39284 (a) the name, date of birth, and gender of the child;
39285 (b) the customary address and current physical location of the child;
39286 (c) the identity, customary address, and current physical location of the respondent;
39287 (d) a statement of whether a prior action to prevent abduction or domestic violence has
39288 been filed by a party or other individual or entity having custody of the child, and the date,
39289 location, and disposition of the action;
39290 (e) a statement of whether a party to the proceeding has been arrested for a crime
39291 related to domestic violence, stalking, or child abuse or neglect, and the date, location, and
39292 disposition of the case; and
39293 (f) any other information required to be submitted to the court for a child custody
39294 determination under Section [~~78-45c-209~~] 78B-13-209.
39295 Section 1468. Section **78B-16-107**, which is renumbered from Section 78-62-107 is
39296 renumbered and amended to read:
39297 **[~~78-62-107~~]. 78B-16-107. Factors to determine risk of abduction.**
39298 (1) In determining whether there is a credible risk of abduction of a child, the court
39299 shall consider any evidence that the petitioner or respondent:
39300 (a) has previously abducted or attempted to abduct the child;
39301 (b) has threatened to abduct the child;
39302 (c) has recently engaged in activities that may indicate a planned abduction, including:
39303 (i) abandoning employment;
39304 (ii) selling a primary residence;

39305 (iii) terminating a lease;
39306 (iv) closing bank or other financial management accounts, liquidating assets, hiding or
39307 destroying financial documents, or conducting any unusual financial activities;
39308 (v) applying for a passport or visa or obtaining travel documents for the respondent, a
39309 family member, or the child; or
39310 (vi) seeking to obtain the child's birth certificate or school or medical records;
39311 (d) has engaged in domestic violence, stalking, or child abuse or neglect;
39312 (e) has refused to follow a child custody determination;
39313 (f) lacks strong familial, financial, emotional, or cultural ties to the state or the United
39314 States;
39315 (g) has strong familial, financial, emotional, or cultural ties to another state or country;
39316 (h) is likely to take the child to a country that:
39317 (i) is not a party to the Hague Convention on the Civil Aspects of International Child
39318 Abduction and does not provide for the extradition of an abducting parent or for the return of
39319 an abducted child;
39320 (ii) is a party to the Hague Convention on the Civil Aspects of International Child
39321 Abduction but:
39322 (A) the Hague Convention on the Civil Aspects of International Child Abduction is not
39323 in force between the United States and that country;
39324 (B) is noncompliant according to the most recent compliance report issued by the
39325 United States Department of State; or
39326 (C) lacks legal mechanisms for immediately and effectively enforcing a return order
39327 under the Hague Convention on the Civil Aspects of International Child Abduction;
39328 (iii) poses a risk that the child's physical or emotional health or safety would be
39329 endangered in the country because of specific circumstances relating to the child or because of
39330 human rights violations committed against children;
39331 (iv) has laws or practices that would:
39332 (A) enable the respondent, without due cause, to prevent the petitioner from contacting
39333 the child;
39334 (B) restrict the petitioner from freely traveling to or exiting from the country because of
39335 the petitioner's gender, nationality, marital status, or religion; or

39336 (C) restrict the child's ability legally to leave the country after the child reaches the age
39337 of majority because of a child's gender, nationality, or religion;
39338 (v) is included by the United States Department of State on a current list of state
39339 sponsors of terrorism;
39340 (vi) does not have an official United States diplomatic presence in the country; or
39341 (vii) is engaged in active military action or war, including a civil war, to which the
39342 child may be exposed;
39343 (i) is undergoing a change in immigration or citizenship status that would adversely
39344 affect the respondent's ability to remain in the United States legally;
39345 (j) has had an application for United States citizenship denied;
39346 (k) has forged or presented misleading or false evidence on government forms or
39347 supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a
39348 Social Security card, a driver license, or other government-issued identification card or has
39349 made a misrepresentation to the United States government;
39350 (l) has used multiple names to attempt to mislead or defraud; or
39351 (m) has engaged in any other conduct the court considers relevant to the risk of
39352 abduction.
39353 (2) In the hearing on a petition under this chapter, the court shall consider any evidence
39354 that the respondent believed in good faith that the respondent's conduct was necessary to avoid
39355 imminent harm to the child or respondent and any other evidence that may be relevant to
39356 whether the respondent may be permitted to remove or retain the child.
39357 Section 1469. Section **78B-16-108**, which is renumbered from Section 78-62-108 is
39358 renumbered and amended to read:
39359 **[~~78-62-108~~]. 78B-16-108. Provisions and measures to prevent abduction.**
39360 (1) If a petition is filed under this chapter, the court may enter an order which must
39361 include:
39362 (a) the basis for the court's exercise of jurisdiction;
39363 (b) the manner in which notice and opportunity to be heard were given to the persons
39364 entitled to notice of the proceeding;
39365 (c) a detailed description of each party's custody and visitation rights and residential
39366 arrangements for the child;

