

Representative Brady Brammer proposes the following substitute bill:

PROPERTY AND FINANCIAL OFFENSE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill concerns penalties and evidence relating to property and financial offenses.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates penalties and a presumption of imprisonment for certain property, financial, and related offenses;
- ▶ increases the penalty for a violation of a written false statement on a financial declaration completed by a defendant;
- ▶ provides that a prosecuting attorney may subpoena certain information regarding property that may be necessary to satisfy a future restitution order, and that a court may consider this information when establishing a defendant's payment schedule on a criminal accounts receivable; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.



26 **Utah Code Sections Affected:**

27 AMENDS:

- 28 **61-1-21**, as last amended by Laws of Utah 2016, Chapter 401
- 29 **63G-12-402**, as last amended by Laws of Utah 2021, Chapter 402
- 30 **76-6-102**, as last amended by Laws of Utah 2013, Chapter 272
- 31 **76-6-202**, as last amended by Laws of Utah 2012, Chapter 303
- 32 **76-6-412**, as last amended by Laws of Utah 2021, Chapter 57
- 33 **76-6-501**, as last amended by Laws of Utah 2016, Chapter 117
- 34 **76-6-513**, as last amended by Laws of Utah 2019, Chapter 211
- 35 **76-6-521**, as last amended by Laws of Utah 2019, Chapter 193
- 36 **76-6-703**, as last amended by Laws of Utah 2017, Chapters 462 and 467
- 37 **76-6-1204**, as last amended by Laws of Utah 2010, Chapter 193
- 38 **76-8-504**, as enacted by Laws of Utah 1973, Chapter 196
- 39 **76-10-1603.5**, as last amended by Laws of Utah 2013, Chapter 394
- 40 **76-10-1801**, as last amended by Laws of Utah 2010, Chapter 193
- 41 **76-10-1904**, as last amended by Laws of Utah 1996, Chapter 17
- 42 **77-32b-103**, as enacted by Laws of Utah 2021, Chapter 260
- 43 **77-38b-204**, as renumbered and amended by Laws of Utah 2021, Chapter 260
- 44 **77-38b-402**, as renumbered and amended by Laws of Utah 2021, Chapter 260

45 ENACTS:

- 46 **76-3-210**, Utah Code Annotated 1953

47 **Utah Code Sections Affected by Coordination Clause:**

- 48 **76-3-210**, Utah Code Annotated 1953



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

51 Section 1. Section **61-1-21** is amended to read:

52 **61-1-21. Penalties for violations.**

53 (1) A person is guilty of a third degree felony who willfully violates:

54 (a) a provision of this chapter except Sections **61-1-1** and **61-1-16**;

55 (b) an order issued under this chapter; or

56 (c) Section **61-1-16** knowing the statement made is false or misleading in a material

57 respect.

58 (2) Subject to the other provisions of this section, a person who willfully violates
59 Section 61-1-1:

60 (a) is guilty of a third degree felony if, at the time the crime was committed, the
61 property, money, or thing unlawfully obtained or sought to be obtained was worth less than
62 \$10,000; or

63 (b) is guilty of a second degree felony if, at the time the crime was committed, the
64 property, money, or thing unlawfully obtained or sought to be obtained was worth \$10,000 or
65 more.

66 (3) A person who willfully violates Section 61-1-1 is guilty of a second degree felony
67 if:

68 (a) at the time the crime was committed, the property, money, or thing unlawfully
69 obtained or sought to be obtained was worth less than \$10,000; and

70 (b) in connection with that violation, the violator knowingly accepted any money
71 representing:

72 (i) equity in a person's primary residence;

73 (ii) a withdrawal from an individual retirement account;

74 (iii) a withdrawal from a qualified retirement plan as defined in the Internal Revenue
75 Code;

76 (iv) an investment by a person over whom the violator exercises undue influence; or

77 (v) an investment by a person that the violator knows is a vulnerable adult.

78 (4) A person who willfully violates Section 61-1-1 is guilty of a second degree felony
79 punishable by imprisonment for an indeterminate term of not less than three years or more than
80 15 years if:

81 (a) at the time the crime was committed, the property, money, or thing unlawfully
82 obtained or sought to be obtained was worth \$10,000 or more; and

83 (b) in connection with that violation, the violator knowingly accepted any money
84 representing:

85 (i) equity in a person's primary residence;

86 (ii) a withdrawal from an individual retirement account;

87 (iii) a withdrawal from a qualified retirement plan as defined in the Internal Revenue

88 Code;

89 (iv) an investment by a person over whom the violator exercises undue influence; or

90 (v) an investment by a person that the violator knows is a vulnerable adult.

91 (5) The penalties and presumptions for imprisonment for a high-value property or

92 financial offense described in Section 76-3-210 apply to a violation of Section 61-1-1, 61-1-3,

93 or 61-1-7.

94 [~~5~~] (6) When amounts of property, money, or other things are unlawfully obtained or

95 sought to be obtained under a series of acts or continuing course of business, whether from the

96 same or several sources, the amounts may be aggregated in determining the level of offense.

97 [~~6~~] (7) It is an affirmative defense under this section against a claim that the person

98 violated an order issued under this chapter for the person to prove that the person had no

99 knowledge of the order.

100 [~~7~~] (8) In addition to any other penalty for a criminal violation of this chapter, the

101 sentencing judge may impose a penalty or remedy provided for in Subsection 61-1-20(2)(b).

102 Section 2. Section 63G-12-402 is amended to read:

103 **63G-12-402. Receipt of state, local, or federal public benefits -- Verification --**

104 **Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.**

105 (1) (a) Except as provided in Subsection (3) or when exempted by federal law, an

106 agency or political subdivision of the state shall verify the lawful presence in the United States

107 of an individual at least 18 years [~~of age~~] old who applies for:

108 (i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

109 (ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an

110 agency or political subdivision of this state.

111 (b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction

112 Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of

113 Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United

114 States of each individual who:

115 (i) owns an interest in the contractor that is an unincorporated entity; and

116 (ii) engages, or will engage, in a construction trade in Utah as an owner of the

117 contractor described in Subsection (1)(b)(i).

118 (2) This section shall be enforced without regard to race, religion, gender, ethnicity, or

119 national origin.

