

26 Board of Pardons and Parole to participate in treatment;

27 ▶ requires that the Division of Substance Abuse and Mental Health, working with the
28 courts and the Department of Corrections, establish performance goals and outcome
29 measurements for treatment programs, including recidivism;

30 ▶ requires that the Division of Substance Abuse and Mental Health track the
31 performance and outcome data and make this information available to the public;

32 ▶ requires that the collected data be submitted to the Commission on Criminal and
33 Juvenile Justice and that the commission compile the data and make it available to
34 specified legislative interim committees;

34a **§→ ▶ requires the Division of Substance Abuse and Mental Health, in collaboration with**
34b **the Commission on Criminal and Juvenile Justice, to analyze specified programs and**
34c **practices, and provide recommendations to the Legislature;**

34d ▶ **requires the Commission on Criminal and Juvenile Justice to study and report on**
34e **programs initiated by state and local agencies to address recidivism, including cost reductions**
34f **and the costs and resources required to meet goals for providing treatment as an alternative to**
34g **incarceration;** ←§

35 ▶ provides that the Commission on Criminal and Juvenile Justice administer a
36 performance incentive grant program that allocates funds to counties for programs
37 and practices that reduce recidivism;

38 ▶ requires that the Sentencing Commission modify sentencing guidelines, criminal
39 history scores, and guidelines for periods of incarceration to implement the
40 recommendations of the Commission on Criminal and Juvenile Justice regarding
41 reducing recidivism;

42 ▶ requires that the Sentencing Commission establish graduated sanctions to provide
43 prompt and effective responses to violations of probation or parole;

44 ▶ requires that the Sentencing Commission establish graduated incentives to provide
45 prompt and effective responses to an offender's compliance and positive conduct;

46 ▶ requires that the Department of Corrections implement the graduated sanctions and
47 incentives established by the Sentencing Commission **§→ ;**

47a ▶ ←§ **§→ [and] ←§** requires that the

48 **§→ [department] Department of Corrections, in collaboration with the Commission on**
48a **Criminal and Juvenile Justice, the Division of Substance Abuse and Mental Health, and the**
48b **Utah Association of Counties** ←§ gather information related to treatment and program outcomes
48c **§→ , including recidivism reduction and cost savings based on the reduction in the number** ⊛

48d ~~of inmates,~~ ~~←~~§ and
49 provide the information to the Commission on Criminal and Juvenile Justice;
50 ▶ provides payments to county jails for housing probation and parole violators as
51 funding is available;
52 ▶ requires that the Department of Corrections develop case action plans for offenders,
53 including a risk and needs assessment and treatment priorities;
54 ▶ provides that the Department of Corrections may impose a sanction of three to five
55 days for violations of probation or parole as part of the program of graduated
56 sanctions;

57 ▶ requires that the Department of Corrections evaluate and update inmates' case action
58 plans, including treatment resources and supervision levels to address reentry of
59 inmates into the community at the termination of incarceration;

60 ▶ requires that the Department of Corrections establish a program allowing offenders
61 to earn credits of days for compliance with terms of probation or parole, which will
62 reduce the time on probation or parole;

63 ▶ requires that the Department of Corrections report annually to the Commission on
64 Criminal and Juvenile Justice the data collected regarding the earned credits
65 program;

66 ▶ requires the Department of Corrections to establish standards, including best
67 practices, for treatment programs provided in county jails;

68 ▶ requires the Department of Corrections to establish standards and a certification
69 program for the public and private providers of the treatment programs;

70 ▶ requires the Department of Corrections to establish goals and outcome
71 measurements regarding the treatment programs, collect related data, and analyze
72 the data to determine effectiveness;

72a **Ŝ→ ▶ requires that the Department of Corrections collaborate with the Division of Substance**
72b **Abuse and Mental Health to:**

72c • **track a group of program participants to determine net benefit from using**
72d **treatment as an alternative to incarceration; and**

72e • **evaluate costs and resources needed to meet goals for using treatment as an**
72f **alternative to incarceration; ←Ŝ**

73 ▶ requires that the Department of Corrections provide the data collected regarding the
74 treatment programs to the Commission on Criminal and Juvenile Justice for the
75 commission's use in preparing its annual report;

76 ▶ requires that the Department of Corrections establish an audit for compliance with
77 the treatment standards;

78 ▶ provides that time served in confinement for a violation of probation is counted as
79 time served toward any term of incarceration imposed for the violation of probation;

80 ▶ requires that the Board of Pardons and Parole establish an earned time program that
81 reduces the period of incarceration for offenders who successfully complete
82 programs intended to reduce the risk of recidivism, collect data on the
83 implementation of the program, and report the data to the Commission on Criminal
84 and Juvenile Justice; **Ĥ→ [and] ←Ĥ**

- 85 ▶ requires that if the Board of Pardons and Parole orders incarceration for a parole
86 violation, the board shall impose a period of incarceration that is consistent with the
87 guidelines established by the Sentencing Commission ~~H→~~ ; ~~S→~~ [and] ~~←S~~
- 87a ▶ amends the offense of criminal trespass ~~←H~~ ~~S→~~ ; and
- 87b ▶ modifies a description regarding restricted persons and dangerous weapons as
87c related to amendments made in this legislation regarding controlled substances ~~←S~~ .

