

Senator Stephanie Pitcher proposes the following substitute bill:

CRIMINAL MONETARY THRESHOLD AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Pitcher

House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends the monetary threshold amounts required for certain offenses.

Highlighted Provisions:

This bill:

- ▶ amends the monetary threshold amounts required for certain offenses;
- ▶ creates sentencing provisions for certain theft related offenses; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

10-3-716, as last amended by Laws of Utah 2006, Chapter 55

10-3-1310, as last amended by Laws of Utah 1989, Chapter 147

26B-3-1108, as last amended by Laws of Utah 2023, Chapter 111 and renumbered and amended by Laws of Utah 2023, Chapter 306

34A-2-110, as last amended by Laws of Utah 2022, Chapter 430



- 26 [35A-8-410](#), as renumbered and amended by Laws of Utah 2012, Chapter 212
- 27 [53C-2-301](#), as last amended by Laws of Utah 2020, Chapter 123
- 28 [63M-7-510](#), as last amended by Laws of Utah 2020, Chapter 149
- 29 [73-2-27](#), as last amended by Laws of Utah 2023, Chapters 111, 179
- 30 [76-5-111.4](#), as enacted by Laws of Utah 2022, Chapter 181
- 31 [76-6-102](#), as last amended by Laws of Utah 2023, Chapter 111
- 32 [76-6-104](#), as last amended by Laws of Utah 2023, Chapter 111
- 33 [76-6-104.5](#), as last amended by Laws of Utah 2023, Chapter 111
- 34 [76-6-106](#), as last amended by Laws of Utah 2023, Chapters 111, 179 and 330
- 35 [76-6-106.1](#), as enacted by Laws of Utah 2023, Chapter 111
- 36 [76-6-107](#), as last amended by Laws of Utah 2023, Chapter 111
- 37 [76-6-404](#), as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 38 Coordination Clause, Laws of Utah 2023, Chapter 407
- 39 [76-6-404.5](#), as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 40 Coordination Clause, Laws of Utah 2023, Chapter 407
- 41 [76-6-404.7](#), as last amended by Laws of Utah 2023, Chapter 111
- 42 [76-6-405](#), as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 43 Coordination Clause, Laws of Utah 2023, Chapter 407
- 44 [76-6-406](#), as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 45 Coordination Clause, Laws of Utah 2023, Chapter 407
- 46 [76-6-407](#), as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 47 Coordination Clause, Laws of Utah 2023, Chapter 407
- 48 [76-6-408](#), as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 49 Coordination Clause, Laws of Utah 2023, Chapter 407
- 50 [76-6-409](#), as last amended by Laws of Utah 2023, Chapter 111
- 51 [76-6-409.3](#), as last amended by Laws of Utah 2023, Chapter 111
- 52 [76-6-409.6](#), as last amended by Laws of Utah 2023, Chapter 111
- 53 [76-6-410](#), as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 54 Coordination Clause, Laws of Utah 2023, Chapter 407
- 55 [76-6-413](#), as last amended by Laws of Utah 2023, Chapter 111
- 56 [76-6-505](#), as last amended by Laws of Utah 2023, Chapter 111

- 57 [76-6-506.2](#), as last amended by Laws of Utah 2023, Chapter 111
- 58 [76-6-506.6](#), as last amended by Laws of Utah 2023, Chapter 111
- 59 [76-6-506.8](#), as enacted by Laws of Utah 2023, Chapter 111
- 60 [76-6-506.9](#), as enacted by Laws of Utah 2023, Chapter 111
- 61 [76-6-513](#), as last amended by Laws of Utah 2023, Chapter 111
- 62 [76-6-518](#), as last amended by Laws of Utah 2023, Chapter 111
- 63 [76-6-521](#), as last amended by Laws of Utah 2023, Chapter 111
- 64 [76-6-602](#), as last amended by Laws of Utah 2023, Chapter 111 and last amended by
- 65 Coordination Clause, Laws of Utah 2023, Chapter 407
- 66 [76-6-608](#), as last amended by Laws of Utah 2023, Chapter 111
- 67 [76-6-703](#), as last amended by Laws of Utah 2023, Chapter 111
- 68 [76-6-703.3](#), as enacted by Laws of Utah 2023, Chapter 111
- 69 [76-6-801](#), as last amended by Laws of Utah 2023, Chapter 111
- 70 [76-6-803](#), as last amended by Laws of Utah 2023, Chapter 111
- 71 [76-6-803.30](#), as last amended by Laws of Utah 2023, Chapter 111
- 72 [76-6-902](#), as last amended by Laws of Utah 2023, Chapter 111
- 73 [76-6-902.1](#), as enacted by Laws of Utah 2023, Chapter 111
- 74 [76-6-902.2](#), as enacted by Laws of Utah 2023, Chapter 111
- 75 [76-6-1002](#), as last amended by Laws of Utah 2023, Chapter 111
- 76 [76-6-1102](#), as last amended by Laws of Utah 2023, Chapter 111
- 77 [76-6-1203](#), as last amended by Laws of Utah 2023, Chapter 111
- 78 [76-8-103](#), as last amended by Laws of Utah 1998, Chapter 92
- 79 [76-8-105](#), as repealed and reenacted by Laws of Utah 1998, Chapter 92
- 80 [76-8-402](#), as last amended by Laws of Utah 2020, Chapter 61
- 81 [76-8-1206](#), as last amended by Laws of Utah 2012, Chapter 41
- 82 [76-8-1301](#), as last amended by Laws of Utah 2010, Chapter 193
- 83 [76-10-1801](#), as last amended by Laws of Utah 2010, Chapter 193
- 84 [77-18-105](#), as last amended by Laws of Utah 2023, Chapters 111, 257
- 85 ENACTS:
- 86 [76-1-107.5](#), Utah Code Annotated 1953
- 87 [76-6-401.5](#), Utah Code Annotated 1953

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

89 **76-8-103**, as last amended by Laws of Utah 1998, Chapter 92

90 **76-8-105**, as repealed and reenacted by Laws of Utah 1998, Chapter 92

91 **76-8-1203.1**, as enacted in H.B. 15 (2024 General Session)

92 **76-8-1203.3**, as enacted in H.B. 15 (2024 General Session)

93 **76-8-1203.5**, as enacted in H.B. 15 (2024 General Session)

94 **76-8-1203.7**, as enacted in H.B. 15 (2024 General Session)

95 **76-8-1302**, as enacted in H.B. 15 (2024 General Session)

96 **76-8-1303**, as enacted in H.B. 15 (2024 General Session)



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

99 Section 1. Section **10-3-716** is amended to read:

100 **10-3-716. Fines and forfeitures -- Disposition.**

101 All fines, penalties, and forfeitures for the violation of any ordinance, when collected,
102 shall be paid in accordance with Section **51-4-2**. A violation of this section constitutes a class
103 C misdemeanor. The retention or use of any fine, penalty, or forfeiture by any person for
104 personal use or benefit constitutes a class B misdemeanor, except that if the amount or amounts
105 exceed [~~\$1,000~~] \$2,000 the offense is a class A misdemeanor as defined in the Utah Criminal
106 Code.

107 Section 2. Section **10-3-1310** is amended to read:

108 **10-3-1310. Penalties for violation -- Dismissal from employment or removal from**
109 **office.**

110 In addition to any penalty contained in any other provision of law, any person who
111 knowingly and intentionally violates this part, with the exception of Sections **10-3-1306**,
112 **10-3-1307**, **10-3-1308**, and **10-3-1309**, shall be dismissed from employment or removed from
113 office and is guilty of:

114 (1) a felony of the second degree if the total value of the compensation, conflict of
115 interest, or assistance exceeds [~~\$1,000~~] \$2,000;

116 (2) a felony of the third degree if:

117 (a) the total value of the compensation, conflict of interest, or assistance is more than
118 [~~\$250~~] \$500 but not more than [~~\$1,000~~] \$2,000; or

119 (b) the elected or appointed officer or municipal employee has been twice before
120 convicted of violation of this chapter and the value of the conflict of interest, compensation, or
121 assistance was [~~\$250~~] \$500 or less;

122 (3) a class A misdemeanor if the value of the compensation or assistance was more
123 than [~~\$100~~] \$200 but does not exceed [~~\$250~~] \$500; or

124 (4) a class B misdemeanor if the value of the compensation or assistance was [~~\$100~~]
125 \$200 or less.

126 Section 3. Section **26B-3-1108** is amended to read:

127 **26B-3-1108. Criminal penalties.**

128 (1) (a) Except as provided in Subsection (1)(b) the culpable mental state required for a
129 criminal violation of this part is knowingly, intentionally, or recklessly as defined in Section
130 [76-2-103](#).

131 (b) The culpable mental state required for a criminal violation of this part for kickbacks
132 and bribes under Section [26B-3-1103](#) is knowingly and intentionally as defined in Section
133 [76-2-103](#).

134 (2) The punishment for a criminal violation of any provision of this part, except as
135 provided under Section [26B-3-1104](#), is determined by the cumulative value of the funds or
136 other benefits received or claimed in the commission of all violations of a similar nature, and
137 not by each separate violation.

138 (3) Punishment for criminal violation of this part, except as provided under Section
139 [26B-3-1104](#), is:

140 (a) a second degree felony if the value of the property or service is or exceeds [~~\$5,000~~]
141 \$10,000;

142 (b) a third degree felony if the value of the property or service is or exceeds [~~\$1,500~~]
143 \$2,000 but is less than [~~\$5,000~~] \$10,000;

144 (c) a class A misdemeanor if the value of the property or service is or exceeds [~~\$500~~]
145 \$600 but is less than [~~\$1,500~~] \$2,000; or

146 (d) a class B misdemeanor if the value of the property or service is less than [~~\$500~~]
147 \$600.

148 Section 4. Section **34A-2-110** is amended to read:

149 **34A-2-110. Workers' compensation insurance fraud -- Elements -- Penalties --**

150 **Notice.**

151 (1) As used in this section:

152 (a) "Corporation" means the same as that term is defined in Section 76-2-201.

153 (b) "Intentionally" means the same as that term is defined in Section 76-2-103.

154 (c) "Knowingly" means the same as that term is defined in Section 76-2-103.

155 (d) "Person" means the same as that term is defined in Section 76-1-101.5.

156 (e) "Recklessly" means the same as that term is defined in Section 76-2-103.

157 (f) "Thing of value" means one or more of the following obtained under this chapter or

158 Chapter 3, Utah Occupational Disease Act:

159 (i) workers' compensation insurance coverage;

160 (ii) disability compensation;

161 (iii) a medical benefit;

162 (iv) a good;

163 (v) a professional service;

164 (vi) a fee for a professional service; or

165 (vii) anything of value.

166 (2) (a) A person is guilty of workers' compensation insurance fraud if that person
167 intentionally, knowingly, or recklessly:

168 (i) devises a scheme or artifice to do the following by means of a false or fraudulent
169 pretense, representation, promise, or material omission:

170 (A) obtain a thing of value under this chapter or Chapter 3, Utah Occupational Disease
171 Act;

172 (B) avoid paying the premium that an insurer charges, for an employee on the basis of
173 the underwriting criteria applicable to that employee, to obtain a thing of value under this
174 chapter or Chapter 3, Utah Occupational Disease Act; or

175 (C) deprive an employee of a thing of value under this chapter or Chapter 3, Utah
176 Occupational Disease Act; and

177 (ii) communicates or causes a communication with another in furtherance of the
178 scheme or artifice.

179 (b) A violation of this Subsection (2) includes a scheme or artifice to:

180 (i) make or cause to be made a false written or oral statement with the intent to obtain

181 insurance coverage as mandated by this chapter or Chapter 3, Utah Occupational Disease Act,
182 at a rate that does not reflect the risk, industry, employer, or class code actually covered by the
183 insurance coverage;

184 (ii) form a business, reorganize a business, or change ownership in a business with the
185 intent to:

186 (A) obtain insurance coverage as mandated by this chapter or Chapter 3, Utah
187 Occupational Disease Act, at a rate that does not reflect the risk, industry, employer, or class
188 code actually covered by the insurance coverage;

189 (B) misclassify an employee as described in Subsection (2)(b)(iii); or

190 (C) deprive an employee of workers' compensation coverage as required by Subsection
191 [34A-2-103\(8\)](#);

192 (iii) misclassify an employee as one of the following so as to avoid the obligation to
193 obtain insurance coverage as mandated by this chapter or Chapter 3, Utah Occupational
194 Disease Act:

195 (A) an independent contractor;

196 (B) a sole proprietor;

197 (C) an owner;

198 (D) a partner;

199 (E) an officer; or

200 (F) a member in a limited liability company;

201 (iv) use a workers' compensation coverage waiver issued under Part 10, Workers'
202 Compensation Coverage Waivers Act, to deprive an employee of workers' compensation
203 coverage under this chapter or Chapter 3, Utah Occupational Disease Act; or

204 (v) collect or make a claim for temporary disability compensation as provided in
205 Section [34A-2-410](#) while working for gain.

206 (3) (a) Workers' compensation insurance fraud under Subsection (2) is punishable in
207 the manner prescribed in Subsection (3)(c).

208 (b) A corporation or association is guilty of the offense of workers' compensation
209 insurance fraud under the same conditions as those set forth in Section [76-2-204](#).

210 (c) (i) In accordance with Subsection (3)(c)(ii), the determination of the degree of an
211 offense under Subsection (2) shall be measured by the following on the basis of which creates

212 the greatest penalty:

213 (A) the total value of all property, money, or other things obtained or sought to be
214 obtained by the scheme or artifice described in Subsection (2); or

215 (B) the number of individuals not covered under this chapter or Chapter 3, Utah
216 Occupational Disease Act, because of the scheme or artifice described in Subsection (2).

217 (ii) A person is guilty of:

218 (A) a class A misdemeanor:

219 (I) if the value of the property, money, or other thing of value described in Subsection
220 (3)(c)(i)(A) is less than [~~\$1,000~~] \$2,000; or

221 (II) for each individual described in Subsection (3)(c)(i)(B), if the number of
222 individuals described in Subsection (3)(c)(i)(B) is less than five;

223 (B) a third degree felony:

224 (I) if the value of the property, money, or other thing of value described in Subsection
225 (3)(c)(i)(A) is equal to or greater than [~~\$1,000~~] \$2,000, but is less than [~~\$5,000~~] \$10,000; or

226 (II) for each individual described in Subsection (3)(c)(i)(B), if the number of
227 individuals described in Subsection (3)(c)(i)(B) is equal to or greater than five, but is less than
228 50; and

229 (C) a second degree felony:

230 (I) if the value of the property, money, or other thing of value described in Subsection
231 (3)(c)(i)(A) is equal to or greater than [~~\$5,000~~] \$10,000; or

232 (II) for each individual described in Subsection (3)(c)(i)(B), if the number of
233 individuals described in Subsection (3)(c)(i)(B) is equal to or greater than 50.

234 (4) The following are not a necessary element of an offense described in Subsection
235 (2):

236 (a) reliance on the part of a person;

237 (b) the intent on the part of the perpetrator of an offense described in Subsection (2) to
238 permanently deprive a person of property, money, or anything of value; or

239 (c) an insurer or self-insured employer giving written notice in accordance with
240 Subsection (5) that workers' compensation insurance fraud is a crime.