120 (3) Verification of lawful presence under this section is not required for:

121 (a) any purpose for which lawful presence in the United States is not restricted by law,
122 ordinance, or regulation;

123 (b) assistance for health care items and services that:

124 (i) are necessary for the treatment of an emergency medical condition, as defined in 42
125 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

126 (ii) are not related to an organ transplant procedure;

127 (c) short-term, noncash, in-kind emergency disaster relief;

128 (d) public health assistance for immunizations with respect to immunizable diseases
129 and for testing and treatment of symptoms of communicable diseases whether or not the
130 symptoms are caused by the communicable disease;

131 (e) programs, services, or assistance such as soup kitchens, crisis counseling and
132 intervention, and short-term shelter, specified by the United States Attorney General, in the
133 sole and unreviewable discretion of the United States Attorney General after consultation with
134 appropriate federal agencies and departments, that:

135 (i) deliver in-kind services at the community level, including through public or private
136 nonprofit agencies;

137 (ii) do not condition the provision of assistance, the amount of assistance provided, or
138 the cost of assistance provided on the income or resources of the individual recipient; and

139 (iii) are necessary for the protection of life or safety;

140 (f) the exemption for paying the nonresident portion of total tuition as set forth in
141 Section [53B-8-106](#);

142 (g) an applicant for a license under Section [61-1-4](#), if the applicant:

143 (i) is registered with the Financial Industry Regulatory Authority; and

144 (ii) files an application with the state Division of Securities through the Central
145 Registration Depository;

146 (h) a state public benefit to be given to an individual under Title 49, Utah State
147 Retirement and Insurance Benefit Act;

148 (i) a home loan that will be insured, guaranteed, or purchased by:

149 (i) the Federal Housing Administration, the Veterans Administration, or any other

150 federal agency; or
151 (ii) an enterprise as defined in 12 U.S.C. Sec. 4502;
152 (j) a subordinate loan or a grant that will be made to an applicant in connection with a
153 home loan that does not require verification under Subsection (3)(i);
154 (k) an applicant for a license issued by the Department of Commerce or individual
155 described in Subsection (1)(b), if the applicant or individual provides the Department of
156 Commerce:
157 (i) certification, under penalty of perjury, that the applicant or individual is:
158 (A) a United States citizen;
159 (B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or
160 (C) lawfully present in the United States; and
161 (ii) (A) the number assigned to a driver license or identification card issued under Title
162 53, Chapter 3, Uniform Driver License Act; or
163 (B) the number assigned to a driver license or identification card issued by a state other
164 than Utah if, as part of issuing the driver license or identification card, the state verifies an
165 individual's lawful presence in the United States; and
166 (l) an applicant for:
167 (i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents'
168 Scholarship Program;
169 (ii) a New Century scholarship described in Section 53B-8-105;
170 (iii) a promise scholarship described in Section 53B-8-303; or
171 (iv) a scholarship:
172 (A) for an individual who is a graduate of a high school located within Utah; and
173 (B) administered by an institution of higher education as defined in Section 53B-2-101.
174 (4) (a) An agency or political subdivision required to verify the lawful presence in the
175 United States of an applicant under this section shall require the applicant to certify under
176 penalty of perjury that:
177 (i) the applicant is a United States citizen; or
178 (ii) the applicant is:
179 (A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and
180 (B) lawfully present in the United States.

181 (b) The certificate required under this Subsection (4) shall include a statement advising
182 the signer that providing false information subjects the signer to penalties for perjury.

183 (5) An agency or political subdivision shall verify a certification required under
184 Subsection (4)(a)(ii) through the federal SAVE program.

185 (6) (a) An individual who knowingly and willfully makes a false, fictitious, or
186 fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject
187 to the criminal penalties applicable in this state for:

188 (i) making a written false statement under [~~Subsection 76-8-504(2)~~] Section 76-8-504;

189 and

190 (ii) fraudulently obtaining:

191 (A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

192 (B) unemployment compensation under Section 76-8-1301.

193 (b) If the certification constitutes a false claim of United States citizenship under 18
194 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United
195 States Attorney General for the applicable district based upon the venue in which the
196 application was made.

197 (c) If an agency or political subdivision receives verification that a person making an
198 application for a benefit, service, or license is not a qualified alien, the agency or political
199 subdivision shall provide the information to the Office of the Attorney General unless
200 prohibited by federal mandate.

201 (7) An agency or political subdivision may adopt variations to the requirements of this
202 section that:

203 (a) clearly improve the efficiency of or reduce delay in the verification process; or

204 (b) provide for adjudication of unique individual circumstances where the verification
205 procedures in this section would impose an unusual hardship on a legal resident of Utah.

206 (8) It is unlawful for an agency or a political subdivision of this state to provide a state,
207 local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

208 (9) A state agency or department that administers a program of state or local public
209 benefits shall:

210 (a) provide an annual report to the governor, the president of the Senate, and the
211 speaker of the House regarding its compliance with this section; and

212 (b) (i) monitor the federal SAVE program for application verification errors and
213 significant delays;

214 (ii) provide an annual report on the errors and delays to ensure that the application of
215 the federal SAVE program is not erroneously denying a state or local benefit to a legal resident
216 of the state; and

217 (iii) report delays and errors in the federal SAVE program to the United States
218 Department of Homeland Security.

219 Section 3. Section **76-3-210** is enacted to read:

220 **76-3-210. Penalty and presumption of prison for a high-value property or**
221 **financial offense.**

222 (1) As used in this section, "high-value property or financial offense" means any of the
223 following offenses that is punishable as a felony:

224 (a) securities fraud, Sections 61-1-1 and 61-1-21;

225 (b) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
226 adviser representative, Sections 61-1-3 and 61-1-21;

227 (c) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;

228 (d) abuse, neglect, or exploitation of a vulnerable adult, Section 76-5-111;

229 (e) arson, Section 76-6-102;

230 (f) burglary, Section 76-6-202;

231 (g) theft, Section 76-6-412;

232 (h) forgery, Section 76-6-501;

233 (i) unlawful dealing of property by a fiduciary, Section 76-6-513;

234 (j) fraudulent insurance act, Section 76-6-521;

235 (k) computer crimes, Section 76-6-703;

236 (l) mortgage fraud, Sections 76-6-1203 and 76-6-1204;

237 (m) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;

238 (n) communications fraud, Section 76-10-1801; or

239 (o) money laundering, Section 76-10-1904.

240 (2) Except as provided in Subsection (4), in a case involving a high-value property or
241 financial offense:

242 (a) if the trier of fact finds beyond a reasonable doubt that the economic loss due to the

243 offense is between \$50,000 and \$200,000, the offense is a second degree felony with an
244 indeterminate prison term of two to 15 years, with a presumption that the defendant should be
245 committed to prison;

246 (b) if the trier of fact finds beyond a reasonable doubt that the economic loss due to the
247 offense is between \$200,000 and \$1,000,000, the offense is a second degree felony with an
248 indeterminate prison term of three to 15 years, with a presumption that the defendant should be
249 committed to prison; or

250 (c) if the trier of fact finds beyond a reasonable doubt that the economic loss due to the
251 offense is over \$1,000,000, the offense is a second degree felony with an indeterminate prison
252 term of four to 15 years, with a presumption that the defendant should be committed to prison.

253 (3) If the sentencing court departs from a presumption of imprisonment in this section,
254 the sentencing court shall make the following findings, including supporting facts, on the
255 record:

256 (a) a sentence without imprisonment adequately punishes the defendant;

257 (b) a sentence without imprisonment protects the public from future crime;

258 (c) a sentence without imprisonment does not demean the seriousness of the offense;

259 and

260 (d) a sentence without imprisonment does not demean the impact on the victim.

261 (4) A penalty described in this section does not apply if the application of the penalty
262 would result in a lower maximum penalty than the penalty provided for under the section that
263 describes the offense for which the individual is being sentenced.

264 (5) For a defendant who is an employee as defined in Section [49-11-1401](#), the
265 forfeiture of retirement benefits described under Section [49-11-1401](#) may also apply in addition
266 to a penalty or presumption under this section.