- 274 [64-13-29](#), as last amended by Laws of Utah 1994, Chapter 13
- 275 [64-13e-104](#), as last amended by Laws of Utah 2014, Chapter 436
- 276 [72-7-402](#), as last amended by Laws of Utah 2008, Chapters 140 and 382
- 277 [72-7-403](#), as last amended by Laws of Utah 2012, Chapter 304
- 278 [72-7-404](#), as last amended by Laws of Utah 1999, Chapter 21
- 279 [72-7-405](#), as renumbered and amended by Laws of Utah 1998, Chapter 270
- 280 [72-7-406](#), as last amended by Laws of Utah 2012, Chapter 304
- 281 [72-7-407](#), as last amended by Laws of Utah 2008, Chapters 140 and 382
- 282 [72-7-408](#), as last amended by Laws of Utah 2001, Chapter 37
- 283 [72-7-409](#), as last amended by Laws of Utah 2013, Chapter 365
- 284 [73-18-6](#), as last amended by Laws of Utah 1987, Chapter 99
- 285 [73-18-7](#), as last amended by Laws of Utah 2009, Chapter 183
- 286 [73-18-8](#), as last amended by Laws of Utah 2010, Chapter 256
- 287 [73-18-8.1](#), as enacted by Laws of Utah 1990, Chapter 216
- 288 [73-18-13](#), as last amended by Laws of Utah 2012, Chapter 153
- 289 [73-18-15.1](#), as last amended by Laws of Utah 2010, Chapter 256
- 290 [73-18-15.2](#), as last amended by Laws of Utah 2009, Chapter 183
- 291 [73-18-15.3](#), as enacted by Laws of Utah 1998, Chapter 205
- 292 [73-18-16](#), as last amended by Laws of Utah 2012, Chapter 411
- 293 [73-18-20.4](#), as enacted by Laws of Utah 1990, Chapter 216
- 294 [73-18-21](#), as last amended by Laws of Utah 1987, Chapter 99
- 295 [73-18c-302](#), as last amended by Laws of Utah 2006, Chapter 211
- 296 [73-18c-304](#), as last amended by Laws of Utah 2011, Chapter 386
- 297 [76-3-202](#), as last amended by Laws of Utah 2013, Chapter 278
- 297a **H→ 76-6-206, as last amended by Laws of Utah 2013, Chapter 152 ←H**
- 297b **S→ 76-10-503, as last amended by Laws of Utah 2014, Chapters 299 and 428 ←S**
- 298 [77-1-3](#), as last amended by Laws of Utah 2008, Chapter 3
- 299 [77-18-1](#), as last amended by Laws of Utah 2014, Chapters 120 and 170
- 300 [77-27-1](#), as last amended by Laws of Utah 2013, Chapter 41
- 301 [77-27-10](#), as last amended by Laws of Utah 2008, Chapters 294 and 382
- 302 [77-27-11](#), as last amended by Laws of Utah 2010, Chapter 110
- 303 [78A-5-201](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 304 ENACTS:

4671 (ii) marijuana, tetrahydrocannabinols, or equivalents described in Subsection
 4672 [58-37-4\(2\)\(a\)\(iii\)\(S\)](#) or (AA), or a substance listed in Section [58-37-4.2](#) is guilty of a third
 4673 degree felony; or

4674 (iii) any controlled substance classified under Schedules III, IV, or V is guilty of a class
 4675 A misdemeanor.

4676 (i) A person is guilty of a separate offense for each victim suffering serious bodily
 4677 injury or death as a result of the person's negligent driving in violation of Subsection
 4678 [58-37-8\(2\)\(g\)](#) whether or not the injuries arise from the same episode of driving.

4679 (3) Prohibited acts C -- Penalties:

4680 (a) It is unlawful for any person knowingly and intentionally:

4681 (i) to use in the course of the manufacture or distribution of a controlled substance a
 4682 license number which is fictitious, revoked, suspended, or issued to another person or, for the
 4683 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
 4684 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
 4685 person;

4686 (ii) to acquire or obtain possession of, to procure or attempt to procure the
 4687 administration of, to obtain a prescription for, to prescribe or dispense to any person known to
 4688 be attempting to acquire or obtain possession of, or to procure the administration of any
 4689 controlled substance by misrepresentation or failure by the person to disclose receiving any
 4690 controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a
 4691 prescription or written order for a controlled substance, or the use of a false name or address;

4692 (iii) to make any false or forged prescription or written order for a controlled substance,
 4693 or to utter the same, or to alter any prescription or written order issued or written under the
 4694 terms of this chapter; or

4695 (iv) to make, distribute, or possess any punch, die, plate, stone, or other thing designed
 4696 to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
 4697 device of another or any likeness of any of the foregoing upon any drug or container or labeling
 4698 so as to render any drug a counterfeit controlled substance.

4699 ~~[(b) Any person convicted of violating Subsection (3)(a) is guilty of a third degree~~
 4700 ~~felony.]~~

4701 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is

4701a ~~H~~→ [guilty of] ←~~H~~ a

4702 class A misdemeanor.

4703 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
4704 degree felony.

4705 (d) A violation of Subsection (3)(a)(iv) is a third degree felony.

4706 (4) Prohibited acts D -- Penalties:

4707 (a) Notwithstanding other provisions of this section, a person not authorized under this
4708 chapter who commits any act [~~declared to be~~] that is unlawful under [~~this section, Title 58,~~
4709 ~~Chapter 37a, Utah Drug Paraphernalia Act, or under Title 58, Chapter 37b, Imitation~~
4710 ~~Controlled Substances Act,] Subsection (1)(a), Section [58-37a-5](#), or Section [58-37b-4](#) is upon
4711 conviction subject to the penalties and classifications under this Subsection (4) if the trier of
4712 fact finds the act is committed:~~

4713 (i) in a public or private elementary or secondary school or on the grounds of any of
4714 those schools during the hours of 6 a.m. through 10 p.m.;

4715 (ii) in a public or private vocational school or postsecondary institution or on the
4716 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

4717 [~~(iii) in those portions of any building, park, stadium, or other structure or grounds~~
4718 ~~which are, at the time of the act, being used for an activity sponsored by or through a school or~~
4719 ~~institution under Subsections (4)(a)(i) and (ii);]~~

4720 [~~(iv)~~] (iii) in or on the grounds of a preschool or child-care facility during the
4721 preschool's or facility's hours of operation;

4722 [~~(v)~~] (iv) in a public park, amusement park, arcade, or recreation center ~~↔~~ **when the**
4722a **public or amusement park, arcade, or recreation center is open to the public** ~~↔~~ ;