241 (5) (a) An insurer or self-insured employer who, in connection with this chapter or
242 Chapter 3, Utah Occupational Disease Act, prints, reproduces, or furnishes a form described in

243 Subsection (5)(b) shall cause to be printed or displayed in comparative prominence with other
244 content on the form the statement: "Any person who knowingly presents false or fraudulent
245 underwriting information, files or causes to be filed a false or fraudulent claim for disability
246 compensation or medical benefits, or submits a false or fraudulent report or billing for health
247 care fees or other professional services is guilty of a crime and may be subject to fines and
248 confinement in state prison."

249 (b) Subsection (5)(a) applies to a form upon which a person:

250 (i) applies for insurance coverage;

251 (ii) applies for a workers' compensation coverage waiver issued under Part 10,
252 Workers' Compensation Coverage Waivers Act;

253 (iii) reports payroll;

254 (iv) makes a claim by reason of accident, injury, death, disease, or other claimed loss;

255 or

256 (v) makes a report or gives notice to an insurer or self-insured employer.

257 (c) An insurer or self-insured employer who issues a check, warrant, or other financial
258 instrument in payment of compensation issued under this chapter or Chapter 3, Utah
259 Occupational Disease Act, shall cause to be printed or displayed in comparative prominence
260 above the area for endorsement a statement substantially similar to the following: "Workers'
261 compensation insurance fraud is a crime punishable by Utah law."

262 (d) This Subsection (5) applies only to the legal obligations of an insurer or a
263 self-insured employer.

264 (e) A person who violates Subsection (2) is guilty of workers' compensation insurance
265 fraud, and the failure of an insurer or a self-insured employer to fully comply with this
266 Subsection (5) is not:

267 (i) a defense to violating Subsection (2); or

268 (ii) grounds for suppressing evidence.

269 (6) In the absence of malice, a person, employer, insurer, or governmental entity that
270 reports a suspected fraudulent act relating to a workers' compensation insurance policy or claim
271 is not subject to civil liability for libel, slander, or another relevant cause of action.

272 (7) (a) In an action involving workers' compensation, this section supersedes Title 31A,
273 Chapter 31, Insurance Fraud Act.

274 (b) Nothing in this section prohibits the Insurance Department from investigating
275 violations of this section or from pursuing civil or criminal penalties for violations of this
276 section in accordance with Section 31A-31-109 and this title.

277 Section 5. Section 35A-8-410 is amended to read:

278 **35A-8-410. Penalties for fraudulently obtaining or continuing to receive housing**
279 **assistance benefits.**

280 (1) A person may not knowingly, by misrepresentation, impersonation, or other
281 fraudulent means, make a false statement to housing authority personnel or, after being
282 accepted as a recipient of housing authority benefits, fail to disclose to housing authority
283 personnel any:

284 (a) change in household composition;

285 (b) employment change;

286 (c) change in marital status;

287 (d) receipt of any other monetary assistance;

288 (e) receipt of in-kind gifts; or

289 (f) other material fact or change in circumstances that would affect the determination
290 of that person's eligibility to receive housing assistance benefits, or would affect the amount of
291 benefits for which the person is eligible.

292 (2) A person may not fail to disclose any of the information described in Subsection (1)
293 for the purpose of obtaining or continuing to receive funds or other housing assistance benefits
294 to which the person is not entitled, or in an amount larger than that to which the person is
295 entitled.

296 (3) A person who has duties relating to the administration of a housing authority
297 program may not fraudulently misappropriate funds or other assistance with which the person
298 has been entrusted, or of which the person has gained possession by virtue of the person's
299 position.

300 (4) A person may not knowingly:

301 (a) file or falsify a claim, report, or document required by state or federal law, or
302 provider agreement, to obtain or attempt to obtain unauthorized housing assistance benefits
303 under this part; or

304 (b) attempt to commit, or aid or abet the commission of, an act prohibited by this

305 section.

306 (5) The punishment for violation of a provision of this section by a housing assistance
307 recipient is determined by the cumulative value of the money or other benefits the person
308 received from all instances of fraud committed by the person, and not by each separate instance
309 of fraud.

310 (6) The punishment for the offenses of this section are:

311 (a) a second degree felony if the value of the funds or other benefits received,
312 misappropriated, claimed, or applied for, is equal to or exceeds [~~\$5,000~~] \$10,000;

313 (b) a third degree felony if the value of the funds or other benefits received,
314 misappropriated, claimed, or applied for, is equal to or greater than [~~\$1,500~~] \$2,000 but less
315 than [~~\$5,000~~] \$10,000;

316 (c) a class A misdemeanor if the value of the funds or other benefits received,
317 misappropriated, claimed, or applied for, is equal to or greater than [~~\$500~~] \$600 but less than
318 [~~\$1,500~~] \$2,000; or

319 (d) a class B misdemeanor if the value of the funds or other benefits received,
320 misappropriated, claimed, or applied for, is less than [~~\$500~~] \$600.

321 Section 6. Section **53C-2-301** is amended to read:

322 **53C-2-301. Illegal activities on trust lands -- Penalties.**

323 (1) A person is liable for the civil damages prescribed in Subsection (2) and is guilty of
324 a criminal offense specified in Subsection (4) if the person intentionally, knowingly, or
325 recklessly, and without written authorization from the director:

326 (a) removes, extracts, uses, consumes, or destroys a mineral resource, gravel, sand,
327 soil, vegetation, water resource, or improvement on trust lands;

328 (b) grazes livestock on trust lands;

329 (c) uses, occupies, or constructs improvements or structures on trust lands;

330 (d) uses or occupies trust lands for more than 30 days after the cancellation or
331 expiration of written authorization;

332 (e) knowingly and willfully uses trust lands for commercial gain;

333 (f) appropriates, alters, injures, or destroys an improvement or historical, prehistorical,
334 archaeological, or paleontological resource on trust lands;

335 (g) trespasses upon, uses, commits waste, dumps refuse, or occupies trust land;

336 (h) interferes with the activities of an employee or agent of the administration on trust
337 lands; or

338 (i) interferes with activities of a lessee or other person that have been authorized by the
339 administration, whether or not the trust land has been withdrawn from occupancy or use
340 pursuant to Subsection 53C-2-105(1)(b).

341 (2) A person who commits an act described in Subsection (1) is liable for damages in
342 the amount of whichever of the following is greatest:

343 (a) three times the value at the point of sale of the mineral or other resource removed,
344 destroyed, or extracted;

345 (b) three times the amount of damage committed;

346 (c) three times the cost to cure the damage;

347 (d) three times the value of any losses suffered as a result of interference with
348 authorized activities; or

349 (e) three times the consideration which would have been charged by the director for
350 use of the land during the period of trespass.

351 (3) In addition to the damages described in Subsection (2), a person found guilty of a
352 criminal act under Subsection (1) is subject to the penalties provided in Title 76, Chapter 3,
353 Punishments, as specified in Subsection (4).

354 (4) A violation of this section is a:

355 (a) second degree felony if the actor's conduct causes property injury or damage, or
356 pecuniary loss equal to or in excess of [~~\$5,000~~] \$10,000 in value;

357 (b) third degree felony if the actor's conduct causes property injury or damage, or
358 pecuniary loss equal to or in excess of [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000 in
359 value;

360 (c) class A misdemeanor if the actor's conduct causes property injury or damage, or
361 pecuniary loss equal to or in excess of [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000 in value;
362 and

363 (d) class B misdemeanor if the actor's conduct causes property injury or damage, or
364 pecuniary loss less than [~~\$500~~] \$600 in value.

365 (5) The director shall deposit money collected under this section in the fund in which
366 like revenues from that land would be deposited.

367 (6) The director may award a portion of any of the damages collected under this section
368 in excess of actual damages to the general fund of the county in which the trespass occurred as
369 a reward for county assistance in the apprehension and prosecution of the trespassing party.

370 Section 7. Section **63M-7-510** is amended to read:

371 **63M-7-510. Ineligible individuals -- Fraudulent reparations claims -- Penalties.**

372 (1) The following individuals are not eligible to receive a reparations award:

373 (a) an individual who does not meet all of the provisions set forth in Section
374 [63M-7-509](#);

375 (b) the offender;

376 (c) an accomplice of the offender;

377 (d) an individual whose receipt of a reparations award would unjustly benefit the
378 offender, accomplice, or another individual reasonably suspected of participating in the
379 offense;

380 (e) the victim of a motor vehicle injury who was the owner or operator of the motor
381 vehicle and was not at the time of the injury in compliance with the state motor vehicle
382 insurance laws;

383 (f) a convicted offender serving a sentence of imprisonment in any prison or jail or
384 residing in any other correctional facility;

385 (g) an individual who is on probation or parole if the circumstances surrounding the
386 offense of which the individual is a victim is a violation of the individual's probation or parole;

387 (h) an individual whose injuries are the result of criminally injurious conduct that
388 occurred in a prison, jail, or another correctional facility while the individual was incarcerated;
389 and

390 (i) an individual who:

391 (i) submits a fraudulent claim; or

392 (ii) misrepresents a material fact in requesting a reparations award.

393 (2) (a) An individual may not knowingly:

394 (i) submit a fraudulent claim; or

395 (ii) misrepresent a material fact in requesting a reparations award.

396 (b) A violation of Subsection (2)(a) is:

397 (i) a class B misdemeanor if:

398 (A) the individual who violates Subsection (2)(a) does not receive a reparations award;
399 or

400 (B) the value of the reparations award received is less than [~~\$500~~] \$600;

401 (ii) a class A misdemeanor if the value of the reparations award received is or exceeds
402 [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

403 (iii) a third degree felony if the value of the reparations award received is or exceeds
404 [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; and

405 (iv) a second degree felony if the value of the reparations award received is or exceeds
406 [~~\$5,000~~] \$10,000.

407 (3) The state attorney general may prosecute violations under this section or may make
408 arrangements with county or city attorneys for the prosecution of violations under this section
409 when the attorney general cannot conveniently prosecute.

410 (4) (a) A claimant who is not eligible to receive a reparations award under Subsection
411 (1) but receives a reparations award shall reimburse the fund for the amount of the reparations
412 award.

413 (b) The office may bring a civil action against a victim who does not reimburse the
414 fund for the amount of the reparations award in accordance with Subsection (4)(a).

415 Section 8. Section **73-2-27** is amended to read:

416 **73-2-27. Criminal penalties.**

417 (1) This section applies to offenses committed under:

418 (a) Section [73-1-14](#);

419 (b) Section [73-1-15](#);

420 (c) Section [73-2-20](#);

421 (d) Section [73-3-3](#);

422 (e) Section [73-3-26](#);

423 (f) Section [73-3-29](#);

424 (g) Section [73-5-9](#);

425 (h) Section [76-10-201](#);

426 (i) Section [76-10-202](#); and

427 (j) Section [76-10-203](#).

428 (2) Under circumstances not amounting to an offense with a greater penalty under

429 Subsection 76-6-106(2)(a)(ii), Section 76-6-106.3, or Section 76-6-404, violation of a
430 provision listed in Subsection (1) is punishable:

431 (a) as a felony of the third degree if:

432 (i) the value of the water diverted or property damaged or taken is [~~\$2,500~~] \$5,000 or
433 greater; and

434 (ii) the person violating the provision has previously been convicted of violating the
435 same provision;

436 (b) as a class A misdemeanor if:

437 (i) the value of the water diverted or property damaged or taken is [~~\$2,500~~] \$5,000 or
438 greater; or

439 (ii) the person violating the provision has previously been convicted of violating the
440 same provision; or

441 (c) as a class B misdemeanor if Subsection (2)(a) or (b) does not apply.

442 Section 9. Section 76-1-107.5 is enacted to read:

443 **76-1-107.5. Application of penalties for certain offenses in the Utah Code.**

444 If an individual commits an offense punishable under the following sections before May
445 1, 2024, the prosecuting attorney and the court shall apply the section as it was in effect before
446 May 1, 2024:

447 (1) Section 10-3-716, fines and forfeitures;

448 (2) Section 10-3-1310, penalties for violation;

449 (3) Section 34A-2-110, workers' compensation insurance fraud;

450 (4) Section 35A-8-410, penalties for fraudulently obtaining or continuing to receive
451 housing assistance benefits;

452 (5) Section 53C-2-301, illegal activities on trust lands;

453 (6) Section 63M-7-510, ineligible individuals -- fraudulent reparations claims;

454 (7) Section 73-2-27, criminal penalties;

455 (8) Section 76-5-111.4, financial exploitation of a vulnerable adult;

456 (9) Section 76-6-102, arson;

457 (10) Section 76-6-104, reckless burning;

458 (11) Section 76-6-104.5, abandonment of a fire;

459 (12) Section 76-6-106, criminal mischief;

- 460 (13) Section 76-6-106.1, property damage or destruction;
- 461 (14) Section 76-6-107, defacement by graffiti defined;
- 462 (15) Section 76-6-404, theft;
- 463 (16) Section 76-6-404.5, unauthorized possession of property;
- 464 (17) Section 76-6-404.7, theft of motor vehicle fuel;
- 465 (18) Section 76-6-405, theft by deception;
- 466 (19) Section 76-6-406, theft by extortion;
- 467 (20) Section 76-6-407, theft of lost, mislaid, or mistakenly delivered property;
- 468 (21) Section 76-6-408, theft by receiving stolen property;
- 469 (22) Section 76-6-409, theft of service;
- 470 (23) Section 76-6-409.3, theft of utility or cable television services;
- 471 (24) Section 76-6-409.6, use of telecommunication device to avoid lawful charge for
472 service;
- 473 (25) Section 76-6-410, theft by custodian of property pursuant to repair or rental
474 agreement;
- 475 (26) Section 76-6-413, release of a fur-bearing animal;
- 476 (27) Section 76-6-505, issuing a bad check or draft;
- 477 (28) Section 76-6-506.2, unlawful use of financial transaction card;
- 478 (29) Section 76-6-506.6, financial transaction card offenses;
- 479 (30) Section 76-6-506.8, false application for financial transaction card;
- 480 (31) Section 76-6-506.9, use of fraudulent financial transaction card;
- 481 (32) Section 76-6-513, unlawful dealing of property by a fiduciary;
- 482 (33) Section 76-6-518, criminal simulation;
- 483 (34) Section 76-6-521, insurance fraud;
- 484 (35) Section 76-6-602, retail theft;
- 485 (36) Section 76-6-608, theft detection shielding devices prohibited;
- 486 (37) Section 76-6-703, unlawful computer technology access or action or denial of
487 service attack;
- 488 (38) Section 76-6-703.3, unlawful use of technology to defraud;
- 489 (39) Section 76-6-801, library theft;
- 490 (40) Section 76-6-803, mutilation or damaging of library material;

- 491 (41) Section 76-6-803.30, failure to return library material;
- 492 (42) Section 76-6-902, antiquities alteration, removal, injury, or destruction;
- 493 (43) Section 76-6-902.1, unlawful creation, labeling, or sale of reproduction of
- 494 antiquities;
- 495 (44) Section 76-6-902.2, unlawful sale or exchange of antiquities;
- 496 (45) Section 76-6-1002, damage to mail receptacle;
- 497 (46) Section 76-6-1102, identity fraud;
- 498 (47) Section 76-6-1203, mortgage fraud;
- 499 (48) Section 76-8-103, bribery or offering a bribe;
- 500 (49) Section 76-8-105, receiving or soliciting bribe or bribery by public servant;
- 501 (50) Section 76-8-402, misusing public money or public property;
- 502 (51) Section 76-8-1206, penalties for public assistance fraud;
- 503 (52) Section 76-8-1301, false statements regarding unemployment compensation; or
- 504 (53) Section 76-10-1801, communications fraud.

505 Section 10. Section **76-5-111.4** is amended to read:

506 **76-5-111.4. Financial exploitation of a vulnerable adult -- Penalties.**

507 (1) (a) As used in this section:

508 (i) "Abuse" means the same as that term is defined in Section **76-5-111**.