39367 (d) a provision stating that a violation of the order may subject the party in violation to
39368 civil and criminal penalties; and
39369 (e) identification of the child's country of habitual residence at the time of the issuance
39370 of the order.
39371 (2) If, at a hearing on a petition under this chapter or on the court's own motion, the
39372 court after reviewing the evidence finds a credible risk of abduction of the child, the court shall
39373 enter an abduction prevention order. The order must include the provisions required by
39374 Subsection (1) and measures and conditions, including those in Subsections (3), (4), and (5),
39375 that are reasonably calculated to prevent abduction of the child, giving due consideration to the
39376 custody, visitation, and parent-time rights of the parties. The court shall consider the age of the
39377 child, the potential harm to the child from an abduction, the legal and practical difficulties of
39378 returning the child to the jurisdiction if abducted, and the reasons for the potential abduction,
39379 including evidence of domestic violence, stalking, or child abuse or neglect.
39380 (3) An abduction prevention order may include one or more of the following:
39381 (a) an imposition of travel restrictions that require that a party traveling with the child
39382 outside a designated geographical area provide the other party with the following:
39383 (i) the travel itinerary of the child;
39384 (ii) a list of physical addresses and telephone numbers at which the child can be
39385 reached at specified times; and
39386 (iii) copies of all travel documents;
39387 (b) a prohibition of the respondent directly or indirectly:
39388 (i) removing the child from this state, the United States, or another geographic area
39389 without permission of the court or the petitioner's written consent;
39390 (ii) removing or retaining the child in violation of a child custody determination;
39391 (iii) removing the child from school or a child-care or similar facility; or
39392 (iv) approaching the child at any location other than a site designated for supervised
39393 visitation;
39394 (c) a requirement that a party to register the order in another state as a prerequisite to
39395 allowing the child to travel to that state;
39396 (d) with regard to the child's passport:
39397 (i) a direction that the petitioner place the child's name in the United States Department

39398 of State's Child Passport Issuance Alert Program;
39399 (ii) a requirement that the respondent surrender to the court or the petitioner's attorney
39400 any United States or foreign passport issued in the child's name, including a passport issued in
39401 the name of both the parent and the child; and
39402 (iii) a prohibition upon the respondent from applying on behalf of the child for a new
39403 or replacement passport or visa;
39404 (e) as a prerequisite to exercising custody, visitation, or parent-time, a requirement that
39405 the respondent provide:
39406 (i) to the United States Department of State Office of Children's Issues and the relevant
39407 foreign consulate or embassy, an authenticated copy of the order detailing passport and travel
39408 restrictions for the child;
39409 (ii) to the court:
39410 (A) proof that the respondent has provided the information in Subsection (3)(e)(i); and
39411 (B) an acknowledgment in a record from the relevant foreign consulate or embassy that
39412 no passport application has been made, or passport issued, on behalf of the child;
39413 (iii) to the petitioner, proof of registration with the United States Embassy or other
39414 United States diplomatic presence in the destination country and with the Central Authority for
39415 the Hague Convention on the Civil Aspects of International Child Abduction, if that
39416 convention is in effect between the United States and the destination country, unless one of the
39417 parties objects; and
39418 (iv) a written waiver under the Privacy Act, 5 U.S.C. Section 552a, with respect to any
39419 document, application, or other information pertaining to the child authorizing its disclosure to
39420 the court and the petitioner; and
39421 (f) upon the petitioner's request, a requirement that the respondent obtain an order from
39422 the relevant foreign country containing terms identical to the child custody determination
39423 issued in the United States.
39424 (4) In an abduction prevention order, the court may impose conditions on the exercise
39425 of custody or visitation that:
39426 (a) limit visitation or require that visitation with the child by the respondent be
39427 supervised until the court finds that supervision is no longer necessary and order the respondent
39428 to pay the costs of supervision;