4723 [~~(vi)~~] (v) in or on the grounds of a house of worship as defined in Section [76-10-501](#);

4724 [~~(vii) in a shopping mall, sports facility, stadium, arena, theater, movie house,~~
4725 ~~playhouse, or parking lot or structure adjacent thereto;]~~

4726 [~~(viii)~~] (vi) in or on the grounds of a library when the library is open to the public;

4727 [~~(ix)~~] (vii) within any area that is within [~~±,000~~] 100 feet of any structure, facility, or
4728 grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi) [~~, and (vii)~~];

4729 [~~(x)~~] (viii) in the presence of a person younger than 18 years of age, regardless of
4730 where the act occurs; or

4731 [~~(xi)~~] (ix) for the purpose of facilitating, arranging, or causing the transport, delivery,
4732 or distribution of a substance in violation of this section to an inmate or on the grounds of any

4733 correctional facility as defined in Section [76-8-311.3](#).

4734 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
4735 and shall be imprisoned for a term of not less than five years if the penalty that would
4736 otherwise have been established but for this Subsection (4) would have been a first degree
4737 felony.

4738 (ii) Imposition or execution of the sentence may not be suspended, and the person is
4739 not eligible for probation.

4740 (c) If the classification that would otherwise have been established would have been
4741 less than a first degree felony but for this Subsection (4), a person convicted under this
4742 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
4743 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

4744 (d) (i) If the violation is of Subsection (4)(a)~~(xi)~~(ix):

4745 (A) the person may be sentenced to imprisonment for an indeterminate term as
4746 provided by law, and the court shall additionally sentence the person convicted for a term of
4747 one year to run consecutively and not concurrently; and

4748 (B) the court may additionally sentence the person convicted for an indeterminate term
4749 not to exceed five years to run consecutively and not concurrently; and

4750 (ii) the penalties under this Subsection (4)(d) apply also to any person who, acting with
4751 the mental state required for the commission of an offense, directly or indirectly solicits,
4752 requests, commands, coerces, encourages, or intentionally aids another person to commit a
4753 violation of Subsection (4)(a)~~(xi)~~(ix).

4754 (e) It is not a defense to a prosecution under this Subsection (4) that the actor
4755 mistakenly believed the individual to be 18 years of age or older at the time of the offense or
4756 was unaware of the individual's true age; nor that the actor mistakenly believed that the
4757 location where the act occurred was not as described in Subsection (4)(a) or was unaware that
4758 the location where the act occurred was as described in Subsection (4)(a).

4759 (5) Any violation of this chapter for which no penalty is specified is a class B
4760 misdemeanor.

4761 (6) (a) For purposes of penalty enhancement under Subsections (1)~~(b)~~ and (2)~~(c)~~, a
4762 plea of guilty or no contest to a violation ~~Ĥ→~~ **or attempted violation** ~~←Ĥ~~ of this section
4762a ~~Ĥ→~~ **or a plea** ~~←Ĥ~~ which is held in abeyance under Title
4763 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has

4981 with division directives regarding the use of public funds, or for misuse of public funds or
4982 money;

4983 (d) assure that the requirements of this part are met and applied uniformly by local
4984 substance abuse authorities and local mental health authorities across the state;

4985 (e) require each local substance abuse authority and each local mental health authority
4986 to submit its plan to the division by May 1 of each year;

4987 (f) conduct an annual program audit and review of each local substance abuse authority
4988 in the state and its contract provider and each local mental health authority in the state and its
4989 contract provider, including:

4990 (i) a review and determination regarding whether:

4991 (A) public funds allocated to local substance abuse authorities and local mental health
4992 authorities are consistent with services rendered and outcomes reported by them or their
4993 contract providers; and

4994 (B) each local substance abuse authority and each local mental health authority is
4995 exercising sufficient oversight and control over public funds allocated for substance abuse and
4996 mental health programs and services; and

4997 (ii) items determined by the division to be necessary and appropriate; and

4998 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,
4999 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account
5000 Act[-];

5001 (h) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative
5002 Rulemaking Act, minimum standards and requirements for the provision of substance abuse
5003 and mental health treatment to individuals who are required to participate in treatment by the
5004 court or the Board of Pardons and Parole, or who are incarcerated, including:

5005 (i) collaboration with the Department of Corrections ~~§~~ **→ [and]** , ~~←~~ ~~§~~ the Utah Substance
5005a Abuse

5006 Advisory Council to develop and coordinate the standards ~~§~~ **→ , including standards for county**
5006a **and state programs serving individuals convicted of class A and class B misdemeanors** ~~←~~ ~~§~~ ;

5007 (ii) determining that the standards ensure available treatment includes the most current
5008 practices and procedures demonstrated by recognized scientific research to reduce recidivism,
5009 including focus on the individual's criminal risk factors; and

5010 (iii) requiring that all public and private treatment programs meet the standards
5011 established under this Subsection (2)(h) in order to receive public funds allocated to the

5012 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
 5013 for the costs of providing screening, assessment, prevention, treatment, and recovery support:

5014 (i) establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative
 5015 Rulemaking Act, the requirements and procedures for the certification of licensed public and
 5016 private providers who provide, as part of their practice, substance abuse and mental health
 5017 treatment to individuals involved in the criminal justice system, including:

5018 (i) collaboration with the Department of Corrections ~~§~~ **→ [and]** , ~~←§~~ **←§** the Utah Substance
 5018a Abuse

5019 Advisory Council ~~§~~ **→** , and the Utah Association of Counties ~~←§~~ **←§** to develop, coordinate, and
 5019a implement the certification process;

5020 (ii) basing the certification process on the standards developed under Subsection (2)(h)
 5021 for the treatment of individuals involved in the criminal justice system; and

5022 (iii) the requirement that all public and private providers of treatment to individuals
 5023 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
 5024 shall renew the certification every two years, in order to qualify for funds allocated to the
 5025 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
 5026 on or after July 1, 2016;