509 (ii) "Business relationship" means a relationship between two or more individuals or
510 entities where there exists an oral or written agreement for the exchange of goods or services.

511 (iii) "Deception" means:

512 (A) a misrepresentation or concealment:

513 (I) of a material fact relating to services rendered, disposition of property, or use of
514 property intended to benefit a vulnerable adult;

515 (II) of the terms of a contract or agreement entered into with a vulnerable adult; or

516 (III) relating to the existing or preexisting condition of any property involved in a
517 contract or agreement entered into with a vulnerable adult; or

518 (B) the use or employment of any misrepresentation, false pretense, or false promise in
519 order to induce, encourage, or solicit a vulnerable adult to enter into a contract or agreement.

520 (iv) "Endeavor" means to attempt or try.

521 (v) "Intimidation" means communication conveyed through verbal or nonverbal

522 conduct that threatens deprivation of money, food, clothing, medicine, shelter, social
523 interaction, supervision, health care, or companionship, or that threatens isolation or harm.

524 (vi) "Isolation" means the same as that term is defined in Section 76-5-111.

525 (vii) "Lacks capacity to consent" means an impairment by reason of mental illness,
526 developmental disability, organic brain disorder, physical illness or disability, chronic use of
527 drugs, chronic intoxication, short-term memory loss, or other cause to the extent that a
528 vulnerable adult lacks sufficient understanding of the nature or consequences of decisions
529 concerning the vulnerable adult's person or property.

530 (viii) "Neglect" means the same as that term is defined in Section 76-5-111.

531 (ix) "Undue influence" occurs when a person:

532 (A) uses influence to take advantage of a vulnerable adult's mental or physical
533 impairment; or

534 (B) uses the person's role, relationship, or power:

535 (I) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or
536 fear of a vulnerable adult; or

537 (II) to gain control deceptively over the decision making of the vulnerable adult.

538 (x) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

539 (b) Terms defined in Section 76-1-101.5 apply to this section.

540 (2) An actor commits the offense of financial exploitation of a vulnerable adult if the
541 actor:

542 (a) is in a position of trust and confidence, or has a business relationship, with the
543 vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception
544 or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds,
545 credit, assets, or other property with the intent to temporarily or permanently deprive the
546 vulnerable adult of the use, benefit, or possession of the vulnerable adult's property, for the
547 benefit of someone other than the vulnerable adult;

548 (b) knows or should know that the vulnerable adult lacks the capacity to consent, and
549 obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using or
550 endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to
551 temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the
552 vulnerable adult's property for the benefit of someone other than the vulnerable adult;

553 (c) unjustly or improperly uses or manages the resources of a vulnerable adult for the
554 profit or advantage of someone other than the vulnerable adult;

555 (d) unjustly or improperly uses a vulnerable adult's power of attorney or guardianship
556 for the profit or advantage of someone other than the vulnerable adult; or

557 (e) involves a vulnerable adult who lacks the capacity to consent in the facilitation or
558 furtherance of any criminal activity.

559 (3) (a) A violation of Subsection (2) is a second degree felony if done intentionally or
560 knowingly and the aggregate value of the resources used or the profit made is or exceeds
561 ~~[\$5,000]~~ \$10,000.

562 (b) A violation of Subsection (2) is a third degree felony if done intentionally or
563 knowingly and the aggregate value of the resources used or the profit made is less than
564 ~~[\$5,000]~~ \$10,000 or cannot be determined.

565 (c) A violation of Subsection (2) is a class A misdemeanor if done recklessly.

566 (d) A violation of Subsection (2) is a class B misdemeanor if done with criminal
567 negligence.

568 (4) It does not constitute a defense to a prosecution for a violation of this section that
569 the actor did not know the age of the vulnerable adult.

570 Section 11. Section **76-6-102** is amended to read:

571 **76-6-102. Arson.**

572 (1) Terms defined in Sections **76-1-101.5** and **76-6-101** apply to this section.

573 (2) An actor commits arson if, under circumstances not amounting to aggravated arson,
574 the person by means of fire or explosives unlawfully and intentionally damages:

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

576 (b) the property of another.

577 (3) (a) A violation of Subsection (2)(a) is a second degree felony.

578 (b) A violation of Subsection (2)(b) is a second degree felony if:

579 (i) the damage caused is or exceeds ~~[\$5,000]~~ \$10,000 in value;

580 (ii) as a proximate result of the fire or explosion, any person not a participant in the
581 offense suffers serious bodily injury as defined in Section **76-1-101.5**; or

582 (iii) (A) the damage caused is or exceeds ~~[\$1,500]~~ \$2,000 but is less than ~~[\$5,000]~~
583 \$10,000 in value; and

584 (B) at the time of the offense the actor has been previously convicted of a violation of
585 this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the
586 commission of the violation of Subsection (2)(b).

587 (c) A violation of Subsection (2)(b) is a third degree felony if:

588 (i) the damage caused is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000
589 in value;

590 (ii) as a proximate result of the fire or explosion, any person not a participant in the
591 offense suffers substantial bodily injury as defined in Section 76-1-101.5;

592 (iii) the fire or explosion endangers human life; or

593 (iv) (A) the damage caused is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000
594 in value; and

595 (B) at the time of the offense the actor has been previously convicted of a violation of
596 this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the
597 commission of the violation of Subsection (2)(b).

598 (d) A violation of Subsection (2)(b) is a class A misdemeanor if the damage caused:

599 (i) is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000 in value; or

600 (ii) (A) is less than [~~\$500~~] \$600; and

601 (B) at the time of the offense the actor has been previously convicted of a violation of
602 this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the
603 commission of the violation of Subsection (2)(b).

604 (e) A violation of Subsection (2)(b) is a class B misdemeanor if the damage caused is
605 less than [~~\$500~~] \$600.

606 Section 12. Section 76-6-104 is amended to read:

607 **76-6-104. Reckless burning.**

608 (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

609 (2) An actor commits reckless burning if the actor:

610 (a) recklessly starts a fire or causes an explosion which endangers human life;

611 (b) having started a fire, whether recklessly or not, and knowing that it is spreading and
612 will endanger the life or property of another, either fails to take reasonable measures to put out
613 or control the fire or fails to give a prompt fire alarm;

614 (c) builds or maintains a fire without taking reasonable steps to remove all flammable

615 materials surrounding the site of the fire as necessary to prevent the fire's spread or escape; or

616 (d) damages the property of another by reckless use of fire or causing an explosion.

617 (3) (a) A violation of Subsection (2)(a) or (b) is a class A misdemeanor.

618 (b) A violation of Subsection (2)(c) is a class B misdemeanor.

619 (c) A violation of Subsection (2)(d) is:

620 (i) a class A misdemeanor if damage to property is or exceeds [~~\$1,500~~] \$2,000 in

621 value;

622 (ii) a class B misdemeanor if the damage to property is or exceeds [~~\$500~~] \$600 but is

623 less than [~~\$1,500~~] \$2,000 in value; and

624 (iii) a class C misdemeanor if the damage to property is or exceeds [~~\$150~~] \$200 but is

625 less than [~~\$500~~] \$600 in value.

626 (d) Any other violation under Subsection (2)(d) is an infraction.

627 Section 13. Section **76-6-104.5** is amended to read:

628 **76-6-104.5. Abandonment of a fire -- Penalties.**

629 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to this section.

630 (2) An actor commits abandonment of a fire if, under circumstances not amounting to
631 the offense of arson, aggravated arson, or causing a catastrophe, the actor leaves a fire:

632 (a) without first completely extinguishing it; and

633 (b) with the intent to not return to the fire.

634 (3) A violation of Subsection (2):

635 (a) is a class C misdemeanor if there is no property damage;

636 (b) is a class B misdemeanor if property damage is less than [~~\$1,000~~] \$2,000 in value;

637 and

638 (c) is a class A misdemeanor if property damage is or exceeds [~~\$1,000~~] \$2,000 in

639 value.

640 (4) An actor does not commit a violation of Subsection (2) if the actor leaves a fire to
641 report an uncontrolled fire.

642 (5) If a violation of Subsection (2) involves a wildland fire, the actor is also liable for
643 suppression costs under Section [65A-3-4](#).

644 (6) A fire spreading or reigniting is prima facie evidence that the actor did not
645 completely extinguish the fire as required by Subsection (2)(a).

646 Section 14. Section **76-6-106** is amended to read:

647 **76-6-106. Criminal mischief.**

648 (1) (a) As used in this section, "critical infrastructure" includes:

649 (i) financial and banking systems;

650 (ii) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed
651 guideways, or other transportation systems intended for the transportation of persons or
652 property;

653 (iii) health care facilities as listed in Section [26B-2-201](#), and emergency fire, medical,
654 and law enforcement response systems;

655 (iv) public health facilities and systems;

656 (v) food distribution systems; and

657 (vi) other government operations and services.

658 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-101](#) apply to this section.

659 (2) An actor commits criminal mischief if the actor:

660 (a) intentionally and unlawfully tampers with the property of another and as a result:

661 (i) recklessly endangers:

662 (A) human life; or

663 (B) human health or safety; or

664 (ii) recklessly causes or threatens a substantial interruption or impairment of any
665 critical infrastructure; or

666 (b) recklessly or willfully shoots or propels a missile or other object at or against a
667 motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving
668 or standing.

669 (3) (a) A violation of Subsection (2)(a)(i)(A) is a class A misdemeanor.

670 (b) A violation of Subsection (2)(a)(i)(B) is a class B misdemeanor.

671 (c) A violation of Subsection (2)(a)(ii) is a second degree felony.

672 (d) Any other violation of this section is a:

673 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
674 loss equal to or in excess of [~~\$5,000~~] \$10,000 in value;

675 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
676 loss equal to or in excess of [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000 in value;

677 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause
678 pecuniary loss equal to or in excess of [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000 in value;
679 and

680 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
681 loss less than [~~\$500~~] \$600 in value.

682 (4) In determining the value of damages under this section, or for computer crimes
683 under Section 76-6-703, the value of any item, computer, computer network, computer
684 property, computer services, software, or data includes the measurable value of the loss of use
685 of the items and the measurable cost to replace or restore the items.

686 (5) In addition to any other penalty authorized by law, a court shall order an actor
687 convicted of any violation of this section to reimburse any federal, state, or local unit of
688 government, or any private business, organization, individual, or entity for all expenses
689 incurred in responding to a violation of Subsection (2)(a)(ii), unless the court states on the
690 record the reasons why the reimbursement would be inappropriate.

691 Section 15. Section ~~76-6-106.1~~ is amended to read:

692 **76-6-106.1. Property damage or destruction.**

693 (1) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

694 (2) An actor commits property damage or destruction if the actor under circumstances
695 not amounting to arson or criminal mischief:

696 (a) damages or destroys property with the intention of defrauding an insurer; or

697 (b) intentionally damages, defaces, or destroys the property of another.

698 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), a violation of Subsection (2)(a) is
699 a third degree felony.

700 (ii) A violation of Subsection (2)(a) is a second degree felony if the actor's conduct
701 causes or is intended to cause pecuniary loss equal to or in excess of [~~\$5,000~~] \$10,000.

702 (b) A violation of Subsection (2)(b) is a:

703 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
704 loss equal to or in excess of [~~\$5,000~~] \$10,000 in value;

705 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
706 loss equal to or in excess of [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000 in value;

707 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause

708 pecuniary loss equal to or in excess of [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000 in value;
709 and

710 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
711 loss less than [~~\$500~~] \$600 in value.

712 (4) In determining the value of damages under this section, or for computer crimes
713 under Section 76-6-703, the value of any item, computer, computer network, computer
714 property, computer services, software, or data includes the measurable value of the loss of use
715 of the items and the measurable cost to replace or restore the items.

716 Section 16. Section ~~76-6-107~~ is amended to read:

717 **76-6-107. Defacement by graffiti defined -- Penalties -- Removal costs --**
718 **Reimbursement liability -- Victim liability.**

719 (1) (a) As used in this section, "victim" means the person whose property is defaced or
720 damaged by the use of graffiti and who bears the expense for removal of the graffiti.

721 (b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

722 (2) An actor commits defacement by graffiti if the actor, without permission, defaces or
723 damages the property of another by graffiti.

724 (3) A violation of Subsection (2) is a:

725 (a) second degree felony if the damage caused is in excess of [~~\$5,000~~] \$10,000;

726 (b) third degree felony if the damage caused is equal to or in excess of [~~\$1,000~~] \$2,000
727 but less than or equal to [~~\$5,000~~] \$10,000;

728 (c) class A misdemeanor if the damage caused is equal to or in excess of [~~\$300~~] \$600
729 but less than [~~\$1,000~~] \$2,000; and

730 (d) class B misdemeanor if the damage caused is less than [~~\$300~~] \$600.

731 (4) Damages under Subsection (3) include removal costs, repair costs, or replacement
732 costs, whichever is less.

733 (5) The court shall order an individual convicted under Subsection (3) to pay restitution
734 to the victim in an amount equal to the costs incurred by the victim as a result of the graffiti.

735 (6) An additional amount of \$1,000 in restitution shall be added to removal costs if the
736 graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in
737 order to remove it, or the entity responsible for the area in which the clean-up is to take place
738 must provide assistance in order for the removal to take place safely.

739 (7) An individual who voluntarily, at the individual's own expense, and with the
740 consent of the property owner, removes graffiti for which the individual is responsible may be
741 credited for the removal costs against restitution ordered by a court.

742 (8) Before an authorized government agency may issue a citation or assess a fine to a
743 victim for the victim's failure to remove graffiti from the victim's property, the agency shall:

744 (a) provide written notice to the victim alerting the victim of the graffiti;

745 (b) allow the victim one week after the day on which the agency provides written
746 notice of the graffiti to remove the graffiti; and

747 (c) provide the victim with a list of resources available to assist the victim with
748 removal of the graffiti.

749 (9) (a) After receiving notification of graffiti under Subsection (8)(a), a victim who is
750 unable to remove the graffiti due to physical or financial hardship may alert the agency that
751 provided notice under Subsection (8)(a) of the hardship.

752 (b) If an authorized government agency finds a victim has demonstrated that the victim
753 would experience significant hardship in removing the graffiti, the agency:

754 (i) may not issue a citation or assess a fee to the victim for failure to remove the
755 graffiti; and

756 (ii) shall provide, or hire an outside entity to provide, the assistance necessary to
757 remove the graffiti from the victim's property.

758 (c) An authorized government agency that provides, or hires an outside agency to
759 provide, assistance under Subsection (9)(b)(ii), may request reimbursement from a restitution
760 order, under Subsection (5), against an individual who used graffiti to damage the property that
761 the agency removed, or paid another to remove.

762 Section 17. Section **76-6-401.5** is enacted to read:

763 **76-6-401.5. Sentencing Requirements.**

764 (1) In addition to a sentence required or allowed by this part, Chapter 3, Part 2,
765 Sentencing, or any other provision of the Utah Code, a court shall:

766 (a) order a defendant to undergo a mental health screening or a substance abuse
767 screening if the defendant is convicted of a second offense under this part within 10 years from
768 the day on which the defendant was convicted of the first offense under this part;

769 (b) order a defendant to complete the terms and conditions of probation that is

770 supervised by the Department of Corrections if:

771 (i) the defendant is convicted of a third or subsequent offense under this part that is a
772 felony within 10 years from the day on which the defendant was convicted of the first offense
773 under this part; and

774 (ii) the court is not imposing a prison sentence for the conviction; or

775 (c) consider ordering a defendant to probation that is supervised by the Department of
776 Corrections, or an agency of a local government or a private organization, if the defendant is
777 convicted of a third or subsequent offense under this part that is a class A misdemeanor within
778 10 years from the day on which the defendant was convicted of the first offense under this part.