39429 (b) require the respondent to post a bond or provide other security in an amount
39430 sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to
39431 pay for the reasonable expenses of recovery of the child, including reasonable attorney fees and
39432 costs if there is an abduction; and
39433 (c) require the respondent to obtain education on the potentially harmful effects to the
39434 child from abduction.
39435 (5) To prevent imminent abduction of a child, a court may:
39436 (a) issue a warrant to take physical custody of the child under Section [~~78-62-109~~]
39437 78B-16-109 or the law of this state other than this chapter;
39438 (b) direct the use of law enforcement to take any action reasonably necessary to locate
39439 the child, obtain return of the child, or enforce a custody determination under this chapter or the
39440 law of this state other than this chapter; or
39441 (c) grant any other relief allowed under the law of this state other than this chapter.
39442 (6) The remedies provided in this chapter are cumulative and do not affect the
39443 availability of other remedies to prevent abduction.
39444 Section 1470. Section **78B-16-109**, which is renumbered from Section 78-62-109 is
39445 renumbered and amended to read:
39446 **[~~78-62-109~~]. 78B-16-109. Warrant to take physical custody of child.**
39447 (1) If a petition under this chapter contains allegations, and the court finds that there is
39448 a credible risk that the child is imminently likely to be wrongfully removed, the court may issue
39449 an ex parte warrant to take physical custody of the child.
39450 (2) The respondent on a petition under Subsection (1) must be afforded an opportunity
39451 to be heard at the earliest possible time after the ex parte warrant is executed, but not later than
39452 the next judicial day unless a hearing on that date is impossible. In that event, the court shall
39453 hold the hearing on the first judicial day possible.
39454 (3) An ex parte warrant under Subsection (1) to take physical custody of a child must:
39455 (a) recite the facts upon which a determination of a credible risk of imminent wrongful
39456 removal of the child is based;
39457 (b) direct law enforcement officers to take physical custody of the child immediately;
39458 (c) state the date and time for the hearing on the petition; and
39459 (d) provide for the safe interim placement of the child pending further order of the

39460 court.
39461 (4) If feasible, before issuing a warrant and before determining the placement of the
39462 child after the warrant is executed, the court may order a search of the relevant databases of the
39463 National Crime Information Center system and similar state databases to determine if either the
39464 petitioner or respondent has a history of domestic violence, stalking, or child abuse or neglect.
39465 (5) The petition and warrant must be served on the respondent when or immediately
39466 after the child is taken into physical custody.
39467 (6) A warrant to take physical custody of a child, issued by this state or another state, is
39468 enforceable throughout this state. If the court finds that a less intrusive remedy will not be
39469 effective, it may authorize law enforcement officers to enter private property to take physical
39470 custody of the child. If required by exigent circumstances, the court may authorize law
39471 enforcement officers to make a forcible entry at any hour.
39472 (7) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under
39473 Subsection (1) for the purpose of harassment or in bad faith, the court may award the
39474 respondent reasonable attorney fees, costs, and other reasonable expenses and losses arising out
39475 of the issuance of the ex parte warrant.
39476 (8) This chapter does not affect the availability of relief allowed under the law of this
39477 state other than this chapter.
39478 Section 1471. Section **78B-16-110**, which is renumbered from Section 78-62-110 is
39479 renumbered and amended to read:
39480 **[~~78-62-110~~]. 78B-16-110. Duration of abduction prevention order.**
39481 An abduction prevention order remains in effect until the earliest of:
39482 (1) the time stated in the order;
39483 (2) the emancipation of the child;
39484 (3) the child's attaining 18 years of age; or
39485 (4) the time the order is modified, revoked, vacated, or superseded by a court with
39486 jurisdiction under Sections [~~78-45c-201~~] 78B-13-201 through [~~78-45c-203~~] 78B-13-203.
39487 Section 1472. Section **78B-16-111**, which is renumbered from Section 78-62-111 is
39488 renumbered and amended to read:
39489 **[~~78-62-111~~]. 78B-16-111. Uniformity of application and construction.**
39490 This chapter is a uniform act. In applying and construing it, consideration must be

39491 given to the need to promote uniformity of the law with respect to its subject matter among
39492 states that enact it.
39493 Section 1473. Section **78B-16-112**, which is renumbered from Section 78-62-112 is
39494 renumbered and amended to read:
39495 **[~~78-62-112~~]. 78B-16-112. Relation to electronic signatures in global and**
39496 **national commerce act.**
39497 This chapter modifies, limits, and supersedes the federal Electronic Signatures in
39498 Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify,
39499 limit, or supersede Section 101(c) of the act, 15 U.S.C. Section 7001(c), or authorize electronic
39500 delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section
39501 7003(b).
39502 Section 1474. **Repealer.**
39503 This bill repeals:
39504 Section **20A-12-102, Appellate Court Nominating Commission.**
39505 Section **20A-12-103, Trial court nominating commission.**
39506 Section **30-6a-110, Effective date.**
39507 Section **78-3-17.5, Application of savings accruing to counties.**
39508 Section **78-3g-103, Foster care citizen review boards -- Membership --**
39509 **Responsibilities -- Periodic reviews.**
39510 Section **78-7-4, Right to exclude in certain cases.**
39511 Section **78-7-18, Power to punish for contempt.**
39512 Section **78-7-20, Disobedience, contempt.**
39513 Section **78-8-107, Authority of Judicial Conduct Commission -- Disclosure of**
39514 **criminal misconduct or information -- Procedure for reprimand, censure, suspension,**
39515 **removal, or involuntary retirement -- Certain orders made public.**
39516 Section **78-11-1, Married woman.**
39517 Section **78-11-2, Husband and wife sued together -- Either may defend.**
39518 Section **78-11-3, Deserted spouse.**
39519 Section **78-11-4, Seduction -- Unmarried individual under 18 may sue.**
39520 Section **78-11-5, Seduction of child -- Suit by parent or guardian.**
39521 Section **78-11-10, Actions against officers -- Costs and attorneys' fees.**