5027 ~~§~~ **→** (j) collaboration with the Commission on Criminal and Juvenile Justice to analyze
 5027a and provide recommendations to the Legislature regarding:

5027b (i) pretrial services and the resources needed for the reduced recidivism efforts;

5027c (ii) county jail and county behavioral health early-assessment resources needed for offenders
 5027d convicted of a class A or class B misdemeanor; and

5027e (iii) the replacement of federal dollars associated with drug interdiction law enforcement task
 5027f forces that are reduced. ~~←§~~ **←§**

5027g ~~§~~ **→** [(f)] (k) ~~←§~~ **←§** (i) establish performance goals and outcome measurements for all treatment
 5028 programs for which minimum standards are established under Subsection (2)(h), including

5029 recidivism data ~~§~~ **→** and data regarding cost savings associated with recidivism reduction and
 5029a the reduction in the number of inmates, that are ~~←§~~ **←§** obtained in collaboration with the
 5029b Administrative Office of the Courts and the

5030 Department of Corrections; and

5031 (ii) collect data to track and determine whether the goals and measurements are being
 5032 attained and make this information available to the public;

5033 ~~§~~ **→** [(k)] (l) ~~←§~~ **←§** in its discretion, use the data to make decisions regarding the use of funds
 5033a allocated

5034 to the division, the Administrative Office of the Courts, and the Department of Corrections to
 5035 provide treatment for which standards are established under Subsection (2)(h); and

5036 ~~§~~ **→** [(f)] (m) ~~←§~~ **←§** annually, on or before August 31, submit the data collected

5074 capacity to provide the treatment services; or

5075 (b) otherwise ensure that treatment services are made available to the pregnant woman
5076 or pregnant minor.

5077 Section 168. Section **63M-7-204** is amended to read:

5078 **63M-7-204. Duties of commission.**

5079 The State Commission on Criminal and Juvenile Justice administration shall:

5080 (1) promote the commission's purposes as enumerated in Section [63M-7-201](#);

5081 (2) promote the communication and coordination of all criminal and juvenile justice
5082 agencies;

5083 (3) study, evaluate, and report on the status of crime in the state and on the
5084 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
5085 reduction of crime in the state;

5086 (4) study, evaluate, and report on programs initiated by state and local agencies to
5087 address reducing recidivism, including changes in penalties and sentencing guidelines intended
5088 to reduce recidivism, ~~§~~→ **costs savings associated with the reduction in the number of inmates,**
5088a **and evaluation of expenses and resources needed to meet goals regarding the use of treatment**
5088b **as an alternative to incarceration, ←~~§~~** as resources allow;

5089 [~~4~~] (5) study, evaluate, and report on policies, procedures, and programs of other
5090 jurisdictions which have effectively reduced crime;

5091 [~~5~~] (6) identify and promote the implementation of specific policies and programs the
5092 commission determines will significantly reduce crime in Utah;

5093 [~~6~~] (7) provide analysis and recommendations on all criminal and juvenile justice
5094 legislation, state budget, and facility requests, including program and fiscal impact on all
5095 components of the criminal and juvenile justice system;

5096 [~~7~~] (8) provide analysis, accountability, recommendations, and supervision for state
5097 and federal criminal justice grant money;

5098 [~~8~~] (9) provide public information on the criminal and juvenile justice system and
5099 give technical assistance to agencies or local units of government on methods to promote
5100 public awareness;

5101 [~~9~~] (10) promote research and program evaluation as an integral part of the criminal
5102 and juvenile justice system;

5103 [~~10~~] (11) provide a comprehensive criminal justice plan annually;

5104 [~~11~~] (12) review agency forecasts regarding future demands on the criminal and

5229 criteria developed by the department;

5230 (e) provide the results of ongoing assessment of sex offenders and objective diagnostic
5231 testing to sentencing and release authorities;

5232 (f) manage programs that take into account the needs and interests of victims, where
5233 reasonable;

5234 (g) supervise probationers and parolees as directed by statute and implemented by the
5235 courts and the Board of Pardons and Parole;

5236 (h) subject to Subsection (2), investigate criminal conduct involving offenders
5237 incarcerated in a state correctional facility;

5238 (i) cooperate and exchange information with other state, local, and federal law
5239 enforcement agencies to achieve greater success in prevention and detection of crime and
5240 apprehension of criminals; ~~and~~

5241 (j) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult
5242 Offender Supervision~~[-]; and~~

5243 (k) establish a case action plan for each offender as follows:

5244 (i) if an offender is to be supervised in the community, the case action plan shall be
5245 established for the offender not more than 90 days after supervision by the department begins;
5246 and

5247 (ii) if the offender is committed to the custody of the department, the case action plan
5248 shall be established for the offender not more than 120 days after the commitment.

5249 (2) The department may in the course of supervising probationers and parolees:

5250 (a) impose graduated sanctions, as established by the Utah Sentencing Commission
5251 under Subsection ~~H~~→ ~~[63M-7-404(5)]~~ 63M-7-404(6) ←~~H~~ , for an individual's violation of one or
5251a more terms of the
5252 probation or parole; and

5253 (b) upon approval by the court or the Board of Pardons and Parole, impose as a
5254 sanction for an individual's violation of the terms of probation or parole a period of
5255 incarceration of not more than three consecutive days and not more than a total of five days
5256 within a period of 30 days.

5257 ~~[(2)]~~ (3) (a) By following the procedures in Subsection ~~[(2)]~~ (3)(b), the department may
5258 investigate the following occurrences at state correctional facilities:

5259 (i) criminal conduct of departmental employees;

5291 authority, or the state hospital notifies the department that it is unable to provide mental health
 5292 services under Subsection (1), the department may contract with other public or private mental
 5293 health care providers to provide mental health services for persons in its custody.

5294 (b) The standards established by rule under Section 64-13-25 apply to the public or
 5295 private mental health care providers with whom the department contracts under this Subsection
 5296 (2).