779 (2) Notwithstanding Subsection (1)(a), a court is not required to order a mental health
780 screening or substance abuse screening if the court has the results of a recent mental health
781 screening or substance abuse screening for the defendant.

782 (3) A court sentencing a defendant who is required to undergo a mental health
783 screening or a substance abuse screening as described in Subsection (1)(a) shall consider the
784 results of the screening and the defendant's criminal history before imposing a sentence.

785 Section 18. Section **76-6-404** is amended to read:

786 **76-6-404. Theft -- Elements.**

787 (1) Terms defined in Section **76-1-101.5** apply to this section.

788 (2) An actor commits theft if the actor obtains or exercises unauthorized control over
789 another person's property with a purpose to deprive the person of the person's property.

790 (3) A violation of Subsection (2) is:

791 (a) a second degree felony if the:

792 (i) value of the property is or exceeds [~~\$5,000~~] \$10,000;

793 (ii) property stolen is a firearm or an operable motor vehicle; or

794 (iii) property is stolen from the person of another;

795 (b) a third degree felony if:

796 (i) the value of the property is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]
797 \$10,000;

798 (ii) the property is:

799 (A) a catalytic converter as defined under Section **76-6-1402**; or

800 (B) 25 pounds or more of a suspect metal item as defined under Section **76-6-1402** if

801 the value is less than [~~\$5,000~~] \$10,000 and the suspect metal is made of or contains aluminum
802 or copper and is not a lead battery;

803 (iii) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice
804 before convicted of any of the following offenses, if each prior offense was committed within
805 10 years before the date of the current conviction or the date of the offense upon which the
806 current conviction is based and at least one of those convictions is for a class A misdemeanor:

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

808 (B) any offense under Part 5, Fraud; or

809 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

810 (iv) (A) the value of property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
811 \$2,000;

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

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

816 (v) the actor has been previously convicted of a felony violation of any of the offenses
817 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
818 within 10 years before the date of the current conviction or the date of the offense upon which
819 the current conviction is based;

820 (c) a class A misdemeanor if:

821 (i) the value of the property stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
822 \$2,000;

823 (ii) (A) the value of property is less than [~~\$500~~] \$600;

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

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

828 (iii) the actor has been twice before convicted of any of the offenses listed in
829 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
830 years before the date of the current conviction or the date of the offense upon which the current
831 conviction is based; or

832 (d) a class B misdemeanor if the value of the property stolen is less than [~~\$500~~] \$600
833 and the theft is not an offense under Subsection (3)(c).

834 Section 19. Section ~~76-6-404.5~~ is amended to read:

835 **76-6-404.5. Unauthorized possession of property.**

836 (1) Terms defined in Section ~~76-1-101.5~~ apply to this section.

837 (2) An actor commits unauthorized possession of property if the actor obtains or
838 exercises unauthorized control over another person's property, without the consent of the
839 property's owner or legal custodian, and with the intent to temporarily appropriate, possess, or
840 use the property or to temporarily deprive the property's owner or legal custodian of possession
841 of the property.

842 (3) A violation of Subsection (2) is:

843 (a) a third degree felony if:

844 (i) the value of the property is or exceeds [~~\$5,000~~] \$10,000;

845 (ii) the property is a firearm or an operable motor vehicle; or

846 (iii) the property is taken from the person of another;

847 (b) a class A misdemeanor if:

848 (i) the value of the property is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]
849 \$10,000;

850 (ii) the property is:

851 (A) a catalytic converter as defined under Section ~~76-6-1402~~; or

852 (B) 25 pounds or more of a suspect metal item is defined under Section ~~76-6-1402~~ if
853 the value is less than [~~\$5,000~~] \$10,000 and the suspect metal is made of or contains aluminum
854 or copper and is not a lead battery;

855 (iii) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice
856 before convicted of any of the following offenses, if each prior offense was committed within
857 10 years before the date of the current conviction or the date of the offense upon which the
858 current conviction is based and at least one of those convictions is for a class A misdemeanor:

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

860 (B) any offense under Part 5, Fraud; or

861 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

862 (iv) (A) the value of property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]

863 \$2,000;

864 (B) the unauthorized possession of property occurs on a property where the offender
865 has committed any theft within the past five years; and

866 (C) the offender has received written notice from the merchant prohibiting the offender
867 from entering the property pursuant to Subsection 78B-3-108(4); or

868 (v) the actor has been previously convicted of a felony violation of any of the offenses
869 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
870 within 10 years before the date of the current conviction or the date of the offense upon which
871 the current conviction is based;

872 (c) a class B misdemeanor if:

873 (i) the value of the property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

874 (ii) (A) the value of property is less than [~~\$500~~] \$600;

875 (B) the unauthorized possession of property occurs on a property where the offender
876 has committed any theft within the past five years; and

877 (C) the offender has received written notice from the merchant prohibiting the offender
878 from entering the property pursuant to Subsection 78B-3-108(4); or

879 (iii) the actor has been twice before convicted of any of the offenses listed in
880 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
881 years before the date of the current conviction or the date of the offense upon which the current
882 conviction is based; or

883 (d) a class C misdemeanor if the value of the property is less than [~~\$500~~] \$600 and the
884 unauthorized possession of property is not an offense under Subsection (3)(c).

885 (4) Unauthorized possession of property is a lesser included offense of the offense of
886 theft under Section 76-6-404.

887 (5) The consent of the owner or legal custodian of the property to the property's control
888 by the actor is not presumed or implied because of the owner's or legal custodian's consent on a
889 previous occasion to the control of the property by any person.

890 Section 20. Section 76-6-404.7 is amended to read:

891 **76-6-404.7. Theft of motor vehicle fuel.**

892 (1) (a) As used in this section, "motor vehicle fuel" means any combustible gas, liquid,
893 matter, or substance that is used in an internal combustion engine for the generation of power.

894 (b) Terms defined in Section 76-1-101.5 apply to this section.
895 (2) An actor commits theft of motor vehicle fuel if the actor:
896 (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for
897 retail sale when motor fuel has been dispensed into:
898 (i) the fuel tank of the motor vehicle; or
899 (ii) any other container that is then removed from the premises by means of the motor
900 vehicle; and
901 (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or
902 operator of the premises of the motor vehicle fuel without making full payment for the fuel.
903 (3) A violation of Subsection (2) is:
904 (a) a second degree felony if the value of the motor vehicle fuel is or exceeds [~~\$5,000~~
905 \$10,000];
906 (b) a third degree felony if:
907 (i) the value of the motor vehicle fuel is or exceeds [~~\$1,500~~] \$2,000 but is less than
908 [~~\$5,000~~] \$10,000; [~~or~~]
909 (ii) the value of the motor vehicle fuel is or exceeds [~~\$500~~] \$600 and the actor has been
910 twice before convicted of any of the following offenses, if each prior offense was committed
911 within 10 years before the date of the current conviction or the date of the offense upon which
912 the current conviction is based and at least one of those convictions is for a class A
913 misdemeanor:
914 (A) any theft, any robbery, or any burglary with intent to commit theft;
915 (B) any offense under Part 5, Fraud; or
916 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
917 (iii) (A) the value of the motor vehicle fuel is or exceeds [~~\$500~~] \$600 but is less than
918 [~~\$1,500~~] \$2,000;
919 (B) the theft occurs on a property where the offender has committed any theft within
920 the past five years; and
921 (C) the offender has received written notice from the merchant prohibiting the offender
922 from entering the property pursuant to Subsection 78B-3-108(4); or
923 (iv) the actor has been previously convicted of a felony violation of any of the offenses
924 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed

925 within 10 years before the date of the current conviction or the date of the offense upon which
926 the current conviction is based;

927 (c) a class A misdemeanor if:

928 (i) the value of the motor vehicle fuel is or exceeds [~~\$500~~] \$600 but is less than
929 [~~\$1,500~~] \$2,000;

930 (ii) (A) the value of the motor vehicle fuel is less than [~~\$500~~] \$600;

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

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

935 (iii) the actor has been twice before convicted of any of the offenses listed in
936 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
937 years before the date of the current conviction or the date of the offense upon which the current
938 conviction is based; or

939 (d) a class B misdemeanor if the value of the motor vehicle fuel is less than [~~\$500~~]
940 \$600 and the theft is not an offense under Subsection (3)(c).

941 (4) (a) In addition to the penalties described in Subsection (3), the sentencing court
942 may order the suspension of the driver license of an actor convicted of theft of motor vehicle
943 fuel.

944 (b) The suspension described in Subsection (4)(a) may not be for more than 90 days as
945 provided in Section [53-3-220](#).

946 Section 21. Section ~~76-6-405~~ is amended to read:

947 **76-6-405. Theft by deception.**

948 (1) (a) As used in this section, "puffing" means an exaggerated commendation of wares
949 or worth in a communication addressed to an individual, group, or the public.

950 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

951 (2) (a) An actor commits theft by deception if the actor obtains or exercises control
952 over property of another person:

953 (i) by deception; and

954 (ii) with a purpose to deprive the other person of property.

955 (b) The deception described in Subsection (2)(a)(i) and the deprivation described in

956 Subsection (2)(a)(ii) may occur at separate times.

957 (3) A violation of Subsection (2) is:

958 (a) a second degree felony if the:

959 (i) value of the property is or exceeds [~~\$5,000~~] \$10,000; or

960 (ii) property stolen is a firearm or an operable motor vehicle;

961 (b) a third degree felony if:

962 (i) the value of the property is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]

963 \$10,000;

964 (ii) the property:

965 (A) is a catalytic converter as defined under Section [76-6-1402](#); or

966 (B) 25 pounds or more of a suspect metal item as defined under Section [76-6-1402](#) if

967 the value is less than [~~\$5,000~~] \$10,000 and the suspect metal is made of or contains aluminum

968 or copper and is not a lead battery;

969 (iii) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice

970 before convicted of any of the following offenses, if each prior offense was committed within

971 10 years before the date of the current conviction or the date of the offense upon which the

972 current conviction is based and at least one of those convictions is for a class A misdemeanor:

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

974 (B) any offense under Part 5, Fraud; or

975 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

976 (iv) (A) the value of property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]

977 \$2,000;

978 (B) the theft occurs on a property where the offender has committed any theft within

979 the past five years; and

980 (C) the offender has received written notice from the merchant prohibiting the offender

981 from entering the property pursuant to Subsection [78B-3-108\(4\)](#); or

982 (v) the actor has been previously convicted of a felony violation of any of the offenses

983 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed

984 within 10 years before the date of the current conviction or the date of the offense upon which

985 the current conviction is based;

986 (c) a class A misdemeanor if:

987 (i) the value of the property stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
988 \$2,000;

989 (ii) (A) the value of property is less than [~~\$500~~] \$600;

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

992 (C) the offender has received written notice from the merchant prohibiting the offender
993 from entering the property pursuant to Subsection 78B-3-108(4); or

994 (iii) the actor has been twice before convicted of any of the offenses listed in
995 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
996 years before the date of the current conviction or the date of the offense upon which the current
997 conviction is based; or

998 (d) a class B misdemeanor if the value of the property stolen is less than [~~\$500~~] \$600
999 and the theft is not an offense under Subsection (3)(c).

1000 (4) Theft by deception does not occur when there is only:

1001 (a) falsity as to matters having no pecuniary significance; or

1002 (b) puffing by statements unlikely to deceive an ordinary person in the group
1003 addressed.

1004 Section 22. Section ~~76-6-406~~ is amended to read:

1005 **76-6-406. Theft by extortion.**

1006 (1) (a) As used in this section, extortion occurs when an actor threatens to:

1007 (i) cause physical harm in the future to the person threatened, to any other person, or to
1008 property at any time;

1009 (ii) subject the person threatened or any other person to physical confinement or
1010 restraint;

1011 (iii) engage in other conduct constituting a crime;

1012 (iv) accuse any person of a crime or expose any person to hatred, contempt, or ridicule;

1013 (v) reveal any information sought to be concealed by the person threatened;

1014 (vi) testify, provide information, or withhold testimony or information with respect to a
1015 person's legal claim or defense;

1016 (vii) take action as an official against anyone or anything, or withhold official action, or
1017 cause such action or withholding;

1018 (viii) bring about or continue a strike, boycott, or other similar collective action to
1019 obtain property that is not demanded or received for the benefit of the group that the actor
1020 purports to represent; or

1021 (ix) do any other act which would not in itself substantially benefit the actor but which
1022 would harm substantially any other person with respect to that person's health, safety, business,
1023 calling, career, financial condition, reputation, or personal relationships.

1024 (b) Terms defined in Section 76-1-101.5 apply to this section.

1025 (2) An actor commits theft by extortion if the actor obtains or exercises control over
1026 the property of another person by extortion and with a purpose to deprive the person of the
1027 person's property.

1028 (3) A violation of Subsection (2) is:

1029 (a) a second degree felony if the:

1030 (i) value of the property is or exceeds [~~\$5,000~~] \$10,000;

1031 (ii) property stolen is a firearm or an operable motor vehicle; or

1032 (iii) property is stolen from the person of another;

1033 (b) a third degree felony if:

1034 (i) the value of the property is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]
1035 \$10,000;

1036 (ii) the property is:

1037 (A) a catalytic converter as defined under Section 76-6-1402; or

1038 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if
1039 the value is less than [~~\$5,000~~] \$10,000 and the suspect metal is made of or contains aluminum
1040 or copper and is not a lead battery;

1041 (iii) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice
1042 before convicted of any of the following offenses, if each prior offense was committed within
1043 10 years before the date of the current conviction or the date of the offense upon which the
1044 current conviction is based and at least one of those convictions is for a class A misdemeanor:

1045 (A) any theft, any robbery, or any burglary with intent to commit theft;

1046 (B) any offense under Part 5, Fraud; or

1047 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

1048 (iv) (A) the value of property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]

1049 \$2,000;

1050 (B) the theft occurs on a property where the offender has committed any theft within
1051 the past five years; and

1052 (C) the offender has received written notice from the merchant prohibiting the offender
1053 from entering the property pursuant to Subsection 78B-3-108(4); or

1054 (v) the actor has been previously convicted of a felony violation of any of the offenses
1055 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
1056 within 10 years before the date of the current conviction or the date of the offense upon which
1057 the current conviction is based;

1058 (c) a class A misdemeanor if:

1059 (i) the value of the property stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
1060 \$2,000;

1061 (ii) (A) the value of property is less than [~~\$500~~] \$600;

1062 (B) the theft occurs on a property where the offender has committed any theft within
1063 the past five years; and

1064 (C) the offender has received written notice from the merchant prohibiting the offender
1065 from entering the property pursuant to Subsection 78B-3-108(4); or

1066 (iii) the actor has been twice before convicted of any of the offenses listed in
1067 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
1068 years before the date of the current conviction or the date of the offense upon which the current
1069 conviction is based; or

1070 (d) a class B misdemeanor if the value of the property stolen is less than [~~\$500~~] \$600
1071 and the theft is not an offense under Subsection (3)(c).

1072 (4) (a) A person who is adversely impacted by the conduct prohibited in Subsection (2)
1073 may bring a civil action for equitable relief and damages.

1074 (b) In accordance with Section 78B-2-305, a person who brings an action under
1075 Subsection (4)(a) shall commence the action within three years after the day on which the cause
1076 of action arises.