267 Section 4. Section **76-6-102** is amended to read:

268 **76-6-102. Arson.**

269 (1) A person is guilty of arson if, under circumstances not amounting to aggravated
270 arson, the person by means of fire or explosives unlawfully and intentionally damages:

271 (a) any property with intention of defrauding an insurer; or

272 (b) the property of another.

273 (2) A violation of Subsection (1)(a) is a second degree felony.

274 (3) A violation of Subsection (1)(b) is a second degree felony if:
275 (a) the damage caused is or exceeds \$5,000 in value;
276 (b) as a proximate result of the fire or explosion, any person not a participant in the
277 offense suffers serious bodily injury as defined in Section 76-1-601;
278 (c) (i) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value; and
279 (ii) at the time of the offense the actor has been previously convicted of a violation of
280 this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the
281 commission of the violation of Subsection (1)(b).

282 (4) A violation of Subsection (1)(b) is a third degree felony if:
283 (a) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value;
284 (b) as a proximate result of the fire or explosion, any person not a participant in the
285 offense suffers substantial bodily injury as defined in Section 76-1-601;
286 (c) the fire or explosion endangers human life; or
287 (d) (i) the damage caused is or exceeds \$500 but is less than \$1,500 in value; and
288 (ii) at the time of the offense the actor has been previously convicted of a violation of
289 this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the
290 commission of the violation of Subsection (1)(b).

291 (5) A violation of Subsection (1)(b) is a class A misdemeanor if the damage caused:
292 (a) is or exceeds \$500 but is less than \$1,500 in value; or
293 (b) (i) is less than \$500; and
294 (ii) at the time of the offense the actor has been previously convicted of a violation of
295 this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the
296 commission of the violation of Subsection (1)(b).

297 (6) A violation of Subsection (1)(b) is a class B misdemeanor if the damage caused is
298 less than \$500.

299 (7) The penalties and presumptions for imprisonment for a high-value property or
300 financial offense described in Section 76-3-210 apply to a violation of this section.

301 Section 5. Section 76-6-202 is amended to read:

302 **76-6-202. Burglary.**

303 (1) An actor is guilty of burglary who enters or remains unlawfully in a building or any
304 portion of a building with intent to commit:

- 305 (a) a felony;
- 306 (b) theft;
- 307 (c) an assault on any person;
- 308 (d) lewdness, a violation of Section 76-9-702;
- 309 (e) sexual battery, a violation of Section 76-9-702.1;
- 310 (f) lewdness involving a child, in violation of Section 76-9-702.5; or
- 311 (g) voyeurism under Section 76-9-702.7.

312 (2) (a) [~~Burglary~~] A burglary is a third degree felony unless [it] the burglary was

313 committed in a dwelling, in which event [it] the burglary is a second degree felony.

314 (b) The penalties and presumptions for imprisonment for a high-value property or

315 financial offense described in Section 76-3-210 apply to a violation of this section.

316 (3) A violation of this section is a separate offense from any of the offenses listed in

317 Subsections (1)(a) through (g), and which may be committed by the actor while in the building.

318 Section 6. Section 76-6-412 is amended to read:

319 **76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

320 (1) [~~Theft~~] Except as provided in Subsection (2), theft of property and services as

321 provided in this chapter is punishable:

322 (a) as a second degree felony if the:

- 323 (i) value of the property or services is or exceeds \$5,000;
- 324 (ii) property stolen is a firearm or an operable motor vehicle; or
- 325 (iii) property is stolen from the person of another;

326 (b) as a third degree felony if:

- 327 (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;
- 328 (ii) the value of the property or services is or exceeds \$500 and the actor has been twice
- 329 before convicted of any of the following offenses, if each prior offense was committed within
- 330 10 years before the date of the current conviction or the date of the offense upon which the
- 331 current conviction is based and at least one of those convictions is for a class A misdemeanor:

332 (A) any theft, any robbery, or any burglary with intent to commit theft;

333 (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

334 (C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

335 (iii) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;

336 (B) the theft occurs on a property where the offender has committed any theft within
337 the past five years; and

338 (C) the offender has received written notice from the merchant prohibiting the offender
339 from entering the property [~~pursuant to~~] under Subsection [78B-3-108\(4\)](#); or

340 (iv) the actor has been previously convicted of a felony violation of any of the offenses
341 listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if the prior offense was committed
342 within 10 years before the date of the current conviction or the date of the offense upon which
343 the current conviction is based;

344 (c) as a class A misdemeanor if:

345 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

346 (ii) (A) the value of property or services is less than \$500;

347 (B) the theft occurs on a property where the offender has committed any theft within
348 the past five years; and

349 (C) the offender has received written notice from the merchant prohibiting the offender
350 from entering the property [~~pursuant to~~] under Subsection [78B-3-108\(4\)](#); or

351 (iii) the actor has been twice before convicted of any of the offenses listed in
352 Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10
353 years before the date of the current conviction or the date of the offense upon which the current
354 conviction is based; or

355 (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and
356 the theft is not an offense under Subsection (1)(c).

357 (2) The penalties and presumptions for imprisonment for a high-value property or
358 financial offense described in Section [76-3-210](#) apply to a violation of this chapter and
359 Subsection [76-6-513\(2\)](#).

360 [(2)] (3) Any individual who violates Subsection [76-6-408\(2\)](#) or [76-6-413\(1\)](#), or
361 commits theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat,
362 mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes, or a
363 livestock guardian dog, is civilly liable for three times the amount of actual damages, if any
364 sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

365 Section 7. Section **76-6-501** is amended to read:

366 **76-6-501. Forgery and producing false identification -- Elements of offense --**

367 **Definitions.**

368 (1) As used in this part:

369 (a) "Authentication feature" means any hologram, watermark, certification, symbol,
370 code, image, sequence of numbers or letters, or other feature that either individually or in
371 combination with another feature is used by the issuing authority on an identification
372 document, document-making implement, or means of identification to determine if the
373 document is counterfeit, altered, or otherwise falsified.374 (b) "Document-making implement" means any implement, impression, template,
375 computer file, computer disc, electronic device, computer hardware or software, or scanning
376 printing, or laminating equipment that is specifically configured or primarily used for making
377 an identification document, a false identification document, or another document-making
378 implement.

379 (c) "False authentication feature" means an authentication feature that:

380 (i) is genuine in origin but that, without the authorization of the issuing authority, has
381 been tampered with or altered for purposes of deceit;382 (ii) is genuine, but has been distributed, or is intended for distribution, without the
383 authorization of the issuing authority and not in connection with a lawfully made identification
384 document, document-making implement, or means of identification to which the authentication
385 feature is intended to be affixed or embedded by the issuing authority; or

386 (iii) appears to be genuine, but is not.

387 (d) "False identification document" means a document of a type intended or commonly
388 accepted for the purposes of identification of individuals, and that:389 (i) is not issued by or under the authority of a governmental entity or was issued under
390 the authority of a governmental entity but was subsequently altered for purposes of deceit; and

391 (ii) appears to be issued by or under the authority of a governmental entity.