5297 (3) A person who provides mental health services for sex offender treatment as
 5298 required in Section 64-13-6 shall be licensed as a mental health professional in accordance with
 5299 Title 58, Chapter 60, Mental Health Professional Practice Act, or Title 58, Chapter 61,
 5300 Psychologist Licensing Act, and exhibit competency to practice in the area of sex offender
 5301 treatment based on education, training, and practice.

5302 Section 173. Section 64-13-10.5 is enacted to read:

5303 **64-13-10.5. Transition and reentry of inmates at termination of incarceration.**

5304 (1) The department shall evaluate ~~H→~~ [and update] ~~←H~~ the case action plan ~~H→~~ and
 5304a update the case action plan ~~←H~~ as necessary to

5305 prepare for the offender's transition from incarceration to release, including:

5306 (a) establishing the supervision level and program needs, based on the offender's
 5307 criminal risk factors;

5308 (b) identifying barriers to the offender's ability to obtain housing, food, clothing, and
 5309 transportation;

5310 (c) identifying community-based treatment resources that are reasonably accessible to
 5311 the offender; and

5312 (d) establishing the initial supervision procedures and strategy for the offender's parole
 5313 officer.

5314 (2) The department shall notify the Board of Pardons and Parole not fewer than 30 days
 5315 prior to an offender's release of:

5316 (a) the offender's case action plan; and

5317 (b) any specific conditions of parole necessary to better facilitate transition to the
 5318 community.

5319 Section 174. Section 64-13-14.5 is amended to read:

5320 **64-13-14.5. Limits of confinement place -- Release status -- Work release.**

5321 (1) The department may extend the limits of the place of confinement of an inmate

5353 Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate
5354 Compact for the Supervision of Parolees and Probationers.

5355 (b) Standards for the supervision of offenders shall be established by the department in
5356 accordance with [~~Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~] sentencing
5357 guidelines, including the graduated sanctions matrix, established by the Utah Sentencing
5358 Commission, giving priority, based on available resources, to felony offenders and offenders
5359 sentenced pursuant to Subsection 58-37-8(2)(b)(ii).

5360 (2) The department shall apply graduated sanctions established by the Utah Sentencing
5361 Commission to facilitate a prompt and appropriate response to an individual's violation of the
5362 terms of probation or parole, including:

5363 (a) sanctions to be used in response to a violation of the terms of probation or parole;
5364 and

5365 (b) requesting approval from the court or Board of Pardons and Parole to impose a
5366 sanction for an individual's violation of the terms of probation or parole, for a period of
5367 incarceration of not more than three consecutive days and not more than a total of five days
5368 within a period of 30 days.

5369 (3) The department shall implement a program of graduated incentives as established
5370 by the Utah Sentencing Commission to facilitate the department's prompt and appropriate
5371 response to an offender's:

5372 (a) compliance with the terms of probation or parole; or

5373 (b) positive conduct that exceeds those terms.

5374 (4) (a) The department shall, in collaboration with the Commission on Criminal and
5375 Juvenile Justice ~~§~~→ **and the Division of Substance Abuse and Mental Health** ←~~§~~ , create
5375a standards and procedures for the collection of information ~~§~~→ , **including cost savings related to**
5375b **recidivism reduction and the reduction in the number of inmates,** ←~~§~~ related to the
5376 use of the graduated sanctions and incentives, and offenders' outcomes.

5377 (b) The collected information shall be provided to the Commission on Criminal and
5378 Juvenile Justice not less frequently than annually on or before August 31.

5379 [~~2~~] (5) Employees of the department who are POST certified as law enforcement
5380 officers or correctional officers and who are designated as parole and probation officers by the
5381 executive director have the following duties:

5382 (a) monitoring, investigating, and supervising a parolee's or probationer's compliance
5383 with the conditions of the parole or probation agreement;

5415 (e) The court or the Board of Pardons and Parole shall terminate an offender's
 5416 probation or parole upon completion of the period of probation or parole accrued by time
 5417 served and credits earned under this Subsection (7) unless the court or the Board of Pardons
 5418 and Parole finds that termination would interrupt the completion of a necessary treatment
 5419 program, in which case the termination of probation or parole shall occur when the treatment
 5420 program is completed.

5421 (f) The department shall report annually to the Commission on Criminal and Juvenile
 5422 Justice on or before August 31:

5423 (i) the number of offenders who have earned probation or parole credits under this
 5424 Subsection (7) in one or more months of the preceding fiscal year and the percentage of the
 5425 offenders on probation or parole during that time that this number represents;

5426 (ii) the average number of credits earned by those offenders who earned credits; ~~§~~ → [and]
 5426a ←§

5427 (iii) the number of offenders who earned credits by county of residence while on
 5428 probation or parole ~~§~~ → ;

5428a (iv) the cost savings associated with sentencing reform programs and practices; and

5428b (v) a description of how the savings will be invested in treatment and early-intervention
 5428c programs and practices at the county and state levels ←§ .

5429 Section 176. Section **64-13-25** is amended to read:

5430 **64-13-25. Standards for programs -- Audits.**

5431 (1) To promote accountability and to ensure safe and professional operation of
 5432 correctional programs, the department shall establish minimum standards for the organization
 5433 and operation of its programs, including collaborating with the Department of Human Services
 5434 to establish minimum standards for programs providing assistance for individuals involved in
 5435 the criminal justice system.

5436 (a) The standards shall be promulgated according to state rulemaking provisions.
 5437 Those standards that apply to offenders are exempt from the provisions of Title 63G, Chapter
 5438 3, the Utah Administrative Rulemaking Act. Offenders are not a class of persons under that
 5439 act.

5440 (b) Standards shall provide for inquiring into and processing offender complaints.

5441 (c) (i) The department shall establish minimum standards and qualifications for
 5442 treatment programs provided in county jails to which persons committed to the state prison are
 5443 placed by jail contract under Section [64-13e-103](#).