1077 Section 23. Section 76-6-407 is amended to read:

1078 **76-6-407. Theft of lost, mislaid, or mistakenly delivered property.**

1079 (1) Terms defined in Section 76-1-101.5 apply to this section.

1080 (2) An actor commits theft of lost, mislaid, or mistakenly delivered property if the
1081 actor:

1082 (a) obtains another person's property and knows the property to have been lost or
1083 mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the
1084 nature or amount of the property, without taking reasonable measures to return the property to
1085 the owner; and

1086 (b) has the purpose to deprive the owner of the property when the actor obtains the
1087 property or at any time before taking the measures described in Subsection (2)(a).

1088 (3) A violation of Subsection (2) is:

1089 (a) a second degree felony if the:

1090 (i) value of the property is or exceeds [~~\$5,000~~] \$10,000;

1091 (ii) property stolen is a firearm or an operable motor vehicle; or

1092 (iii) property is stolen from the person of another;

1093 (b) a third degree felony if:

1094 (i) the value of the property is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]
1095 \$10,000;

1096 (ii) the property is:

1097 (A) a catalytic converter as defined under Section 76-6-1402; or

1098 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if
1099 the value is less than [~~\$5,000~~] \$10,000 and the suspect metal is made of or contains aluminum
1100 or copper and is not a lead battery;

1101 (iii) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice
1102 before convicted of any of the following offenses, if each prior offense was committed within
1103 10 years before the date of the current conviction or the date of the offense upon which the
1104 current conviction is based and at least one of those convictions is for a class A misdemeanor:

1105 (A) any theft, any robbery, or any burglary with intent to commit theft;

1106 (B) any offense under Part 5, Fraud; or

1107 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

1108 (iv) (A) the value of property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
1109 \$2,000;

1110 (B) the theft occurs on a property where the offender has committed any theft within

1111 the past five years; and
1112 (C) the offender has received written notice from the merchant prohibiting the offender
1113 from entering the property pursuant to Subsection 78B-3-108(4); or
1114 (v) the actor has been previously convicted of a felony violation of any of the offenses
1115 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
1116 within 10 years before the date of the current conviction or the date of the offense upon which
1117 the current conviction is based;
1118 (c) a class A misdemeanor if:
1119 (i) the value of the property stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
1120 \$2,000;
1121 (ii) (A) the value of property is less than [~~\$500~~] \$600;
1122 (B) the theft occurs on a property where the offender has committed any theft within
1123 the past five years; and
1124 (C) the offender has received written notice from the merchant prohibiting the offender
1125 from entering the property pursuant to Subsection 78B-3-108(4); or
1126 (iii) the actor has been twice before convicted of any of the offenses listed in
1127 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
1128 years before the date of the current conviction or the date of the offense upon which the current
1129 conviction is based; or
1130 (d) a class B misdemeanor if the value of the property stolen is less than [~~\$500~~] \$600
1131 and the theft is not an offense under Subsection (3)(c).
1132 Section 24. Section ~~76-6-408~~ is amended to read:
1133 **76-6-408. Theft by receiving stolen property -- Duties of pawnbrokers,**
1134 **secondhand businesses, coin dealers, and catalytic converter purchasers.**
1135 (1) (a) As used in this section:
1136 (i) "Catalytic converter purchaser" means the same as that term is defined in Section
1137 13-32a-102.
1138 (ii) "Coin dealer" means the same as that term is defined in Section 13-32a-102.
1139 (iii) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.
1140 (iv) "Receives" means acquiring possession, control, title, or lending on the security of
1141 the property.

- 1142 (v) "Scrap metal processor" means the same as that term is defined in Section
1143 76-6-1402.
- 1144 (vi) "Secondhand actor" means:
- 1145 (A) a pawnbroker;
- 1146 (B) a person who has or operates a business dealing in or collecting used or
1147 secondhand merchandise or personal property; or
- 1148 (C) an agent, employee, or representative of a pawnbroker or person who buys,
1149 receives, or obtains property.
- 1150 (b) Terms defined in Section 76-1-101.5 apply to this section.
- 1151 (2) An actor commits theft by receiving stolen property if the actor receives, retains, or
1152 disposes of the property of another knowing that the property is stolen, or believing that the
1153 property is probably stolen, or who conceals, sells, withholds, or aids in concealing, selling, or
1154 withholding the property from the owner, knowing or believing the property to be stolen,
1155 intending to deprive the owner of the property.
- 1156 (3) A violation of Subsection (2) is:
- 1157 (a) a second degree felony if:
- 1158 (i) the value of the property is or exceeds [~~\$5,000~~] \$10,000; or
- 1159 (ii) the property is a firearm or an operable motor vehicle;
- 1160 (b) a third degree felony if:
- 1161 (i) the value of the property is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]
1162 \$10,000;
- 1163 (ii) the property is:
- 1164 (A) a catalytic converter as defined under Section 76-6-1402; or
- 1165 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if
1166 the value is less the [~~\$5,000~~] \$10,000 and the suspect metal is made of or contains aluminum
1167 or copper and is not a lead battery;
- 1168 (iii) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice
1169 before convicted of any of the following offenses, if each prior offense was committed within
1170 10 years before the date of the current conviction or the date of the offense upon which the
1171 current conviction is based and at least one of those convictions is for a class A misdemeanor:
- 1172 (A) any theft, any robbery, or any burglary with intent to commit theft;

- 1173 (B) any offense under Part 5, Fraud; or
1174 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
1175 (iv) the actor has been previously convicted of a felony violation of any of the offenses
1176 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
1177 within 10 years before the date of the current conviction or the date of the offense upon which
1178 the current conviction is based;
- 1179 (c) a class A misdemeanor if:
- 1180 (i) the value of the property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;
1181 or
- 1182 (ii) the actor has been twice before convicted of any of the offenses listed in
1183 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
1184 years before the date of the current conviction or the date of the offense upon which the current
1185 conviction is based; or
- 1186 (d) a class B misdemeanor if the value of the property is less than [~~\$500~~] \$600 and the
1187 theft is not an offense under Subsection (3)(c).
- 1188 (4) Except as provided in Subsection (5), the knowledge or belief required under
1189 Subsection (2) is presumed in the case of an actor who:
- 1190 (a) is found in possession or control of other property stolen on a separate occasion; or
1191 (b) has received other stolen property within the year preceding the receiving offense
1192 charged.
- 1193 (5) (a) The knowledge or belief required under Subsection (2) may only be presumed
1194 of a secondhand actor if the secondhand actor does not substantially comply with the material
1195 requirements of Section [13-32a-104](#).
- 1196 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
1197 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer
1198 does not substantially comply with the requirements of Section [13-32a-104.5](#).
- 1199 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
1200 catalytic converter purchaser if the catalytic converter purchaser does not substantially comply
1201 with the material requirements of Section [13-32a-104.7](#).
- 1202 (6) Unless acting as a catalytic converter purchaser, Subsection (5)(c) does not apply to
1203 a scrap metal processor.

1204 (7) This section does not preclude the admission of evidence in accordance with the
1205 Utah Rules of Evidence.

1206 (8) An actor who violates Subsection (2) is civilly liable for three times the amount of
1207 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney
1208 fees.

1209 Section 25. Section ~~76-6-409~~ is amended to read:

1210 **76-6-409. Theft of service.**

1211 (1) (a) As used in this section, "service" includes:

1212 (i) labor, professional service, a public utility or transportation service, restaurant,
1213 hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of
1214 equipment, a tool, a vehicle, or a trailer for temporary use, telegraph service, steam, admission
1215 to entertainment, an exhibition, a sporting event, or other event for which a charge is made;

1216 (ii) gas, electricity, water, sewer, or cable television service, only if the service is
1217 obtained by threat, force, or a form of deception not described in Section ~~76-6-409.3~~; and

1218 (iii) telephone service, only if the service is obtained by threat, force, or a form of
1219 deception not described in Section ~~76-6-409.6~~, ~~76-6-409.7~~, ~~76-6-409.8~~, or ~~76-6-409.9~~.

1220 (b) Terms defined in Section ~~76-1-101.5~~ apply to this section.

1221 (2) An actor commits theft of service if:

1222 (a) the actor, by deception, threat, force, or another means designed to avoid due
1223 payment, obtains a service that the actor knows is available only for compensation; or

1224 (b) the actor:

1225 (i) has control over the disposition of another person's service; and

1226 (ii) (A) diverts the other person's service to the benefit of the actor, knowing that the
1227 actor is not entitled to the service; or

1228 (B) diverts the other person's service to the benefit of a third person, knowing that the
1229 third person is not entitled to the service.

1230 (3) A violation of Subsection (2) is:

1231 (a) a second degree felony if the value of the service is or exceeds [~~\$5,000~~] \$10,000;

1232 (b) a third degree felony if:

1233 (i) the value of the service is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]

1234 \$10,000;

1235 (ii) the value of the service is or exceeds [~~\$500~~] \$600 and the actor has been twice
1236 before convicted of any of the following offenses, if each prior offense was committed within
1237 10 years before the date of the current conviction or the date of the offense upon which the
1238 current conviction is based and at least one of those convictions is for a class A misdemeanor:
1239 (A) any theft, any robbery, or any burglary with intent to commit theft;
1240 (B) any offense under Part 5, Fraud; or
1241 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
1242 (iii) (A) the value of the service is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
1243 \$2,000;
1244 (B) the theft occurs on a property where the offender has committed any theft within
1245 the past five years; and
1246 (C) the offender has received written notice from the merchant prohibiting the offender
1247 from entering the property pursuant to Subsection 78B-3-108(4); or
1248 (iv) the actor has been previously convicted of a felony violation of any of the offenses
1249 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
1250 within 10 years before the date of the current conviction or the date of the offense upon which
1251 the current conviction is based;
1252 (c) a class A misdemeanor if:
1253 (i) the value of the service stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
1254 \$2,000;
1255 (ii) (A) the value of the service is less than [~~\$500~~] \$600;
1256 (B) the theft occurs on a property where the offender has committed any theft within
1257 the past five years; and
1258 (C) the offender has received written notice from the merchant prohibiting the offender
1259 from entering the property pursuant to Subsection 78B-3-108(4); or
1260 (iii) the actor has been twice before convicted of any of the offenses listed in
1261 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
1262 years before the date of the current conviction or the date of the offense upon which the current
1263 conviction is based; or
1264 (d) a class B misdemeanor if the value of the service is less than [~~\$500~~] \$600 and the
1265 theft is not an offense under Subsection (3)(c).

1266 Section 26. Section ~~76-6-409.3~~ is amended to read:

1267 **76-6-409.3. Theft of utility or cable television services -- Restitution -- Civil action**
1268 **for damages.**

1269 (1) (a) As used in this section:

1270 (i) "Cable television service" means an audio, video, or data service provided for
1271 payment by a cable television company over the cable company's cable system facilities, but
1272 does not include the use of a satellite dish or antenna.

1273 (ii) "Occupant" includes a person, including the owner, who occupies the whole or part
1274 of a building, whether alone or with others.

1275 (iii) "Owner" includes a partial owner, joint owner, tenant in common, joint tenant, or
1276 tenant by the entirety of the whole or a part of a building and the property on which the
1277 building is located.

1278 (iv) "Person" means an individual, firm, partnership, corporation, company,
1279 association, or other legal entity.

1280 (v) "Tenant" includes a person, including the owner, who occupies the whole or part of
1281 any building, whether alone or with others.

1282 (vi) "Utility" means any public utility, municipally owned utility, or cooperative utility
1283 that provides electricity, gas, water, or sewer, or any combination of electricity, gas, water, or
1284 sewer, for sale to consumers.

1285 (b) Terms defined in Section ~~76-1-101.5~~ apply to this section.

1286 (2) An actor commits theft of a utility or cable television service if, with intent to avoid
1287 due payment to the utility or cable television company, the actor makes gas, electricity, water,
1288 sewer, or cable television available to a tenant or occupant, including to the actor, by
1289 committing any of the following acts:

1290 (a) connecting a tube, pipe, wire, cable, or other instrument with any meter, device, or
1291 other instrument used for conducting gas, electricity, water, sewer, or cable television in a
1292 manner as permits the use of the gas, electricity, water, sewer, or cable television without the
1293 gas, electricity, water, sewer, or cable television passing through a meter or other instrument
1294 recording the usage for billing;

1295 (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or
1296 other instrument used for measuring quantities of gas, electricity, water, or sewer service, or

1297 making or maintaining any modification or alteration to any device installed with the
1298 authorization of a cable television company for the purpose of intercepting or receiving any
1299 program or other service carried by the company that the actor is not authorized by the
1300 company to receive;

1301 (c) reconnecting a gas, electricity, water, sewer, or cable television connection or
1302 otherwise restoring service when one or more of those utilities or cable service has been
1303 lawfully disconnected or turned off by the provider of the utility or cable service;

1304 (d) intentionally breaking, defacing, or causing to be broken or defaced a seal, locking
1305 device, or other part of a metering device for recording usage of gas, electricity, water, or sewer
1306 service, or a security system for the recording device, or a cable television control device;

1307 (e) removing a metering device designed to measure quantities of gas, electricity,
1308 water, or sewer service;

1309 (f) transferring from one location to another location a metering device for measuring
1310 quantities of public utility services of gas, electricity, water, or sewer service;

1311 (g) changing the indicated consumption, jamming the measuring device, bypassing the
1312 meter or measuring device with a jumper so that it does not indicate use or registers use
1313 incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from
1314 the utility without the gas, electricity, water, or sewer service passing through a metering
1315 device for measuring quantities of consumption for billing purposes;

1316 (h) using a metering device belonging to the utility that has not been assigned to the
1317 location and installed by the utility;

1318 (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter
1319 utility service diversion, meter tampering, meter thefts, and unauthorized cable television
1320 service;

1321 (j) assisting or instructing a person in obtaining or attempting to obtain any cable
1322 television service without payment of all lawful compensation to the company providing the
1323 service;

1324 (k) making or maintaining a connection or connections, whether physical, electrical,
1325 mechanical, acoustical, or by other means, with a cable, wire, component, or other device used
1326 for the distribution of cable television services without authority from the cable television
1327 company; or

1328 (l) possessing without authority any device or printed circuit board designed in whole
1329 or in part to receive any cable television programming or service offered for sale over a cable
1330 television system, unless the device or printed circuit board includes the use of a satellite dish
1331 or antenna, with the intent that the device or printed circuit be used for the reception of the
1332 cable television company's services without payment.

1333 (3) (a) A violation of Subsection (2), if the violation is a theft of a utility service, is:

1334 (i) a second degree felony if:

1335 (A) the value of the gas, electricity, water, or sewer service is or exceeds [~~\$5,000~~]

1336 \$10,000; or

1337 (B) if the actor previously has been convicted of a violation of this section;

1338 (ii) a third degree felony if the value of the gas, electricity, water, or sewer service is or
1339 exceeds [~~\$1,500~~] \$2,000 but is not more than [~~\$5,000~~] \$10,000;

1340 (iii) a class A misdemeanor if the value of the gas, electricity, water, or sewer service is
1341 or exceeds [~~\$500~~] \$600 but is not more than [~~\$1,500~~] \$2,000; or

1342 (iv) a class B misdemeanor if the value of the gas, electricity, water, or sewer service is
1343 less than [~~\$500~~] \$600.