392 (e) "Governmental entity" means the United States government, a state, a political
393 subdivision of a state, a foreign government, a political subdivision of a foreign government, an
394 international governmental organization, or a quasi-governmental organization.395 (f) "Identification document" means a document made or issued by or under the
396 authority of a governmental entity, which, when completed with information concerning a
397 particular individual, is of a type intended or commonly accepted for the purpose of

398 identification of individuals.

399 (g) "Issuing authority" means:

400 (i) any governmental entity that is authorized to issue identification documents, means
401 of identification, or authentication features; or

402 (ii) a business organization or financial institution or [its] the organization's or
403 institution's agent that issues a financial transaction card as defined in Section 76-6-506.

404 (h) "Means of identification" means any name or number that may be used, alone or in
405 conjunction with any other information, to identify a specific individual, including:

406 (i) name, social security number, date of birth, government issued driver license or
407 identification number, alien registration number, government passport number, or employer or
408 taxpayer identification number;

409 (ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other
410 unique physical representation; or

411 (iii) unique electronic identification number, address, or routing code.

412 (i) "Personal identification card" means an identification document issued by a
413 governmental entity solely for the purpose of identification of an individual.

414 (j) "Produce" includes altering, authenticating, or assembling.

415 (k) "State" includes any state of the United States, the District of Columbia, the
416 Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the
417 United States.

418 (l) "Traffic" means to:

419 (i) transport, transfer, or otherwise dispose of an item to another, as consideration for
420 anything of value; or

421 (ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of
422 an item to another.

423 (m) "Writing" includes printing, electronic storage or transmission, or any other
424 method of recording valuable information including forms such as:

425 (i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any
426 other symbols of value, right, privilege, or identification;

427 (ii) a security, revenue stamp, or any other instrument or writing issued by a
428 government or any agency; or

429 (iii) a check, an issue of stocks, bonds, or any other instrument or writing representing
430 an interest in or claim against property, or a pecuniary interest in or claim against any person or
431 enterprise.

432 (2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge
433 that the person is facilitating a fraud to be perpetrated by anyone, the person:

434 (a) alters any writing of another without his authority or utters the altered writing; or

435 (b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any
436 writing so that the writing or the making, completion, execution, authentication, issuance,
437 transference, publication, or utterance:

438 (i) purports to be the act of another, whether the person is existent or nonexistent;

439 (ii) purports to be an act on behalf of another party with the authority of that other
440 party; or

441 (iii) purports to have been executed at a time or place or in a numbered sequence other
442 than was in fact the case, or to be a copy of an original when an original did not exist.

443 (3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs
444 his own name to the writing if the actor does not have authority to make, complete, execute,
445 authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the
446 actor purports to act.

447 (4) A person is guilty of producing or transferring any false identification document
448 who:

449 (a) knowingly and without lawful authority produces, attempts, or conspires to produce
450 an identification document, authentication feature, or a false identification document that is or
451 appears to be issued by or under the authority of an issuing authority;

452 (b) transfers, or possesses with intent to transfer, an identification document,
453 authentication feature, or a false identification document knowing that the document or feature
454 was stolen or produced without lawful authority;

455 (c) produces, transfers, or possesses a document-making implement or authentication
456 feature with the intent that the document-making implement or the authentication feature be
457 used in the production of a false identification document or another document-making
458 implement or authentication feature; or

459 (d) traffics in false or actual authentication features for use in false identification

460 documents, document-making implements, or means of identification.

461 (5) (a) A person who violates:

462 [~~(a)~~] (i) Subsection (2) is guilty of a third degree felony; and

463 [~~(b)~~] (ii) Subsection (4) is guilty of a second degree felony.

464 (b) The penalties and presumptions for imprisonment for a high-value property or
465 financial offense described in Section 76-3-210 apply to a violation of this section.

466 (6) This part may not be construed to impose criminal or civil liability on any law
467 enforcement officer acting within the scope of a criminal investigation.

468 (7) The forfeiture of property under this part, including any seizure and disposition of
469 the property and any related judicial or administrative proceeding, shall be conducted in
470 accordance with Title 24, Forfeiture and Disposition of Property Act.

471 (8) The court shall order, in addition to the penalty prescribed for any person convicted
472 of a violation of this section, the forfeiture and destruction or other disposition of all illicit
473 authentication features, identification documents, false transaction cards, document-making
474 implements, or means of identification.

475 Section 8. Section 76-6-513 is amended to read:

476 **76-6-513. Definitions -- Unlawful dealing of property by a fiduciary -- Penalties.**

477 (1) As used in this section:

478 (a) "Fiduciary" means the same as that term is defined in Section 22-1-1.

479 (b) "Financial institution" means "depository institution" and "trust company" as
480 defined in Section 7-1-103.

481 (c) "Governmental entity" is as defined in Section 63G-7-102.

482 (d) "Person" does not include a financial institution whose fiduciary functions are
483 supervised by the Department of Financial Institutions or a federal regulatory agency.

484 (e) "Property" means the same as that term is defined in Section 76-6-401.

485 (2) (a) A person is guilty of unlawfully dealing with property by a fiduciary if the
486 person deals with property that has been entrusted to [~~him~~] the person as a fiduciary, or
487 property of a governmental entity, public money, or of a financial institution, in a manner
488 which the person knows is a violation of the person's duty and which involves substantial risk
489 of loss or detriment to the owner or to a person for whose benefit the property was entrusted.

490 (b) A violation of [~~this~~] Subsection (2)(a) is:

491 (i) punishable under Section [76-6-412](#)[?]; and

492 (ii) subject to the penalties and presumptions for imprisonment for a high-value
 493 property or financial offense described in Section [76-3-210](#).

494 (3) (a) A person acting as a fiduciary is guilty of a violation of this subsection if,
 495 without permission of the owner of the property or some other person with authority to give
 496 permission, the person pledges as collateral for a personal loan, or as collateral for the benefit
 497 of some party, other than the owner or the person for whose benefit the property was entrusted,
 498 the property that has been entrusted to the fiduciary.

499 (b) ~~[Aπ]~~ Except as provided in Subsection (3)(c), an offense under Subsection (3)(a) is
 500 punishable as:

501 (i) a felony of the second degree if the value of the property wrongfully pledged is or
 502 exceeds \$5,000;

503 (ii) a felony of the third degree if the value of the property wrongfully pledged is or
 504 exceeds \$1,500 but is less than \$5,000;

505 (iii) a class A misdemeanor if the value of the property is or exceeds \$500, but is less
 506 than \$1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent
 507 to commit theft, or unlawful dealing with property by a fiduciary; or

508 (iv) a class B misdemeanor if the value of the property is less than \$500.

509 (c) The penalties and presumptions for imprisonment for a high-value property or
 510 financial offense described in Section [76-3-210](#) apply to a violation of Subsection (3)(a).