5444 (ii) In establishing the standards and qualifications for the treatment programs, the
 5445 department shall:

5477 offender treatment practices meet the standards and practices established under Subsection
 5478 (1)(d) to reduce sex offender recidivism.

5479 (a) The department shall collaborate with the Division of Substance Abuse and Mental
 5480 Health to develop, coordinate, and implement the certification program.

5481 (b) The certification program shall be based on the standards under Subsection (1)(d)
 5482 and shall require renewal of certification every two years.

5483 (c) All public and private providers of sex offender treatment, including those
 5484 providing treatment to offenders housed in county jails by contract under Section [64-13e-103](#),
 5485 shall comply with these standards on and after July 1, 2016, in order to begin receiving or
 5486 continue receiving payment from the department to provide sex offender treatment on or after
 5487 July 1, 2016.

5488 (d) The department shall establish the certification program by administrative rule
 5489 pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

5490 (4) The department shall establish performance goals and outcome measurements for
 5491 all programs that are subject to the minimum standards established under this section and shall
 5492 collect data to analyze and evaluate whether the goals and measurements are attained.

5493 (a) The department shall collaborate with the Division of Substance Abuse and Mental
 5494 Health to develop and coordinate the performance goals and outcome measurements, including
 5495 recidivism rates ~~§~~→ and treatment success and failure rates ←~~§~~ .

5496 (b) The department may use these data to make decisions on the use of funds to
 5497 provide treatment for which standards are established under this section.

5498 ~~§~~→ **(c) The department shall collaborate with the Division of Substance Abuse and**
 5498a **Mental Health to track a subgroup of participants to determine if there is a net positive result**
 5498b **from the use of treatment as an alternative to incarceration.**

5498c **(d) The department shall collaborate with the Division of Substance Abuse and Mental**
 5498d **Health to evaluate the costs, including any additional costs, and the resources needed to attain**
 5498e **the performance goals established for the use of treatment as an alternative to**
 5498f **incarceration.** ←~~§~~

5498g ~~§~~→ ~~[(c)]~~ **(e)** ←~~§~~ The department shall annually provide data collected under this Subsection (4) to
 5499 the Commission on Criminal and Juvenile Justice on or before August 31. The commission
 5500 shall compile a written report of the findings based on the data and shall provide the report to
 5501 the legislative Judiciary Interim Committee, the Health and Human Services Interim
 5502 Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related
 5503 appropriations subcommittees.

5504 Section 177. Section **64-13-26** is amended to read:

5505 **64-13-26. Private providers of services.**

5506 (1) The department may contract with private providers or other agencies for the
 5507 provision of care, treatment, and supervision of offenders committed to the care and custody of

5508 the department.

5509 (2) (a) The department shall:

5510 (i) establish standards for the operation of the programs; ~~and~~

5511 (ii) establish standards pursuant to Section 64-13-25 regarding program standards; and

5512 ~~[(ii)]~~ (iii) annually review the programs for compliance.

5513 (b) The reviews shall be classified as confidential internal working papers.

5514 (c) Access to records regarding the reviews is available upon the discretion of the
5515 executive director or the governor, or upon court order.

5516 Section 178. Section **64-13-29** is amended to read:

5517 **64-13-29. Violation of parole or probation -- Detention -- Hearing.**

5518 (1) (a) The department shall ensure that the court is notified of violations of the terms
5519 and conditions of probation in the case of probationers under the department's supervision, or
5520 the Board of Pardons and Parole in the case of parolees under the department's supervision~~[-]~~
5521 when:

5522 (i) a sanction of incarceration is recommended; or

5523 (ii) the department determines that a graduated sanction is not an appropriate response
5524 to the offender's violation and recommends revocation ~~It~~ ~~→~~ ~~is~~ ~~of~~ ~~←~~ ~~It~~ ~~probation~~ ~~It~~ ~~→~~ ~~is~~ ~~←~~ ~~It~~
5524a or parole.

5525 (b) In cases where the department desires to detain an offender alleged to have violated
5526 his parole or probation and where it is unlikely that the Board of Pardons and Parole or court
5527 will conduct a hearing within a reasonable time to determine if the offender has violated his
5528 conditions of parole or probation, the department shall hold an administrative hearing within a
5529 reasonable time, unless the hearing is waived by the parolee or probationer, to determine if
5530 there is probable cause to believe that a violation has occurred.

5531 (c) If there is a conviction for a crime based on the same charges as the probation or
5532 parole violation, or a finding by a federal or state court that there is probable cause to believe
5533 that an offender has committed a crime based on the same charges as the probation or parole
5534 violation, the department need not hold ~~its~~ an administrative hearing.

5535 (2) The appropriate officer or officers of the department shall, as soon as practical
5536 following the department's administrative hearing, report to the court or the Board of Pardons
5537 and Parole, furnishing a summary of the hearing, and may make recommendations regarding
5538 the disposition to be made of the parolee or probationer. Pending any proceeding under this

6466 himself from the state or avoids or evades parole supervision, the period of absence, avoidance,
6467 or evasion tolls the parole period.

6468 (9) (a) While on parole, time spent in confinement outside the state may not be credited
6469 toward the service of any Utah sentence.

6470 (b) Time in confinement outside the state or in the custody of any tribal authority or the
6471 United States government for a conviction obtained in another jurisdiction tolls the expiration
6472 of the Utah sentence.

6473 (10) This section does not preclude the Board of Pardons and Parole from paroling or
6474 discharging an inmate at any time within the discretion of the Board of Pardons and Parole
6475 unless otherwise specifically provided by law.

6476 (11) A parolee sentenced to lifetime parole may petition the Board of Pardons and
6477 Parole for termination of lifetime parole.