1344 (b) A violation of Subsection (2), if the violation is a theft of a cable television service,
1345 is:

1346 (i) a second degree felony if the value of the service is or exceeds [~~\$5,000~~] \$10,000;

1347 (ii) a third degree felony if:

1348 (A) the value of the service is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]

1349 \$10,000;

1350 (B) the value of the service is or exceeds [~~\$500~~] \$600 and the actor has been twice
1351 before convicted of any of the following offenses, if each prior offense was committed within
1352 10 years before the date of the current conviction or the date of the offense upon which the
1353 current conviction is based and at least one of those convictions is for a class A misdemeanor:

1354 (I) any theft, any robbery, or any burglary with intent to commit theft;

1355 (II) any offense under Part 5, Fraud; or

1356 (III) any attempt to commit any offense under Subsection (3)(b)(ii)(B)(I) or (II); or

1357 (C) the actor has been previously convicted of a felony violation of any of the offenses
1358 listed in Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if the prior offense was

1359 committed within 10 years before the date of the current conviction or the date of the offense
1360 upon which the current conviction is based;

1361 (iii) a class A misdemeanor if:

1362 (A) the value of the service stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
1363 \$2,000; or

1364 (B) the actor has been twice before convicted of any of the offenses listed in
1365 Subsections (3)(b)(ii)(B)(I) through (3)(b)(ii)(B)(III), if each prior offense was committed
1366 within 10 years before the date of the current conviction or the date of the offense upon which
1367 the current conviction is based; or

1368 (iv) a class B misdemeanor if the value of the service is less than [~~\$500~~] \$600 and the
1369 theft is not an offense under Subsection (3)(b)(iii).

1370 (c) (i) An actor who violates this section shall make restitution to the utility or cable
1371 television company for the value of the gas, electricity, water, sewer, or cable television service
1372 consumed in violation of this section plus all reasonable expenses and costs incurred on
1373 account of the violation of this section.

1374 (ii) Reasonable expenses and costs include expenses and costs for investigation,
1375 disconnection, reconnection, service calls, employee time, and equipment use.

1376 (4) (a) The presence on property in the possession of an actor of a device or alteration
1377 that permits the diversion or use of utility or cable service to avoid the registration of the use by
1378 or on a meter installed by the utility or to otherwise avoid the recording of use of the service for
1379 payment or otherwise avoid payment gives rise to an inference that the actor in possession of
1380 the property installed the device or caused the alteration if:

1381 (i) the presence of the device or alteration can be attributed only to a deliberate act in
1382 furtherance of an intent to avoid payment for utility or cable television service; and

1383 (ii) the actor charged has received the direct benefit of the reduction of the cost of the
1384 utility or cable television service.

1385 (b) An actor who aids or abets in a prohibited act is a party to the offense under Section
1386 [76-2-202](#).

1387 (5) (a) Criminal prosecution under this section does not affect the right of a utility or
1388 cable television company to bring a civil action for redress for damages suffered as a result of
1389 the commission of any of the acts prohibited by this section.

1390 (b) This section does not abridge or alter any other right, action, or remedy otherwise
1391 available to a utility or cable television company.

1392 Section 27. Section **76-6-409.6** is amended to read:

1393 **76-6-409.6. Use of telecommunication device to avoid lawful charge for service.**

1394 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-409.5](#) apply to this section.

1395 (2) An actor commits use of a telecommunication device to avoid lawful charge for
1396 service if the actor uses a telecommunication device:

1397 (a) with the intent to avoid the payment of a lawful charge for telecommunication
1398 service; or

1399 (b) with the knowledge that the use of the telecommunication device was to avoid the
1400 payment of a lawful charge for telecommunication service.

1401 (3) (a) A violation of Subsection (2) is:

1402 (i) a class B misdemeanor, if the value of the telecommunication service is less than
1403 [~~\$300~~] \$600 or cannot be ascertained;

1404 (ii) a class A misdemeanor, if the value of the telecommunication service charge is or
1405 exceeds [~~\$300~~] \$600 but is not more than [~~\$1,000~~] \$2,000;

1406 (iii) a third degree felony, if the value of the telecommunication service is or exceeds
1407 [~~\$1,000~~] \$2,000 but is not more than [~~\$5,000~~] \$10,000; or

1408 (iv) a second degree felony, if:

1409 (A) the value of the telecommunication service is or exceeds [~~\$5,000~~] \$10,000;

1410 (B) the cloned cellular telephone was used to facilitate the commission of a felony; or

1411 (C) the actor previously has been convicted of a violation of this section.

1412 (b) An actor who violates this section is subject to the restitution and civil action
1413 provisions described in Section [76-6-409.10](#).

1414 Section 28. Section **76-6-410** is amended to read:

1415 **76-6-410. Theft by custodian of property pursuant to repair or rental agreement.**

1416 (1) Terms defined in Section [76-1-101.5](#) apply to this section.

1417 (2) An actor commits theft by custodian of property pursuant to repair or rental
1418 agreement if:

1419 (a) (i) the actor has custody of property pursuant to an agreement between the actor or
1420 another person and the property's owner;

- 1421 (ii) the actor or another person is to perform for compensation a specific service for the
1422 property's owner involving the maintenance, repair, or use of the owner's property; and
- 1423 (iii) the actor intentionally uses or operates the owner's property, without the consent of
1424 the owner, for the actor's own purposes in a manner constituting a gross deviation from the
1425 agreed purpose; or
- 1426 (b) (i) the actor has custody of any property pursuant to a rental or lease agreement in
1427 which the property is to be returned in a specified manner or at a specified time; and
- 1428 (ii) the actor intentionally fails to comply with the terms of the agreement concerning
1429 return so as to render such failure a gross deviation from the agreement.
- 1430 (3) A violation of Subsection (2) is:
- 1431 (a) a second degree felony if the:
- 1432 (i) value of the property is or exceeds [~~\$5,000~~] \$10,000; or
- 1433 (ii) property stolen is a firearm or an operable motor vehicle;
- 1434 (b) a third degree felony if:
- 1435 (i) the value of the property is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]
1436 \$10,000;
- 1437 (ii) the property is:
- 1438 (A) a catalytic converter as defined under Section [76-6-1402](#); or
- 1439 (B) 25 pounds or more of a suspect metal item as defined under Section [76-6-1402](#) if
1440 the value is less than [~~\$5,000~~] \$10,000 and the suspect metal is made of or contains aluminum
1441 or copper and is not a lead battery;
- 1442 (iii) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice
1443 before convicted of any of the following offenses, if each prior offense was committed within
1444 10 years before the date of the current conviction or the date of the offense upon which the
1445 current conviction is based and at least one of those convictions is for a class A misdemeanor:
- 1446 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 1447 (B) any offense under Part 5, Fraud; or
- 1448 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B); or
- 1449 (iv) the actor has been previously convicted of a felony violation of any of the offenses
1450 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed
1451 within 10 years before the date of the current conviction or the date of the offense upon which

1452 the current conviction is based;

1453 (c) a class A misdemeanor if:

1454 (i) the value of the property stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
1455 \$2,000; or

1456 (ii) the actor has been twice before convicted of any of the offenses listed in
1457 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
1458 years before the date of the current conviction or the date of the offense upon which the current
1459 conviction is based; or

1460 (d) a class B misdemeanor if the value of the property stolen is less than [~~\$500~~] \$600
1461 and the theft is not an offense under Subsection (3)(c).

1462 Section 29. Section **76-6-413** is amended to read:

1463 **76-6-413. Release of a fur-bearing animal -- Finding.**

1464 (1) Terms defined in Section **76-1-101.5** apply to this section.

1465 (2) An actor commits release of a fur-bearing animal if the actor intentionally and
1466 without permission of the owner releases a fur-bearing animal raised for commercial purposes.

1467 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a third
1468 degree felony.

1469 (b) A violation of Subsection (2) is a second degree felony if the value of the property
1470 is or exceeds [~~\$5,000~~] \$10,000.

1471 (4) The Legislature finds that the release of a fur-bearing animal raised for commercial
1472 purposes subjects the animal to unnecessary suffering through deprivation of food and shelter
1473 and compromises the animal's genetic integrity, thereby permanently depriving the owner of
1474 substantial value.

1475 (5) An actor who violates Subsection (2) is civilly liable for three times the amount of
1476 actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney
1477 fees.

1478 Section 30. Section **76-6-505** is amended to read:

1479 **76-6-505. Issuing a bad check or draft -- Presumption.**

1480 (1) Terms defined in Section **76-1-101.5** apply to this section.

1481 (2) (a) (i) An actor commits issuing a bad check or draft if:

1482 (A) the actor issues or passes a check or draft for the payment of money, for the

1483 purpose of obtaining from any person, firm, partnership, or corporation, any money, property,
1484 or other thing of value or paying for any services, wages, salary, labor, or rent;

1485 (B) the actor knows the check or draft will not be paid by the drawee; and

1486 (C) payment is refused by the drawee.

1487 (ii) For purposes of this Subsection (2)(a), an actor who issues a check or draft for
1488 which payment is refused by the drawee is presumed to know the check or draft would not be
1489 paid if the actor had no account with the drawee at the time of issue.

1490 (b) An actor commits issuing a bad check or draft if:

1491 (i) the actor issues or passes a check or draft for:

1492 (A) the payment of money, for the purpose of obtaining from any person, firm,
1493 partnership, or corporation, any money, property, or other thing of value; or

1494 (B) paying for any services, wages, salary, labor, or rent;

1495 (ii) payment of the check or draft is legally refused by the drawee; and

1496 (iii) the actor fails to make good and actual payment to the payee in the amount of the
1497 refused check or draft within 14 days of the actor receiving actual notice of the check or draft's
1498 nonpayment.

1499 (3) A violation of Subsection (2)(a) or (b) is punished as follows:

1500 (a) if the check or draft or series of checks or drafts made or drawn in this state within
1501 a period not exceeding six months amounts to a sum that is less than [~~\$500~~] \$600, the offense
1502 is a class B misdemeanor;

1503 (b) if the check or draft or checks or drafts made or drawn in this state within a period
1504 not exceeding six months amounts to a sum that is or exceeds [~~\$500~~] \$600 but is less than
1505 [~~\$1,500~~] \$2,000, the offense is a class A misdemeanor;

1506 (c) if the check or draft or checks or drafts made or drawn in this state within a period
1507 not exceeding six months amounts to a sum that is or exceeds [~~\$1,500~~] \$2,000 but is less than
1508 [~~\$5,000~~] \$10,000, the offense is a third degree felony; or

1509 (d) if the check or draft or checks or drafts made or drawn in this state within a period
1510 not exceeding six months amounts to a sum that is or exceeds [~~\$5,000~~] \$10,000, the offense is
1511 a second degree felony.

1512 (4) This section may not be construed to impose criminal or civil liability on any law
1513 enforcement officer acting within the scope of a criminal investigation.

1514 (5) The forfeiture of property under this section, including any seizure and disposition
1515 of the property and any related judicial or administrative proceeding, shall be conducted in
1516 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter
1517 11c, Retention of Evidence.

1518 Section 31. Section **76-6-506.2** is amended to read:

1519 **76-6-506.2. Unlawful use of financial transaction card.**

1520 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-506](#) apply to this section.

1521 (2) An actor commits unlawful use of financial transaction card if the actor:

1522 (a) knowingly uses a revoked, expired, stolen, or fraudulently obtained financial
1523 transaction card to obtain or attempt to obtain credit, goods, property, or services;

1524 (b) knowingly, with the intent to defraud, uses a financial transaction card, credit
1525 number, personal identification code, or any other information contained on the card or in the
1526 account from which the card is issued, to obtain or attempt to obtain credit, goods, or services;

1527 (c) knowingly, with the intent to defraud, uses a financial transaction card to willfully
1528 exceed an authorized credit line by [~~\$500~~] \$600 or more, or by 50% or more of the line of
1529 credit, whichever is greater; or

1530 (d) knowingly, with the intent to defraud, presents or causes to be presented to the
1531 issuer or an authorized credit card merchant, for payment or collection, any credit card sales
1532 draft, if:

1533 (i) the draft is counterfeit or fictitious;

1534 (ii) the purported sales evidenced by any credit card sales draft did not take place;

1535 (iii) the purported sale was not authorized by the card holder; or

1536 (iv) the items or services purported to be sold as evidenced by the credit card sales
1537 drafts are not delivered or rendered to the card holder or person intended to receive them.

1538 (3) (a) A violation of Subsection (2) is:

1539 (i) a class B misdemeanor if the value of the property, money, or thing obtained or
1540 sought to be obtained is less than [~~\$500~~] \$600;

1541 (ii) a class A misdemeanor if the value of the property, money, or thing obtained or
1542 sought to be obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

1543 (iii) a third degree felony if the value of the property, money, or thing obtained or
1544 attempted to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; or

1545 (iv) a second degree felony if the value of the property, money, or thing obtained or
1546 attempted to be obtained is or exceeds [~~\$5,000~~] \$10,000.

1547 (b) Multiple violations of Subsection (2)(a) may be aggregated into a single offense,
1548 and the degree of the offense is determined by the total value of all property, money, or things
1549 obtained or attempted to be obtained through the multiple violations.

1550 (4) The court shall make appropriate findings in any prosecution under this section that
1551 the card holder did not commit the crime.

1552 (5) This section may not be construed to impose criminal or civil liability on any law
1553 enforcement officer acting within the scope of a criminal investigation.

1554 (6) The forfeiture of property under this section, including any seizure and disposition
1555 of the property and any related judicial or administrative proceeding, shall be conducted in
1556 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter
1557 11c, Retention of Evidence.

1558 Section 32. Section ~~76-6-506.6~~ is amended to read:

1559 **76-6-506.6. Financial transaction card offenses -- Unauthorized factoring of**
1560 **credit card sales drafts.**

1561 (1) Terms defined in Sections ~~76-1-101.5~~ and ~~76-6-506~~ apply to this section.

1562 (2) An actor commits an unauthorized factoring of credit card sales draft if the actor
1563 acts:

1564 (a) knowingly, with intent to defraud;

1565 (b) without the express authorization of the issuer; and

1566 (c) to employ, solicit, or otherwise cause an authorized credit card merchant, or for the
1567 authorized credit card merchant himself or herself, to present any credit card sales draft to the
1568 issuer:

1569 (i) for payment pertaining to any sale or purported sale of goods or services; and

1570 (ii) the sale or purported sale was not made by the authorized credit card merchant in
1571 the ordinary course of business.

1572 (3) (a) A violation of Subsection (2) is:

1573 (i) a class B misdemeanor if the value of the property, money, or thing obtained or
1574 sought to be obtained is less than [~~\$500~~] \$600;

1575 (ii) a class A misdemeanor if the value of the property, money, or thing obtained or

1576 sought to be obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

1577 (iii) a third degree felony if the value of the property, money, or thing obtained or
1578 attempted to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; or

1579 (iv) a second degree felony if the value of the property, money, or thing obtained or
1580 attempted to be obtained is or exceeds [~~\$5,000~~] \$10,000.

1581 (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and
1582 the degree of the offense is determined by the total value of all property, money, or things
1583 obtained or attempted to be obtained through the multiple violations.

1584 (4) The court shall make appropriate findings in any prosecution under this section that
1585 the card holder did not commit the crime.

1586 (5) This section may not be construed to impose criminal or civil liability on any law
1587 enforcement officer acting within the scope of a criminal investigation.

1588 (6) The forfeiture of property under this section, including any seizure and disposition
1589 of the property and any related judicial or administrative proceeding, shall be conducted in
1590 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter
1591 11c, Retention of Evidence.

1592 Section 33. Section ~~76-6-506.8~~ is amended to read:

1593 **76-6-506.8. False application for financial transaction card.**

1594 (1) Terms defined in Sections ~~76-1-101.5~~ and ~~76-6-506~~ apply to this section.