511 Section 9. Section **76-6-521** is amended to read:

512 **76-6-521. Fraudulent insurance act.**

513 (1) A person commits a fraudulent insurance act if that person with intent to defraud:

514 (a) presents or causes to be presented any oral or written statement or representation
 515 knowing that the statement or representation contains false or fraudulent information
 516 concerning any fact material to an application for the issuance or renewal of an insurance
 517 policy, certificate, or contract, as part of or in support of:

518 (i) obtaining an insurance policy the insurer would otherwise not issue on the basis of
 519 underwriting criteria applicable to the person;

520 (ii) a scheme or artifice to avoid paying the premium that an insurer charges on the
 521 basis of underwriting criteria applicable to the person; or

- 522 (iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;
- 523 (b) presents, or causes to be presented, any oral or written statement or representation:
- 524 (i) (A) as part of or in support of a claim for payment or other benefit [~~pursuant to~~]
- 525 under an insurance policy, certificate, or contract; or
- 526 (B) in connection with any civil claim asserted for recovery of damages for personal or
- 527 bodily injuries or property damage; and
- 528 (ii) knowing that the statement or representation contains false, incomplete, or
- 529 fraudulent information concerning any fact or thing material to the claim;
- 530 (c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;
- 531 (d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees
- 532 for professional services, or anything of value by means of false or fraudulent pretenses,
- 533 representations, promises, or material omissions;
- 534 (e) knowingly employs, uses, or acts as a runner, as defined in Section [31A-31-102](#), for
- 535 the purpose of committing a fraudulent insurance act;
- 536 (f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent
- 537 insurance act;
- 538 (g) knowingly supplies false or fraudulent material information in any document or
- 539 statement required by the Department of Insurance; or
- 540 (h) knowingly fails to forward a premium to an insurer in violation of Section
- 541 [31A-23a-411.1](#).
- 542 (2) (a) A violation of Subsection (1)(a)(i) is a class A misdemeanor.
- 543 (b) A violation of Subsections (1)(a)(ii) or (1)(b) through (1)(h) is:
- 544 (i) punishable [~~as~~] in the manner prescribed by Section [76-10-1801](#) for communication
- 545 fraud for property of like value[-]; and
- 546 (ii) subject to the penalties and presumptions for imprisonment for a high-value
- 547 property or financial offense described in Section [76-3-210](#).
- 548 (c) A violation of Subsection (1)(a)(iii):
- 549 (i) is a class A misdemeanor if the value of the loss is less than \$1,500 or unable to be
- 550 determined; or
- 551 (ii) if the value of the loss is \$1,500 or more, is:
- 552 (A) punishable [~~as~~] in the manner prescribed by Section [76-10-1801](#) for

553 communication fraud for property of like value[-]; and

554 (B) subject to the penalties and presumptions for imprisonment for a high-value
555 property or financial offense described in Section 76-3-210.

556 (3) A corporation or association is guilty of the offense of insurance fraud under the
557 same conditions as those set forth in Section 76-2-204.

558 (4) The determination of the degree of any offense under Subsections (1)(a)(ii) and
559 (1)(b) through (1)(h) shall be measured by the total value of all property, money, or other things
560 obtained or sought to be obtained by the fraudulent insurance act or acts described in
561 Subsections (1)(a)(ii) and (1)(b) through (1)(h).

562 Section 10. Section 76-6-703 is amended to read:

563 **76-6-703. Computer crimes and penalties -- Interfering with critical**
564 **infrastructure.**

565 (1) It is unlawful for a person to:

566 (a) without authorization, or in excess of the person's authorization, access or attempt
567 to access computer technology if the access or attempt to access results in:

568 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
569 of computer technology;

570 (ii) interference with or interruption of:

571 (A) the lawful use of computer technology; or

572 (B) the transmission of data;

573 (iii) physical damage to or loss of real, personal, or commercial property;

574 (iv) audio, video, or other surveillance of another person; or

575 (v) economic loss to any person or entity;

576 (b) after accessing computer technology that the person is authorized to access,
577 knowingly take or attempt to take unauthorized or unlawful action that results in:

578 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
579 of computer technology;

580 (ii) interference with or interruption of:

581 (A) the lawful use of computer technology; or

582 (B) the transmission of data;

583 (iii) physical damage to or loss of real, personal, or commercial property;

584 (iv) audio, video, or other surveillance of another person; or

585 (v) economic loss to any person or entity; or

586 (c) knowingly engage in a denial of service attack.

587 (2) (a) A person who violates Subsection (1) is guilty of:

588 ~~[(a)]~~ (i) a class B misdemeanor when:

589 ~~[(i)]~~ (A) the economic loss or other loss or damage caused or the value of the money,
590 property, or benefit obtained or sought to be obtained is less than \$500; or

591 ~~[(ii)]~~ (B) the information obtained is not confidential;

592 ~~[(b)]~~ (ii) a class A misdemeanor when the economic loss or other loss or damage
593 caused or the value of the money, property, or benefit obtained or sought to be obtained is or
594 exceeds \$500 but is less than \$1,500;

595 ~~[(c)]~~ (iii) a third degree felony when the economic loss or other loss or damage caused
596 or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds
597 \$1,500 but is less than \$5,000;

598 ~~[(d)]~~ (iv) subject to Subsection (2)(b), a second degree felony when the economic loss
599 or other loss or damage caused or the value of the money, property, or benefit obtained or
600 sought to be obtained is or exceeds \$5,000; or

601 ~~[(e)]~~ (v) a third degree felony when:

602 ~~[(i)]~~ (A) the property or benefit obtained or sought to be obtained is a license or
603 entitlement;

604 ~~[(ii)]~~ (B) the damage is to the license or entitlement of another person;

605 ~~[(iii)]~~ (C) the information obtained is confidential or identifying information; or

606 ~~[(iv)]~~ (D) in gaining access the person breaches or breaks through a security system.

607 (b) A person who is guilty under Subsection (2)(a)(iv) is subject to the penalties and
608 presumptions for imprisonment for a high-value property or financial offense described in
609 Section [76-3-210](#).

610 (3) (a) A person who intentionally or knowingly and without authorization gains or
611 attempts to gain access to a computer, computer network, computer property, or computer
612 system under circumstances not otherwise constituting an offense under this section is guilty of
613 a class B misdemeanor.

614 (b) Notwithstanding Subsection (3)(a), a retailer that uses an electronic product

615 identification or tracking system, or other technology, to identify, track, or price goods is not
616 guilty of a violation of Subsection (3)(a) if the equipment designed to read the electronic
617 product identification or tracking system data and used by the retailer to identify, track, or price
618 goods is located within the retailer's location.

619 (4) (a) A person who, with intent that electronic communication harassment occur,
620 discloses or disseminates another person's identifying information with the expectation that
621 others will further disseminate or use the person's identifying information is subject to the
622 penalties outlined in Subsection (4)(b).

623 (b) If the disclosure or dissemination of another person's identifying information results
624 in electronic communication harassment, as described in Section 76-9-201, of the person
625 whose identifying information is disseminated, the person disseminating the information is
626 guilty of:

627 (i) a class B misdemeanor if the person whose identifying information is disseminated
628 is an adult; or

629 (ii) a class A misdemeanor if the person whose identifying information is disseminated
630 is a minor.

631 (c) A second offense under Subsection (4)(b)(i) is a class A misdemeanor.

632 (d) A second offense under Subsection (4)(b)(ii), and a third or subsequent offense
633 under [this] Subsection (4)(b), is a third degree felony.