6477a **H→ Section 202. Section 76-6-206 is amended to read:**

6477b **76-6-206. Criminal trespass.**

6477c **(1) As used in this section, "enter" means intrusion of the entire body.**

6477d **(2) A person is guilty of criminal trespass if, under circumstances not amounting to burglary**
6477e **as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding**
6477f **commercial obstruction:**

6477g **(a) the person enters or remains unlawfully on property and:**

6477h **(i) intends to cause annoyance or injury to any person or damage to any property, including**
6477i **the use of graffiti as defined in Section 76-6-107;**

6477j **(ii) intends to commit any crime, other than theft or a felony; or**

6477k **(iii) is reckless as to whether his presence will cause fear for the safety of another;**

6477l **(b) knowing the person's entry or presence is unlawful, the person enters or remains on**
6477m **property as to which notice against entering is given by:**

6477n **(i) personal communication to the actor by the owner or someone with apparent authority to**
6477o **act for the owner;**

6477p **(ii) fencing or other enclosure obviously designed to exclude intruders; or**

6477q **(iii) posting of signs reasonably likely to come to the attention of intruders; or**

6477r **(c) the person enters a condominium unit in violation of Subsection 57-8-7(8).**

6477s **(3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless it was committed**
6477t **in a dwelling, in which event it is a class A misdemeanor.**

6477u **(b) A violation of Subsection (2)(c) is an infraction.**

6477v **(4) It is a defense to prosecution under this section that:**

6477w **(a) the property was at the time open to the public [~~when the actor entered or remained~~];**

6477x **and ☺**

- 6477y **⊕** (b) ~~Ĥ→ [the actor's conduct did not substantially interfere with the owner's use of the~~
6477z ~~property]~~ the actor complied with all lawful conditions imposed on access to or remaining on the
6477aa property . ~~←Ĥ~~
- 6477ab **Ŝ→ Section 202. Section 76-10-503 is amended to read:**
- 6477ac **76-10-503. Restrictions on possession, purchase, transfer, and ownership of dangerous**
6477ad **weapons by certain persons -- Exceptions.**
- 6477ae (1) **For purposes of this section:**
- 6477af (a) **A Category I restricted person is a person who:**
- 6477ag (i) **has been convicted of any violent felony as defined in Section 76-3-203.5;**
- 6477ah (ii) **is on probation or parole for any felony;**
- 6477ai (iii) **is on parole from a secure facility as defined in Section 62A-7-101;**
- 6477aj (iv) **within the last 10 years has been adjudicated delinquent for an offense which if**
6477ak **committed by an adult would have been a violent felony as defined in Section 76-3-203.5;**
6477al **Ŝ→ [-or] ←Ŝ**
- 6477am (v) **is an alien who is illegally or unlawfully in the United States** ~~Ŝ→ [-] ; or ←Ŝ~~
- 6477an **Ŝ→ (vi) is on probation for a conviction of possessing a substance classified in Schedule I or**
6477ao **II in Section 58-37-8, or a controlled substance analog or a substance listed in Section**
6477ap **58-37-4.2** . ~~←Ŝ~~
- 6477aq (b) **A Category II restricted person is a person who:**
- 6477ar (i) **has been convicted of any felony;**
- 6477as (ii) **within the last seven years has been adjudicated delinquent for an offense which if**
6477at **committed by an adult would have been a felony;**
- 6477au (iii) **is an unlawful user of a controlled substance as defined in Section 58-37-2;**
- 6477av (iv) **is in possession of a dangerous weapon and is knowingly and intentionally in unlawful**
6477aw **possession of a Schedule I or II controlled substance as defined in Section 58-37-2;**
- 6477ax (v) **has been found not guilty by reason of insanity for a felony offense;**
- 6477ay (vi) **has been found mentally incompetent to stand trial for a felony offense;**
- 6477az (vii) **has been adjudicated as mentally defective as provided in the Brady Handgun Violence**
6477ba **Prevention Act, Pub. L. No. 103-159, 107 Stat. 1536 (1993), or has been committed to a mental**
6477bb **institution;**
- 6477bc (viii) **has been dishonorably discharged from the armed forces; or**
- 6477bd (ix) **has renounced his citizenship after having been a citizen of the United States.**
- 6477be (c) **As used in this section, a conviction of a felony or adjudication of delinquency for an**
6477bf **offense which would be a felony if committed by an adult does not include:**
- 6477bg (i) **a conviction or adjudication of delinquency for an offense pertaining to antitrust** **⊕**

6477bh ☉ violations, unfair trade practices, restraint of trade, or other similar offenses relating to the regulation
6477bi of business practices not involving theft or fraud; or

6477bj (ii) a conviction or adjudication of delinquency which, according to the law of the jurisdiction
6477bk in which it occurred, has been expunged, set aside, reduced to a misdemeanor by court order,
6477bl pardoned or regarding which the person's civil rights have been restored unless the pardon, reduction,
6477bm expungement, or restoration of civil rights expressly provides that the person may not ship, transport,
6477bn possess, or receive firearms.

6477bo (d) It is the burden of the defendant in a criminal case to provide evidence that a conviction or
6477bp adjudication of delinquency is subject to an exception provided in Subsection (1)(c), after which it is
6477bq the burden of the state to prove beyond a reasonable doubt that the conviction or adjudication of
6477br delinquency is not subject to that exception.

6477bs (2) A Category I restricted person who intentionally or knowingly agrees, consents, offers, or
6477bt arranges to purchase, transfer, possess, use, or have under the person's custody or control, or who
6477bu intentionally or knowingly purchases, transfers, possesses, uses, or has under the person's custody or
6477bv control:

6477bw (a) any firearm is guilty of a second degree felony; or

6477bx (b) any dangerous weapon other than a firearm is guilty of a third degree felony.

6477by (3) A Category II restricted person who intentionally or knowingly purchases, transfers,
6477bz possesses, uses, or has under the person's custody or control:

6477ca (a) any firearm is guilty of a third degree felony; or

6477cb (b) any dangerous weapon other than a firearm is guilty of a class A misdemeanor.

6477cc (4) A person may be subject to the restrictions of both categories at the same time.