1595 (2) An actor commits false application for a card if the actor:

1596 (a) knowingly, with the intent to defraud:

1597 (i) makes application for a financial transaction card to an issuer; and

1598 (ii) makes or causes to be made a false statement or report of the actor's name,
1599 occupation, financial condition, assets, or personal identifying information; or

1600 (b) willfully and substantially undervalues or understates any indebtedness for the
1601 purposes of influencing the issuer to issue the financial transaction card.

1602 (3) A violation of Subsection (2) is:

1603 (a) a class B misdemeanor if the value of the property, money, or thing obtained or
1604 sought to be obtained is less than [~~\$500~~] \$600;

1605 (b) a class A misdemeanor if the value of the property, money, or thing obtained or
1606 sought to be obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

1607 (c) a third degree felony if the value of the property, money, or thing obtained or
1608 attempted to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; or

1609 (d) a second degree felony if the value of the property, money, or thing obtained or
1610 attempted to be obtained is or exceeds [~~\$5,000~~] \$10,000.

1611 (4) The court shall make appropriate findings in any prosecution under this section that
1612 the card holder did not commit the crime.

1613 (5) This section may not be construed to impose criminal or civil liability on any law
1614 enforcement officer acting within the scope of a criminal investigation.

1615 (6) The forfeiture of property under this section, including any seizure and disposition
1616 of the property and any related judicial or administrative proceeding, shall be conducted in
1617 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter
1618 11c, Retention of Evidence.

1619 Section 34. Section **76-6-506.9** is amended to read:

1620 **76-6-506.9. Use of fraudulent financial transaction card.**

1621 (1) Terms defined in Sections **76-1-101.5** and **76-6-506** apply to this section.

1622 (2) An actor commits fraudulent use of a financial transaction card if the actor
1623 knowingly uses a false, fictitious, altered, or counterfeit financial transaction card to obtain or
1624 attempt to obtain credit, goods, property, or services.

1625 (3) (a) A violation of Subsection (2) is:

1626 (i) a class B misdemeanor if the value of the property, money, or thing obtained or
1627 sought to be obtained is less than [~~\$500~~] \$600;

1628 (ii) a class A misdemeanor if the value of the property, money, or thing obtained or
1629 sought to be obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

1630 (iii) a third degree felony if the value of the property, money, or thing obtained or
1631 attempted to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; or

1632 (iv) a second degree felony if the value of the property, money, or thing obtained or
1633 attempted to be obtained is or exceeds [~~\$5,000~~] \$10,000.

1634 (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and
1635 the degree of the offense is determined by the total value of all property, money, or things
1636 obtained or attempted to be obtained through the multiple violations.

1637 (4) The court shall make appropriate findings in any prosecution under this section that

1638 the card holder did not commit the crime.

1639 (5) This section may not be construed to impose criminal or civil liability on any law
1640 enforcement officer acting within the scope of a criminal investigation.

1641 (6) The forfeiture of property under this section, including any seizure and disposition
1642 of the property and any related judicial or administrative proceeding, shall be conducted in
1643 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter
1644 11c, Retention of Evidence.

1645 Section 35. Section **76-6-513** is amended to read:

1646 **76-6-513. Unlawful dealing of property by a fiduciary.**

1647 (1) (a) As used in this section:

1648 (i) "Fiduciary" means the same as that term is defined in Section [22-1-1](#).

1649 (ii) "Financial institution" means "depository institution" and "trust company" as
1650 defined in Section [7-1-103](#).

1651 (iii) "Governmental entity" is as defined in Section [63G-7-102](#).

1652 (iv) "Person" does not include a financial institution whose fiduciary functions are
1653 supervised by the Department of Financial Institutions or a federal regulatory agency.

1654 (v) "Property" means the same as that term is defined in Section [76-6-401](#).

1655 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

1656 (2) An actor commits unlawfully dealing with property by a fiduciary if the actor:

1657 (a) deals with property:

1658 (i) that has been entrusted to the actor as a fiduciary, or property of a governmental
1659 entity, public money, or of a financial institution; and

1660 (ii) in a manner which:

1661 (A) the actor knows is a violation of the actor's duty; and

1662 (B) involves substantial risk of loss or detriment to the property owner or to a person
1663 for whose benefit the property was entrusted; or

1664 (b) acting as a fiduciary pledges:

1665 (i) as collateral for a personal loan, or as collateral for the benefit of some party, other
1666 than the owner or the person for whose benefit the property was entrusted, the property that has
1667 been entrusted to the fiduciary; and

1668 (ii) without permission of the owner of the property or some other authorized person.

1669 (3) (a) A violation of Subsection (2)(a) is:
1670 (i) a second degree felony if the:
1671 (A) value of the property is or exceeds [~~\$5,000~~] \$10,000; or
1672 (B) property is stolen from the person of another;
1673 (ii) a third degree felony if:
1674 (A) the value of the property is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]
1675 \$10,000;
1676 (B) the value of the property is or exceeds [~~\$500~~] \$600 and the actor has been twice
1677 before convicted of any of the following offenses, if each prior offense was committed within
1678 10 years before the date of the current conviction or the date of the offense upon which the
1679 current conviction is based and at least one of those convictions is for a class A misdemeanor:
1680 (I) any theft, any robbery, or any burglary with intent to commit theft;
1681 (II) any offense under Part 5, Fraud; or
1682 (III) any attempt to commit any offense under Subsection (3)(a)(ii)(B)(I) or (II);
1683 (C) the value of property is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000; or
1684 (D) the actor has been previously convicted of a felony violation of any of the offenses
1685 listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if the prior offense was
1686 committed within 10 years before the date of the current conviction or the date of the offense
1687 upon which the current conviction is based;
1688 (iii) a class A misdemeanor if:
1689 (A) the value of the property stolen is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
1690 \$2,000; or
1691 (B) the actor has been twice before convicted of any of the offenses listed in
1692 Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if each prior offense was committed
1693 within 10 years before the date of the current conviction or the date of the offense upon which
1694 the current conviction is based; or
1695 (iv) a class B misdemeanor if the value of the property stolen is less than [~~\$500~~] \$600
1696 and the theft is not an offense under Subsection (3)(a)(iii)(B).
1697 (b) A violation of Subsection (2)(b) is:
1698 (i) a second degree felony if the value of the property wrongfully pledged is or exceeds
1699 [~~\$5,000~~] \$10,000;

1700 (ii) a third degree felony if the value of the property wrongfully pledged is or exceeds
1701 [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000;

1702 (iii) a class A misdemeanor if the value of the property is or exceeds [~~\$500~~] \$600, but
1703 is less than [~~\$1,500~~] \$2,000 or the actor has been twice before convicted of theft, robbery,
1704 burglary with intent to commit theft, or unlawful dealing with property by a fiduciary; or

1705 (iv) a class B misdemeanor if the value of the property is less than [~~\$500~~] \$600.

1706 (4) This section may not be construed to impose criminal or civil liability on any law
1707 enforcement officer acting within the scope of a criminal investigation.

1708 (5) The forfeiture of property under this section, including any seizure and disposition
1709 of the property and any related judicial or administrative proceeding, shall be conducted in
1710 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter
1711 11c, Retention of Evidence.

1712 Section 36. Section **76-6-518** is amended to read:

1713 **76-6-518. Criminal simulation.**

1714 (1) Terms defined in Section **76-1-101.5** apply to this section.

1715 (2) An actor commits criminal simulation if, with intent to defraud another, the actor:

1716 (a) makes or alters an object in whole or in part so that it appears to have value because
1717 of age, antiquity, rarity, source, or authorship that it does not have;

1718 (b) sells, passes, or otherwise utters an object so made or altered;

1719 (c) possesses an object so made or altered with intent to sell, pass, or otherwise utter it;

1720 or

1721 (d) authenticates or certifies an object so made or altered as genuine or as different
1722 from what it is.

1723 (3) A violation of Subsection (2) is punishable as follows:

1724 (a) if the value defrauded or intended to be defrauded is less than [~~\$500~~] \$600, the
1725 offense is a class B misdemeanor;

1726 (b) if the value defrauded or intended to be defrauded is or exceeds [~~\$500~~] \$600 but is
1727 less than [~~\$1,500~~] \$2,000, the offense is a class A misdemeanor;

1728 (c) if the value defrauded or intended to be defrauded is or exceeds [~~\$1,500~~] \$2,000 but
1729 is less than [~~\$5,000~~] \$10,000, the offense is a third degree felony; or

1730 (d) if the value defrauded or intended to be defrauded is or exceeds [~~\$5,000~~] \$10,000,

1731 the offense is a second degree felony.

1732 (4) This section may not be construed to impose criminal or civil liability on any law
1733 enforcement officer acting within the scope of a criminal investigation.

1734 (5) The forfeiture of property under this section, including any seizure and disposition
1735 of the property and any related judicial or administrative proceeding, shall be conducted in
1736 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter
1737 11c, Retention of Evidence.

1738 Section 37. Section **76-6-521** is amended to read:

1739 **76-6-521. Insurance fraud.**

1740 (1) (a) As used in this section, "runner" means the same as that term is defined in
1741 Section [31A-31-102](#).

1742 (b) Terms defined in Section [76-1-101.5](#) apply to this section.

1743 (2) An actor commits a fraudulent insurance act if the actor with intent to deceive or
1744 defraud:

1745 (a) presents or causes to be presented any oral or written statement or representation
1746 knowing that the statement or representation contains false or fraudulent information
1747 concerning any fact material to an application for the issuance or renewal of an insurance
1748 policy, certificate, or contract, as part of or in support of:

1749 (i) obtaining an insurance policy the insurer would otherwise not issue on the basis of
1750 underwriting criteria applicable to the person;

1751 (ii) a scheme or artifice to avoid paying the premium that an insurer charges on the
1752 basis of underwriting criteria applicable to the person; or

1753 (iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;

1754 (b) presents, or causes to be presented, any oral or written statement or representation:

1755 (i) (A) as part of or in support of a claim for payment or other benefit pursuant to an
1756 insurance policy, certificate, or contract; or

1757 (B) in connection with any civil claim asserted for recovery of damages for personal or
1758 bodily injuries or property damage; and

1759 (ii) knowing that the statement or representation contains false, incomplete, or
1760 fraudulent information concerning any fact or thing material to the claim;

1761 (c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;

1762 (d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees
1763 for professional services, or anything of value by means of false or fraudulent pretenses,
1764 representations, promises, or material omissions;

1765 (e) knowingly employs, uses, or acts as a runner for the purpose of committing a
1766 fraudulent insurance act;

1767 (f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent
1768 insurance act;

1769 (g) knowingly supplies false or fraudulent material information in any document or
1770 statement required by the Department of Insurance; or

1771 (h) knowingly fails to forward a premium to an insurer in violation of Section
1772 [31A-23a-411.1](#).

1773 (3) (a) A violation of Subsection (2)(a)(i) is a class A misdemeanor.

1774 (b) A violation of Subsections (2)(a)(ii) or (2)(b) through (2)(h) is:

1775 (i) a class B misdemeanor when the value of the property, money, or thing obtained or
1776 sought to be obtained is less than [~~\$500~~] \$600;

1777 (ii) a class A misdemeanor when the value of the property, money, or thing obtained or
1778 sought to be obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

1779 (iii) a third degree felony when the value of the property, money, or thing obtained or
1780 sought to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; or

1781 (iv) a second degree felony when the value of the property, money, or thing obtained or
1782 sought to be obtained is or exceeds [~~\$5,000~~] \$10,000.

1783 (c) A violation of Subsection (2)(a)(iii) is:

1784 (i) a class A misdemeanor if the value of the loss is less than [~~\$1,500~~] \$2,000 or unable
1785 to be determined;

1786 (ii) a third degree felony when the value of the loss is or exceeds [~~\$1,500~~] \$2,000 but is
1787 less than [~~\$5,000~~] \$10,000; or

1788 (iii) a second degree felony when the value of the loss is or exceeds [~~\$5,000~~] \$10,000.

1789 (4) A corporation or association is guilty of the offense of insurance fraud under the
1790 same conditions as those set forth in Section [76-2-204](#).

1791 (5) The determination of the degree of any offense under Subsections (2)(a)(ii) and
1792 (2)(b) through (2)(h) shall be measured by the total value of all property, money, or other things

1793 obtained or sought to be obtained by the fraudulent insurance act or acts described in
1794 Subsections (2)(a)(ii) and (2)(b) through (2)(h).

1795 (6) This section may not be construed to impose criminal or civil liability on any law
1796 enforcement officer acting within the scope of a criminal investigation.

1797 (7) The forfeiture of property under this section, including any seizure and disposition
1798 of the property and any related judicial or administrative proceeding, shall be conducted in
1799 accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter
1800 11c, Retention of Evidence.

1801 Section 38. Section **76-6-602** is amended to read:

1802 **76-6-602. Retail theft.**

1803 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-601](#) apply to this section.

1804 (2) An actor commits retail theft if the actor knowingly:

1805 (a) takes possession of, conceals, carries away, transfers or causes to be carried away or
1806 transferred, any merchandise displayed, held, stored, or offered for sale in a retail mercantile
1807 establishment with the intention of:

1808 (i) retaining the merchandise; or

1809 (ii) depriving the merchant permanently of the possession, use or benefit of such
1810 merchandise without paying the retail value of the merchandise;

1811 (b) (i) alters, transfers, or removes any label, price tag, marking, indicia of value, or any
1812 other markings which aid in determining value of any merchandise displayed, held, stored, or
1813 offered for sale, in a retail mercantile establishment; and

1814 (ii) attempts to purchase the merchandise described in Subsection (2)(b)(i) personally
1815 or in consort with another at less than the retail value with the intention of depriving the
1816 merchant of the retail value of the merchandise;

1817 (c) transfers any merchandise displayed, held, stored, or offered for sale in a retail
1818 mercantile establishment from the container in or on which the merchandise is displayed to any
1819 other container with the intention of depriving the merchant of the retail value of the
1820 merchandise;

1821 (d) under-rings with the intention of depriving the merchant of the retail value of the
1822 merchandise; or

1823 (e) removes a shopping cart from the premises of a retail mercantile establishment with

1824 the intent of depriving the merchant of the possession, use, or benefit of the shopping cart.