634 (5) A person who uses or knowingly allows another person to use any computer,
635 computer network, computer property, or computer system, program, or software to devise or
636 execute any artifice or scheme to defraud or to obtain money, property, services, or other things
637 of value by false pretenses, promises, or representations, is:

638 (a) guilty of an offense based on the value of the money, property, services, or things of
639 value, in the degree set forth in Subsection 76-10-1801(1)[-]; and

640 (b) subject to the penalties and presumptions for imprisonment for a high-value
641 property or financial offense described in Section 76-3-210.

642 (6) A person is guilty of a third degree felony if the person intentionally or knowingly,
643 and without lawful authorization, interferes with or interrupts critical infrastructure.

644 (7) It is an affirmative defense to Subsection (1), (2), or (3) that a person obtained
645 access or attempted to obtain access:

646 (a) in response to, and for the purpose of protecting against or investigating, a prior
647 attempted or successful breach of security of computer technology whose security the person is
648 authorized or entitled to protect, and the access attempted or obtained was no greater than
649 reasonably necessary for that purpose; or

650 (b) [~~pursuant to~~] under a search warrant or a lawful exception to the requirement to
651 obtain a search warrant.

652 (8) (a) An interactive computer service is not guilty of violating this section if a person
653 violates this section using the interactive computer service and the interactive computer service
654 did not knowingly assist the person to commit the violation.

655 (b) A service provider is not guilty of violating this section for:

656 (i) action taken in relation to a customer of the service provider, for a legitimate
657 business purpose, to install software on, monitor, or interact with the customer's Internet or
658 other network connection, service, or computer for network or computer security purposes,
659 authentication, diagnostics, technical support, maintenance, repair, network management,
660 updates of computer software or system firmware, or remote system management; or

661 (ii) action taken, including scanning and removing computer software, to detect or
662 prevent the following:

663 (A) unauthorized or fraudulent use of a network, service, or computer software;

664 (B) illegal activity; or

665 (C) infringement of intellectual property rights.

666 (9) Subsections (4)(a) and (b) do not apply to a person who provides information in
667 conjunction with a report under Title 34A, Chapter 6, Utah Occupational Safety and Health
668 Act, or Title 67, Chapter 21, Utah Protection of Public Employees Act.

669 (10) In accordance with 47 U.S.C.A. Sec. 230, this section may not apply to, and
670 nothing in this section may be construed to impose liability or culpability on, an interactive
671 computer service for content provided by another person.

672 (11) This section does not affect, limit, or apply to any activity or conduct that is
673 protected by the constitution or laws of this state or by the constitution or laws of the United
674 States.

675 Section 11. Section **76-6-1204** is amended to read:

676 **76-6-1204. Classification of offense.**

677 (1) (a) Notwithstanding any other administrative, civil, or criminal penalties, a person
 678 who violates Section 76-6-1203 is guilty of [a]:

679 [~~a~~] (i) a class A misdemeanor when the value is or exceeds \$500 but is less than
 680 \$1,500;

681 [~~b~~] (ii) a third degree felony when the value is or exceeds \$1,500 but is less than
 682 \$5,000;

683 [~~c~~] (iii) subject to Subsection (1)(b), a second degree felony when the value is or
 684 exceeds \$5,000; and

685 [~~d~~] (iv) a second degree felony when the object or purpose of the commission of an
 686 act of mortgage fraud is the obtaining of sensitive personal identifying information, regardless
 687 of the value.

688 (b) A person who is guilty under Subsection (1)(a)(iii) is subject to the penalties and
 689 presumptions for imprisonment for a high-value property or financial offense described in
 690 Section 76-3-210.

691 (2) The determination of the degree of any offense under Subsection (1) is measured by
 692 the total value of all property, money, or things obtained or sought to be obtained by a violation
 693 of Section 76-6-1203, except as provided in Subsection (1)[~~d~~](a)(iv).

694 (3) Each residential or commercial property transaction offense under this part
 695 constitutes a separate violation.

696 Section 12. Section 76-8-504 is amended to read:

697 **76-8-504. Written false statement.**

698 [~~A person is guilty of a class B misdemeanor if:~~]

699 (1) [~~He makes a~~] An actor commits the offense of written false statement [~~which he~~] if:

700 (a) the actor makes a statement that the actor does not believe to be true on or [pursuant
 701 to] under a form bearing a notification authorized by law to the effect that false statements
 702 made therein are punishable; or

703 [~~2~~] (b) [With] with intent to deceive a public servant in the performance of [~~his~~] the
 704 public servant's official function, [he] the actor:

705 [~~a~~] (i) [Makes any] makes a written false statement [~~which he~~] that the actor does not
 706 believe to be true; [~~or~~]

707 [~~b~~] (ii) [Knowingly] knowingly creates a false impression in a written application for

708 [any] a pecuniary or other benefit by omitting information necessary to prevent [statements
709 therein] a statement in the application from being misleading; [or]

710 [(c)] (iii) [Submits] submits or invites reliance on [any writing which he] a writing that
711 the actor knows to be lacking in authenticity; or

712 [(d)] (iv) [Submits] submits or invites reliance on [any] a sample, specimen, map,
713 boundary mark, or other object [which he] that the actor knows to be false.

714 (2) (a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class
715 B misdemeanor.

716 (b) A violation of Subsection (1) is a third degree felony if the false statement is on a
717 financial declaration described in Section 77-38b-204.

718 [(3)] (3) [No person shall be guilty under this section if he] It is not an offense under
719 this section if the actor retracts the falsification before it becomes manifest that the falsification
720 was or would be exposed.

721 Section 13. Section 76-10-1603.5 is amended to read:

722 **76-10-1603.5. Violation a felony -- Costs -- Fines -- Divestiture -- Restrictions --
723 Dissolution or reorganization -- Prior restraint.**

724 (1) As used in this section, "net proceeds" means property acquired as a result of a
725 violation of an offense minus the direct costs of acquiring the property.

726 [(1)] (2) (a) A person who violates any provision of Section 76-10-1603 is:

727 (i) guilty of a second degree felony[-]; and

728 (ii) subject to the penalties and presumptions for imprisonment for a high-value
729 property or financial offense described in Section 76-3-210.

730 (b) In addition to penalties prescribed by law, the court may order the person found
731 guilty of the felony to pay to the state, if the attorney general brought the action, or to the
732 county, if the county attorney or district attorney brought the action, the costs of investigating
733 and prosecuting the offense and the costs of securing the forfeitures provided for in this
734 section.

735 [(2)] (3) In lieu of a fine otherwise authorized by law for a violation of Section
736 76-10-1603, a defendant who derives net proceeds from a conduct prohibited by Section
737 76-10-1603 may be fined not more than twice the amount of the net proceeds.

738 [(3)] (4) Upon conviction for violating any provision of Section 76-10-1603, and in

739 addition to any penalty prescribed by law, the court may do any or all of the following:

740 (a) order restitution to any victim or rightful owner of property obtained, directly or
741 indirectly, from:

742 (i) the conduct constituting the pattern of unlawful activity; or

743 (ii) any act or conduct constituting the pattern of unlawful activity that is proven as part
744 of the violation of any provision of Section 76-10-1603;

745 (b) order the person to divest himself of any interest in or any control, direct or
746 indirect, of any enterprise;

747 (c) impose reasonable restrictions on the future activities or investments of any person,
748 including prohibiting the person from engaging in the same type of endeavor as the enterprise
749 engaged in, to the extent the Utah Constitution and the Constitution of the United States
750 permit; or

751 (d) order the dissolution or reorganization of any enterprise.