39522 Section **78-11-11, Submitting controversy without action.**
39523 Section **78-11-13, Construction of statute.**
39524 Section **78-11-14, Shoplifting -- Definitions.**
39525 Section **78-11-15, Civil liability of adult for shoplifting -- Damages.**
39526 Section **78-11-16, Joint liability of minor and parent or guardian for minor's**
39527 **shoplifting -- Exception.**
39528 Section **78-11-17, Merchant's right to request customer to hold merchandise in full**
39529 **view.**
39530 Section **78-11-18, Merchant's authority to detain.**
39531 Section **78-11-19, Criminal conviction for shoplifting not a prerequisite for civil**
39532 **action under chapter -- Written notice required -- Award of penalty not subject to**
39533 **requirement of compensatory or general damages.**
39534 Section **78-11-23, Right to life -- State policy.**
39535 Section **78-11-24, Act or omission preventing abortion not actionable.**
39536 Section **78-11-25, Failure or refusal to prevent birth not a defense.**
39537 Section **78-12-46,"Action" includes special proceeding.**
39538 Section **78-14-11, Act not retroactive -- Exception.**
39539 Section **78-25-14, Proof of publication of document, notice or order.**
39540 Section **78-27-3, Objection to tender -- Must be specified or deemed waived.**
39541 Section **78-30-1.1, Definitions.**
39542 Section **78-30-3.5, Preplacement and postplacement adoptive evaluations --**
39543 **Exceptions.**
39544 Section **78-30-4.12, Rights and responsibilities of parties in adoption proceedings.**
39545 Section **78-30-4.14, Necessary consent to adoption or relinquishment for adoption.**
39546 Section **78-30-6, Consent of child -- When necessary.**
39547 Section **78-30-14.5, Fees.**
39548 Section **78-30-16, Definitions -- Applications.**
39549 Section **78-32-14, Excuse for nonappearance -- Unnecessary restraint forbidden.**
39550 Section **78-32-15, Contempt of process of nonjudicial officer.**
39551 Section **78-32-16, Procedure.**
39552 Section **78-33-13,"Person" defined.**

39553 Section **78-36-1,"Forcible entry" defined.**
39554 Section **78-36-2,"Forcible detainer" defined.**
39555 Section **78-38-4.5, Proof of ownership required to harvest or transport forest**
39556 **products or native vegetation -- Definitions -- Requirements for proof of ownership.**
39557 Section **78-38-6,"Manufacturing facility" defined.**
39558 Section **78-38-8,"Agricultural operation" defined.**
39559 Section **78-39-1, By cotenants of real property.**
39560 Section **78-39-11, Notice of appearance before referee -- Referee's report.**
39561 Section **78-40-1, Action to determine adverse claim to property -- Authorized.**
39562 Section **78-40-2, Lis pendens.**
39563 Section **78-40-2.5, Motions related to a notice of the pendency of an action.**
39564 Section **78-40-11, Temporary injunction in actions involving title to mining claims.**
39565 Section **78-43-7, Saving clause.**
39566 Section **78-43-8, Repealing clause.**
39567 Section **78-45-4, Duty of woman.**
39568 Section **78-45-4.2, Natural or adoptive parent has primary obligation of support --**
39569 **Right of third party to recover support.**
39570 Section **78-45-13, Interpretation and construction.**
39571 Section **78-46-3, Discrimination prohibited.**
39572 Section **78-46-8, Determination on juror qualification.**
39573 Section **78-46-36, Interpreters' fees taxed as costs.**
39574 Section 1475. **Effective date.**
39575 If approved by two-thirds of all the members elected to each house, this bill takes effect
39576 upon approval by the governor, or the day following the constitutional time limit of Utah
39577 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
39578 the date of veto override.

Legislative Review Note
as of 1-4-08 10:15 AM

Office of Legislative Research and General Counsel

Fiscal Note

H.B. 78 - Title 78 Recodification and Revision

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/18/2008, 2:16:28 PM, Lead Analyst: Schoenfeld, J.D.

Office of the Legislative Fiscal Analyst