6477cd (5) If a higher penalty than is prescribed in this section is provided in another section for one
6477ce who purchases, transfers, possesses, uses, or has under this custody or control any dangerous weapon,
6477cf the penalties of that section control.

6477cg (6) It is an affirmative defense to a charge based on the definition in Subsection (1)(b)(iv) that
6477ch the person was:

6477ci (a) in possession of a controlled substance pursuant to a lawful order of a practitioner for use
6477cj of a member of the person's household or for administration to an animal owned by the person or a
6477ck member of the person's household; or

6477cl (b) otherwise authorized by law to possess the substance.

6477cm (7) (a) It is an affirmative defense to transferring a firearm or other dangerous weapon by a
6477cn person restricted under Subsection (2) or (3) that the firearm or dangerous weapon:

6477co (i) was possessed by the person or was under the person's custody or control before the person
6477cp became a restricted person;

6477cq (ii) was not used in or possessed during the commission of a crime or subject to disposition
6477cr under Section 24-3-103; ☉

6477cs ⊕(iii) is not being held as evidence by a court or law enforcement agency;
 6477ct (iv) was transferred to a person not legally prohibited from possessing the weapon; and
 6477cu (v) unless a different time is ordered by the court, was transferred within 10 days of the person
 6477cv becoming a restricted person.

6477cw (b) Subsection (7)(a) is not a defense to the use, purchase, or possession on the person of a
 6477cx firearm or other dangerous weapon by a restricted person.

6477cy (8) (a) A person may not sell, transfer, or otherwise dispose of any firearm or dangerous
 6477cz weapon to any person, knowing that the recipient is a person described in Subsection (1)(a) or (b).

6477da (b) A person who violates Subsection (8)(a) when the recipient is:

6477db (i) a person described in Subsection (1)(a) and the transaction involves a firearm, is guilty of a
 6477dc second degree felony;

6477dd (ii) a person described in Subsection (1)(a) and the transaction involves any dangerous weapon
 6477de other than a firearm, and the transferor has knowledge that the recipient intends to use the weapon
 6477df for any unlawful purpose, is guilty of a third degree felony;

6477dg (iii) a person described in Subsection (1)(b) and the transaction involves a firearm, is guilty of
 6477dh a third degree felony; or

6477di (iv) a person described in Subsection (1)(b) and the transaction involves any dangerous
 6477dj weapon other than a firearm, and the transferor has knowledge that the recipient intends to use the
 6477dk weapon for any unlawful purpose, is guilty of a class A misdemeanor.

6477dl (9) (a) A person may not knowingly solicit, persuade, encourage or entice a dealer or other
 6477dm person to sell, transfer or otherwise dispose of a firearm or dangerous weapon under circumstances
 6477dn which the person knows would be a violation of the law.

6477do (b) A person may not provide to a dealer or other person any information that the person
 6477dp knows to be materially false information with intent to deceive the dealer or other person about the
 6477dq legality of a sale, transfer or other disposition of a firearm or dangerous weapon.

6477dr (c) "Materially false information" means information that portrays an illegal transaction as
 6477ds legal or a legal transaction as illegal.

6477dt (d) A person who violates this Subsection (9) is guilty of:

6477du (i) a third degree felony if the transaction involved a firearm; or

6477dv (ii) a class A misdemeanor if the transaction involved a dangerous weapon other than a
 6477dw firearm. ←§

6478 Section ~~H~~→ [202] 203 ←~~H~~ . Section 77-1-3 is amended to read:

6479 **77-1-3. Definitions.**

6480 For the purpose of this act:

6481 (1) "Criminal action" means the proceedings by which a person is charged, accused,
 6482 and brought to trial for a public offense.

6483 (2) "Indictment" means an accusation in writing presented by a grand jury to the
 6484 district court charging a person with a public offense.

6485 (3) "Information" means an accusation, in writing, charging a person with a public

6652 extension of probation is justified.

6653 (ii) If the court determines there is probable cause, it shall cause to be served on the
6654 defendant a warrant for the defendant's arrest or a copy of the affidavit and an order to show
6655 cause why the defendant's probation should not be revoked, modified, or extended.

6656 (c) (i) The order to show cause shall specify a time and place for the hearing and shall
6657 be served upon the defendant at least five days prior to the hearing.

6658 (ii) The defendant shall show good cause for a continuance.

6659 (iii) The order to show cause shall inform the defendant of a right to be represented by
6660 counsel at the hearing and to have counsel appointed if the defendant is indigent.

6661 (iv) The order shall also inform the defendant of a right to present evidence.

6662 (d) (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit.

6663 (ii) If the defendant denies the allegations of the affidavit, the prosecuting attorney
6664 shall present evidence on the allegations.

6665 (iii) The persons who have given adverse information on which the allegations are
6666 based shall be presented as witnesses subject to questioning by the defendant unless the court
6667 for good cause otherwise orders.

6668 (iv) The defendant may call witnesses, appear and speak in the defendant's own behalf,
6669 and present evidence.

6670 (e) (i) After the hearing the court shall make findings of fact.

6671 (ii) Upon a finding that the defendant violated the conditions of probation, the court
6672 may order the probation revoked, modified, continued, or that the entire probation term
6673 commence anew.

6674 [~~(iii) If probation is revoked, the defendant shall be sentenced or the sentence
6675 previously imposed shall be executed.~~]

6676 (iii) If a period of incarceration is imposed for a violation, the defendant shall be
6677 sentenced within the ~~H~~→ ~~[graduated sanctions]~~ ←~~H~~ guidelines established by the Utah Sentencing
6678 Commission pursuant to ~~H~~→ ~~[Section 63M-7-404]~~ Subsection 63M-7-404(4) ←~~H~~ , unless the judge
6678a determines that:

6679 (A) the defendant needs substance abuse or mental health treatment, as determined by a
6680 risk and needs assessment, that warrants treatment services that are immediately available in
6681 the community; or

6682 (B) the sentence previously imposed shall be executed.