752 ~~[(4)]~~ (5) If a violation of Section 76-10-1603 is based on a pattern of unlawful activity
753 consisting of acts or conduct in violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or
754 76-10-1222, the court may not enter any order that would amount to a prior restraint on the
755 exercise of an affected party's rights under the First Amendment to the Constitution of the
756 United States or Utah Constitution Article I, Section 15.

757 ~~[(5) For purposes of this section, the "net proceeds" of an offense means property
758 acquired as a result of the violation minus the direct costs of acquiring the property.]~~

759 Section 14. Section 76-10-1801 is amended to read:

760 **76-10-1801. Communications fraud -- Elements -- Penalties.**

761 (1) (a) Any person who has devised any scheme or artifice to defraud another or to
762 obtain from another money, property, or anything of value by means of false or fraudulent
763 pretenses, representations, promises, or material omissions, and who communicates directly or
764 indirectly with any person by any means for the purpose of executing or concealing the scheme
765 or artifice is guilty of:

766 ~~[(a)]~~ (i) a class B misdemeanor when the value of the property, money, or thing
767 obtained or sought to be obtained is less than \$500;

768 ~~[(b)]~~ (ii) a class A misdemeanor when the value of the property, money, or thing
769 obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;

770 ~~[(e)]~~ (iii) a third degree felony when the value of the property, money, or thing obtained
771 or sought to be obtained is or exceeds \$1,500 but is less than \$5,000;

772 ~~[(d)]~~ (iv) subject to Subsection (1)(b), a second degree felony when the value of the
773 property, money, or thing obtained or sought to be obtained is or exceeds \$5,000; and

774 ~~[(e)]~~ (v) a second degree felony when the object or purpose of the scheme or artifice to
775 defraud is the obtaining of sensitive personal identifying information, regardless of the value.

776 (b) A person who is guilty under Subsection (1)(a)(iv) is subject to the penalties and
777 presumptions for imprisonment for a high-value property or financial offense described in
778 Section 76-3-210.

779 (2) The determination of the degree of any offense under Subsection (1)(a) shall be
780 measured by the total value of all property, money, or things obtained or sought to be obtained
781 by the scheme or artifice described in Subsection (1)(a) except as provided in Subsection
782 ~~[(1)(e)]~~ (1)(a)(v).

783 (3) Reliance on the part of any person is not a necessary element of the offense
784 described in Subsection (1)(a).

785 (4) An intent on the part of the perpetrator of any offense described in Subsection
786 (1)(a) to permanently deprive any person of property, money, or thing of value is not a
787 necessary element of the offense.

788 (5) Each separate communication made for the purpose of executing or concealing a
789 scheme or artifice described in Subsection (1)(a) is a separate act and offense of
790 communication fraud.

791 (6) (a) To communicate as described in Subsection (1)(a) means to:

792 (i) bestow, convey, make known, recount, or impart;

793 (ii) give by way of information;

794 (iii) talk over; or

795 (iv) transmit information.

796 (b) Means of communication include use of the mail, telephone, telegraph, radio,
797 television, newspaper, computer, and spoken and written communication.

798 (7) A person may not be convicted under this section unless the pretenses,
799 representations, promises, or material omissions made or omitted were made or omitted
800 intentionally, knowingly, or with a reckless disregard for the truth.

- 801 (8) As used in this section, "sensitive personal identifying information" means
802 information regarding an individual's:
- 803 (a) ~~[Social Security]~~ social security number;
 - 804 (b) driver's license number or other government issued identification number;
 - 805 (c) financial account number or credit or debit card number;
 - 806 (d) password or personal identification number or other identification required to gain
807 access to a financial account or a secure website;
 - 808 (e) automated or electronic signature;
 - 809 (f) unique biometric data; or
 - 810 (g) any other information that can be used to gain access to an individual's financial
811 accounts or to obtain goods or services.

812 Section 15. Section **76-10-1904** is amended to read:

813 **76-10-1904. Money laundering -- Penalty.**

814 (1) A person who violates Subsection **76-10-1903**(1)(a), (b), or (c) is:

- 815 (a) guilty of a second degree felony[-]; and
- 816 (b) subject to the penalties and presumptions for imprisonment for a high-value
817 property or financial offense described in Section **76-3-210**.

818 (2) A person who violates Subsection **76-10-1903**(1)(d) is guilty of a third degree
819 felony.

820 Section 16. Section **77-32b-103** is amended to read:

821 **77-32b-103. Establishment of a criminal accounts receivable -- Responsibility --**
822 **Payment schedule -- Delinquency or default.**

823 (1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or
824 acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts
825 receivable for the defendant.

826 (b) The court is not required to create a criminal accounts receivable for the defendant
827 under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there
828 are no other fines or fees to be assessed against the defendant.

829 (c) Subject to Subsection **77-38b-205**(5), if the court does not create a criminal
830 accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to
831 establish a criminal accounts receivable for the defendant at the time the court enters an order

832 for restitution under Section [77-38b-205](#).

833 (2) After establishing a criminal accounts receivable for a defendant, the court shall:

834 (a) if a prison sentence is imposed and not suspended for the defendant:

835 (i) accept any payment for the criminal accounts receivable that is tendered on the date
836 of sentencing; and

837 (ii) transfer the responsibility of receiving, distributing, and processing payments for
838 the criminal accounts receivable to the Office of State Debt Collection; and

839 (b) for all other cases:

840 (i) retain the responsibility for receiving, processing, and distributing payments for the
841 criminal accounts receivable until the court enters a civil accounts receivable or civil judgment
842 of restitution on the civil judgment docket under Subsection [77-18-114](#)(1) or (2); and

843 (ii) record each payment by the defendant on the case docket.

844 (c) For a criminal accounts receivable that a court retains responsibility for receiving,
845 processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may
846 establish rules to require a defendant to pay the cost, or a portion of the cost, that is charged by
847 a financial institution for the use of a credit or debit card by the defendant to make payments
848 towards the criminal accounts receivable.

849 (3) (a) Upon entering an order for a criminal accounts receivable, the court shall
850 establish a payment schedule for the defendant to make payments towards the criminal
851 accounts receivable.

852 (b) In establishing the payment schedule for the defendant, the court shall consider:

853 (i) the needs of the victim if the criminal accounts receivable includes an order for
854 restitution under Section [77-38b-205](#);

855 (ii) the financial resources of the defendant, as disclosed in the financial declaration
856 under Section [77-38b-204](#) or in evidence obtained by subpoena under Subsection
857 [77-38b-402](#)(1)(b);

858 (iii) the burden that the payment schedule will impose on the defendant regarding the
859 other reasonable obligations of the defendant;

860 (iv) the ability of the defendant to pay restitution on an installment basis or on other
861 conditions fixed by the court;

862 (v) the rehabilitative effect on the defendant of the payment of restitution and method

863 of payment; and

864 (vi) any other circumstance that the court determines is relevant.

865 (4) A payment schedule for a criminal accounts receivable does not limit the ability of
866 a judgment creditor to pursue collection by any means allowable by law.

867 (5) If the court orders restitution under Section 77-38b-205, or makes another financial
868 decision, after sentencing that increases the total amount owed in a defendant's case, the
869 defendant's criminal accounts receivable balance shall be adjusted to include any new amount
870 ordered by the court.

871 (6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as
872 defined in Section 64-13-1, or the defendant is involuntarily committed under Section
873 62A-15-631:

874 (i) all payments for a payment schedule shall be suspended for the period of time that
875 the defendant is incarcerated or involuntarily committed, unless the court, or the board if the
876 defendant is under the jurisdiction of the board, expressly orders the defendant to make
877 payments according to the payment schedule; and

878 (ii) the defendant shall provide the court with notice of the incarceration or involuntary
879 commitment.

880 (b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day
881 in which the defendant is released from incarceration or commitment.

882 Section 17. Section 77-38b-204 is amended to read:

883 **77-38b-204. Financial declaration by defendant.**

884 (1) (a) The Judicial Council shall design and publish a financial declaration form to be
885 completed by a defendant before the sentencing court establishes a payment schedule under
886 Section 77-38b-205.

887 (b) The financial declaration form shall:

888 (i) require a defendant to disclose all assets, income, and financial liabilities of the
889 defendant, including:

890 (A) real property;

891 (B) vehicles;

892 (C) precious metals or gems;

893 (D) jewelry with a value of \$1,000 or more;

- 894 (E) other personal property with a value of \$1,000 or more;
- 895 (F) the balance of any bank account and the name of the financial institution for the
896 bank account;
- 897 (G) cash;
- 898 (H) salary, wages, commission, tips, and business income, including the name of any
899 employer or entity from which the defendant receives a salary, wage, commission, tip, or
900 business income;
- 901 (I) pensions and annuities;
- 902 (J) intellectual property;
- 903 (K) accounts receivable;
- 904 (L) accounts payable;
- 905 (M) mortgages, loans, and other debts; and
- 906 (N) restitution that has been ordered, and not fully paid, in other cases; and
- 907 (ii) state that a false statement made in the financial declaration form is punishable as
908 ~~[a class B misdemeanor]~~ third degree felony under Section 76-8-504.

909 (2) After a plea disposition or conviction has been entered but before sentencing, a
910 defendant shall complete the financial declaration form described in Subsection (1).

911 (3) When a civil judgment of restitution or a civil accounts receivable is entered for a
912 defendant on the civil judgment docket under Section 77-18-114, the court shall provide the
913 Office of State Debt Collection with the defendant's financial declaration form.

914 Section 18. Section 77-38b-402 is amended to read:

915 **77-38b-402. Preservation of assets.**

916 (1) (a) Before, or at the time, a criminal information, indictment charging a violation,
917 or a petition alleging delinquency is filed, or at any time during the prosecution of the case, a
918 prosecuting attorney may, if in the prosecuting attorney's best judgment there is a substantial
919 likelihood that a conviction will be obtained and restitution will be ordered in the case, petition
920 the court to:

921 ~~[(a)]~~ (i) enter a temporary restraining order, an injunction, or both;

922 ~~[(b)]~~ (ii) require the execution of a satisfactory performance bond; or

923 ~~[(c)]~~ (iii) take any other action to preserve the availability of property that may be
924 necessary to satisfy an anticipated order for restitution.

925 (b) A prosecuting attorney may subpoena a document, witness, or other evidence that,
926 in the prosecuting attorney's best judgment, may provide evidence relevant to the property
927 described in Subsection (1)(a)(iii).

928 (2) (a) Upon receiving a request from a prosecuting attorney under Subsection (1)(a),
929 and after notice to a person appearing to have an interest in the property and affording the
930 person an opportunity to be heard, the court may take action as requested by the prosecuting
931 attorney if the court determines:

932 (i) there is probable cause to believe that an offense has been committed and that the
933 defendant committed the offense, and that failure to enter the order will likely result in the
934 property being sold, distributed, exhibited, destroyed, or removed from the jurisdiction of the
935 court, or otherwise be made unavailable for restitution; and

936 (ii) the need to preserve the availability of the property or prevent the property's sale,
937 distribution, exhibition, destruction, or removal through the entry of the requested order
938 outweighs the hardship on any party against whom the order is to be entered.

939 (b) In a hearing conducted in accordance with this section, a court may consider
940 reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

941 (c) An order for an injunction entered under this section is effective for the period of
942 time given in the order.

943 (3) (a) Upon receiving a request for a temporary restraining order from a prosecuting
944 attorney under this section, a court may enter a temporary restraining order against an owner
945 with respect to specific property without notice or opportunity for a hearing if:

946 (i) the prosecuting attorney demonstrates that there is a substantial likelihood that the
947 property with respect to which the order is sought appears to be necessary to satisfy an
948 anticipated restitution order under this chapter; and

949 (ii) provision of notice would jeopardize the availability of the property to satisfy any
950 judgment or order for restitution.

951 (b) The temporary order in this Subsection (3) expires no later than 10 days after the
952 day on which the temporary order is entered unless extended for good cause shown or the party
953 against whom the temporary order is entered consents to an extension.

954 (4) A hearing concerning an order entered under this section shall be held as soon as
955 possible, and before the expiration of the temporary order.

956 Section 19. **Coordinating H.B. 229 with S.B. 123 -- Technical and substantive**
957 **amendment.**

958 If this H.B. 229 and S.B. 123, Criminal Code Recodification, both pass and become
959 law, it is the intent of the Legislature that the Office of Legislative Research and General
960 Counsel prepare the Utah Code database for publication by amending Subsection [76-3-210\(1\)](#)
961 to read:

962 "(1) As used in this section, "high-value property or financial offense" means any of
963 the following offenses punishable as a felony:

964 (a) securities fraud, Sections [61-1-1](#) and [61-1-21](#);

965 (b) sale by an unlicensed broker-dealer, agent, investment adviser, or investment
966 adviser representative, Sections [61-1-3](#) and [61-1-21](#);

967 (c) offer or sale of unregistered security, Sections [61-1-7](#) and [61-1-21](#);

968 (d) abuse of a vulnerable adult, Section [76-5-111](#);

969 (e) aggravated abuse of a vulnerable adult, Section [76-5-111.2](#);

970 (f) personal dignity exploitation of a vulnerable adult, Section [76-5-111.3](#);

971 (g) financial exploitation of a vulnerable adult, Section [76-5-111.4](#);

972 (h) arson, Section [76-6-102](#);

973 (i) burglary, Section [76-6-202](#);

974 (j) theft, Section [76-6-412](#);

975 (k) forgery, Section [76-6-501](#);

976 (l) unlawful dealing of property by a fiduciary, Section [76-6-513](#);

977 (m) fraudulent insurance act, Section [76-6-521](#);

978 (n) computer crimes, Section [76-6-703](#);

979 (o) mortgage fraud, Sections [76-6-1203](#) and [76-6-1204](#);

980 (p) pattern of unlawful activity, Sections [76-10-1603](#) and [76-10-1603.5](#);

981 (q) communications fraud, Section [76-10-1801](#); or

982 (r) money laundering, Section [76-10-1904](#)."