1825 (3) A violation of Subsection (2) is:

1826 (a) a second degree felony if the:

1827 (i) value of the merchandise or shopping cart is or exceeds [~~\$5,000~~] \$10,000; or

1828 (ii) merchandise stolen is a firearm or an operable motor vehicle; [~~or~~]

1829 (b) a third degree felony if:

1830 (i) the value of the merchandise is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~]

1831 \$10,000;

1832 (ii) the merchandise is:

1833 (A) a catalytic converter as defined under Section 76-6-1402; or

1834 (B) 25 pounds or more of a suspect metal item as defined under Section 76-6-1402 if

1835 the value is less than [~~\$5,000~~] \$10,000 and the suspect metal is made of or contains aluminum

1836 or copper and is not a lead battery;

1837 (iii) the value of the merchandise or shopping cart is or exceeds [~~\$500~~] \$600 and the

1838 actor has been twice before convicted of any of the following offenses, if each prior offense

1839 was committed within 10 years before the date of the current conviction or the date of the

1840 offense upon which the current conviction is based and at least one of those convictions is for a

1841 class A misdemeanor:

1842 (A) any theft, any robbery, or any burglary with intent to commit theft;

1843 (B) any offense under Part 5, Fraud; or

1844 (C) any attempt to commit any offense under Subsection (3)(b)(iii)(A) or (B);

1845 (iv) (A) the value of merchandise or shopping cart is or exceeds [~~\$500~~] \$600 but is less

1846 than [~~\$1,500~~] \$2,000;

1847 (B) the theft occurs in a retail mercantile establishment or on the premises of a retail

1848 mercantile establishment where the offender has committed any theft within the past five years;

1849 and

1850 (C) the offender has received written notice from the merchant prohibiting the offender

1851 from entering the retail mercantile establishment or premises of a retail mercantile

1852 establishment pursuant to Subsection 78B-3-108(4); or

1853 (v) the actor has been previously convicted of a felony violation of any of the offenses

1854 listed in Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if the prior offense was committed

1855 within 10 years before the date of the current conviction or the date of the offense upon which
1856 the current conviction is based;

1857 (c) a class A misdemeanor if:

1858 (i) the value of the merchandise or shopping cart stolen is or exceeds [~~\$500~~] \$600 but
1859 is less than [~~\$1,500~~] \$2,000;

1860 (ii) (A) the value of merchandise or shopping cart is less than [~~\$500~~] \$600;

1861 (B) the theft occurs in a retail mercantile establishment or premises of a retail
1862 mercantile establishment where the offender has committed any theft within the past five years;
1863 and

1864 (C) the offender has received written notice from the merchant prohibiting the offender
1865 from entering the retail mercantile establishment or premises of a retail mercantile
1866 establishment pursuant to Subsection [78B-3-108\(4\)](#); or

1867 (iii) the actor has been twice before convicted of any of the offenses listed in
1868 Subsections (3)(b)(iii)(A) through (3)(b)(iii)(C), if each prior offense was committed within 10
1869 years before the date of the current conviction or the date of the offense upon which the current
1870 conviction is based; or

1871 (d) a class B misdemeanor if the value of the merchandise or shopping cart stolen is
1872 less than [~~\$500~~] \$600 and the theft is not an offense under Subsection (3)(c).

1873 Section 39. Section **76-6-608** is amended to read:

1874 **76-6-608. Theft detection shielding devices prohibited.**

1875 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-601](#) apply to this section.

1876 (2) An actor commits the unlawful shielding of a theft detection device if the actor
1877 knowingly:

1878 (a) makes or possesses any container or device used for, intended for use for, or
1879 represented as having the purpose of shielding merchandise from any electronic or magnetic
1880 theft alarm sensor, with the intent to commit a theft of merchandise;

1881 (b) sells, offers to sell, advertises, gives, transports, or otherwise transfers to another
1882 any container or device intended for use for or represented as having the purpose of shielding
1883 merchandise from any electronic or magnetic theft alarm sensor;

1884 (c) possesses any tool or instrument designed to remove any theft detection device
1885 from any merchandise, with the intent to use the tool or instrument to remove any theft

1886 detection device from any merchandise without the permission of the merchant or the person
1887 owning or in possession of the merchandise; or

1888 (d) intentionally removes a theft detection device from merchandise prior to purchase
1889 and without the permission of the merchant.

1890 (3) (a) A violation of Subsection (2)(a), (b), or (c) is a class A misdemeanor.

1891 (b) A violation of Subsection (2)(d) is a:

1892 (i) class B misdemeanor if the value of the merchandise from which the theft detection
1893 device is removed is less than [~~\$500~~] \$600; or

1894 (ii) class A misdemeanor if the value of the merchandise from which the theft detection
1895 device is removed is or exceeds [~~\$500~~] \$600.

1896 (4) A violation of Subsection (2) is a separate offense from any offense listed in Part 4,
1897 Theft, or Part 6, Retail Theft.

1898 (5) Criminal prosecutions under this section do not affect any person's right of civil
1899 action for redress for damages suffered as a result of any violation of this section.

1900 Section 40. Section **76-6-703** is amended to read:

1901 **76-6-703. Unlawful computer technology access or action or denial of service**
1902 **attack.**

1903 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

1904 (2) An actor commits unlawful computer technology access or action or denial of
1905 service attack if the actor:

1906 (a) without authorization, or in excess of the actor's authorization, accesses or attempts
1907 to access computer technology if the access or attempt to access results in:

1908 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
1909 of computer technology;

1910 (ii) interference with or interruption of:

1911 (A) the lawful use of computer technology; or

1912 (B) the transmission of data;

1913 (iii) physical damage to or loss of real, personal, or commercial property;

1914 (iv) audio, video, or other surveillance of another person; or

1915 (v) economic loss to any person or entity;

1916 (b) after accessing computer technology that the actor is authorized to access,

- 1917 knowingly takes or attempts to take unauthorized or unlawful action that results in:
- 1918 (i) the alteration, damage, destruction, copying, transmission, discovery, or disclosure
- 1919 of computer technology;
- 1920 (ii) interference with or interruption of:
- 1921 (A) the lawful use of computer technology; or
- 1922 (B) the transmission of data;
- 1923 (iii) physical damage to or loss of real, personal, or commercial property;
- 1924 (iv) audio, video, or other surveillance of another person; or
- 1925 (v) economic loss to any person or entity; or
- 1926 (c) knowingly engages in a denial of service attack.
- 1927 (3) A violation of Subsection (2) is:
- 1928 (a) a class B misdemeanor if:
- 1929 (i) the economic loss or other loss or damage caused or the value of the money,
- 1930 property, or benefit obtained or sought to be obtained is less than [~~\$500~~] \$600; or
- 1931 (ii) the information obtained is not confidential;
- 1932 (b) a class A misdemeanor if the economic loss or other loss or damage caused or the
- 1933 value of the money, property, or benefit obtained or sought to be obtained is or exceeds [~~\$500~~]
- 1934 \$600 but is less than [~~\$1,500~~] \$2,000;
- 1935 (c) a third degree felony if:
- 1936 (i) the economic loss or other loss or damage caused or the value of the money,
- 1937 property, or benefit obtained or sought to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less
- 1938 than [~~\$5,000~~] \$10,000;
- 1939 (ii) the property or benefit obtained or sought to be obtained is a license or entitlement;
- 1940 (iii) the damage is to the license or entitlement of another person;
- 1941 (iv) the information obtained is confidential or identifying information; or
- 1942 (v) in gaining access the actor breaches or breaks through a security system; or
- 1943 (d) a second degree felony if the economic loss or other loss or damage caused or the
- 1944 value of the money, property, or benefit obtained or sought to be obtained is or exceeds
- 1945 [~~\$5,000~~] \$10,000.
- 1946 (4) (a) It is an affirmative defense that the actor obtained access or attempted to obtain
- 1947 access:

1948 (i) in response to, and for the purpose of protecting against or investigating, a prior
1949 attempted or successful breach of security of computer technology whose security the actor is
1950 authorized or entitled to protect, and the access attempted or obtained was no greater than
1951 reasonably necessary for that purpose; or

1952 (ii) pursuant to a search warrant or a lawful exception to the requirement to obtain a
1953 search warrant.

1954 (b) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and nothing
1955 in this section may be construed to impose liability or culpability on, an interactive computer
1956 service for content provided by another person.

1957 (c) This section does not affect, limit, or apply to any activity or conduct that is
1958 protected by the constitution or laws of this state, or by the constitution or laws of the United
1959 States.

1960 (5) (a) An interactive computer service is not guilty of violating this section if a person
1961 violates this section using the interactive computer service and the interactive computer service
1962 did not knowingly assist the person to commit the violation.

1963 (b) A service provider is not guilty of violating this section for:

1964 (i) action taken in relation to a customer of the service provider, for a legitimate
1965 business purpose, to install software on, monitor, or interact with the customer's Internet or
1966 other network connection, service, or computer for network or computer security purposes,
1967 authentication, diagnostics, technical support, maintenance, repair, network management,
1968 updates of computer software or system firmware, or remote system management; or

1969 (ii) action taken, including scanning and removing computer software, to detect or
1970 prevent the following:

1971 (A) unauthorized or fraudulent use of a network, service, or computer software;

1972 (B) illegal activity; or

1973 (C) infringement of intellectual property rights.

1974 Section 41. Section **76-6-703.3** is amended to read:

1975 **76-6-703.3. Unlawful use of technology to defraud.**

1976 (1) (a) As used in this section, "sensitive personal identifying information" means the
1977 same as that term is defined in Section [76-10-1801](#).

1978 (b) Terms defined in Sections [76-1-101.5](#) and [76-6-702](#) apply to this section.

1979 (2) An actor commits unlawful use of technology to defraud if the actor uses or
1980 knowingly allows another person to use a computer, computer network, computer property, or
1981 computer system, program, or software to devise or execute any artifice or scheme to defraud
1982 or to obtain money, property, a service, or other thing of value by a false pretense, promise, or
1983 representation.

1984 (3) A violation of Subsection (2) is:

1985 (a) a class B misdemeanor if the value of the money, property, service, or thing
1986 obtained or sought to be obtained is less than [~~\$500~~] \$600;

1987 (b) a class A misdemeanor if the value of the money, property, service, or thing
1988 obtained or sought to be obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

1989 (c) a third degree felony if the value of the money, property, service, or thing obtained
1990 or sought to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; or

1991 (d) a second degree felony if:

1992 (i) the value of the money, property, service, or thing obtained or sought to be obtained
1993 is or exceeds [~~\$5,000~~] \$10,000; or

1994 (ii) the object or purpose of the artifice or scheme to defraud is the obtaining of
1995 sensitive personal identifying information, regardless of the value.

1996 (4) (a) In accordance with 47 U.S.C. Sec. 230, this section may not apply to, and
1997 nothing in this section may be construed to impose liability or culpability on, an interactive
1998 computer service for content provided by another person.

1999 (b) This section does not affect, limit, or apply to any activity or conduct that is
2000 protected by the constitution or laws of this state, or by the constitution or laws of the United
2001 States.

2002 (5) (a) An interactive computer service is not guilty of violating this section if a person
2003 violates this section using the interactive computer service and the interactive computer service
2004 did not knowingly assist the person to commit the violation.

2005 (b) A service provider is not guilty of violating this section for:

2006 (i) action taken in relation to a customer of the service provider, for a legitimate
2007 business purpose, to install software on, monitor, or interact with the customer's Internet or
2008 other network connection, service, or computer for network or computer security purposes,
2009 authentication, diagnostics, technical support, maintenance, repair, network management,

2010 updates of computer software or system firmware, or remote system management; or
2011 (ii) action taken, including scanning and removing computer software, to detect or
2012 prevent the following:
2013 (A) unauthorized or fraudulent use of a network, service, or computer software;
2014 (B) illegal activity; or
2015 (C) infringement of intellectual property rights.
2016 Section 42. Section **76-6-801** is amended to read:
2017 **76-6-801. Library theft.**
2018 (1) (a) As used in this section:
2019 (i) "Library" means:
2020 (A) a public library;
2021 (B) a library of an educational or historical society;
2022 (C) a museum; or
2023 (D) a repository of public records.
2024 (ii) "Library materials" means a book, plate, picture, photograph, engraving, painting,
2025 drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public
2026 record, microfilm, sound recording, audiovisual materials in any format, electronic data
2027 processing records, artifacts, or other documentary, written or printed materials regardless of
2028 physical form or characteristics, belonging to, on loan to, or otherwise in the custody of a
2029 library.
2030 (b) Terms defined in Section [76-1-101.5](#) apply to this section.
2031 (2) An actor commits library theft if the actor:
2032 (a) willfully, for the purpose of converting to personal use, and depriving the owner,
2033 conceals on the actor's person or among the actor's belongings library materials while on the
2034 premises of the library; or
2035 (b) willfully and without authority removes library materials from the library building
2036 with the intention of converting them to the actor's own use.
2037 (3) A violation of Subsection (2) is:
2038 (a) a second degree felony if the value of the library materials is or exceeds [~~\$5,000~~]
2039 \$10,000;
2040 (b) a third degree felony if:

- 2041 (i) the value of the library materials is or exceeds [~~\$1,500~~] \$2,000 but is less than
2042 [~~\$5,000~~] \$10,000;
- 2043 (ii) the value of the library materials is or exceeds [~~\$500~~] \$600 and the actor has been
2044 twice before convicted of any of the following offenses, if each prior offense was committed
2045 within 10 years before the date of the current conviction or the date of the offense upon which
2046 the current conviction is based and at least one of those convictions is for a class A
2047 misdemeanor:
- 2048 (A) any theft, any robbery, or any burglary with intent to commit theft;
2049 (B) any offense under Part 5, Fraud; or
2050 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
- 2051 (iii) (A) the value of the library materials is or exceeds [~~\$500~~] \$600 but is less than
2052 [~~\$1,500~~] \$2,000;
- 2053 (B) the theft occurs on a property where the offender has committed any theft within
2054 the past five years; and
- 2055 (C) the offender has received written notice from the library prohibiting the offender
2056 from entering the property if the library has complied with the provisions of Subsection
2057 78B-3-108(4) governing notice by a merchant; or
- 2058 (iv) the actor has been previously convicted of a felony violation of any of the offenses
2059 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
2060 within 10 years before the date of the current conviction or the date of the offense upon which
2061 the current conviction is based;
- 2062 (c) a class A misdemeanor if:
- 2063 (i) the value of the library materials stolen is or exceeds [~~\$500~~] \$600 but is less than
2064 [~~\$1,500~~] \$2,000;
- 2065 (ii) (A) the value of the library materials is less than [~~\$500~~] \$600;
- 2066 (B) the theft occurs on a property where the offender has committed any theft within
2067 the past five years; and
- 2068 (C) the offender has received written notice from the library if the library has complied
2069 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or
- 2070 (iii) the actor has been twice before convicted of any of the offenses listed in
2071 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10

2072 years before the date of the current conviction or the date of the offense upon which the current
2073 conviction is based; or

2074 (d) a class B misdemeanor if the value of the library materials stolen is less than [~~\$500~~]
2075 \$600 and the theft is not an offense under Subsection (3)(c).

2076 (4) (a) An actor who willfully conceals library materials on the actor's person or among
2077 the actor's belongings while on the premises of the library or in the library's immediate vicinity
2078 is prima facie presumed to have concealed library materials with the intention of converting the
2079 library materials to the actor's own use.

2080 (b) If library materials are found concealed upon the actor's person or among the actor's
2081 belongings, or electronic security devices are activated by the actor's presence, it is prima facie
2082 evidence of willful concealment.

2083 Section 43. Section ~~76-6-803~~ is amended to read:

2084 **76-6-803. Mutilation or damaging of library material.**

2085 (1) (a) As used in this section:

2086 (i) "Library" means the same as that term is defined in Section ~~76-6-801~~.

2087 (ii) "Library materials" means the same as that term is defined in Section ~~76-6-801~~.

2088 (b) Terms defined in Section ~~76-1-101.5~~ apply to this section.

2089 (2) An actor is guilty of mutilation or damage of library materials if the actor
2090 intentionally or recklessly writes upon, injures, defaces, tears, cuts, mutilates, destroys, or
2091 otherwise damages library materials.

2092 (3) A violation of Subsection (2) is:

2093 (a) a second degree felony if the value of the library materials is or exceeds [~~\$5,000~~]
2094 \$10,000;

2095 (b) a third degree felony if:

2096 (i) the value of the library materials is or exceeds [~~\$1,500~~] \$2,000 but is less than
2097 [~~\$5,000~~] \$10,000;

2098 (ii) the value of the library materials is or exceeds [~~\$500~~] \$600 and the actor has been
2099 twice before convicted of any of the following offenses, if each prior offense was committed
2100 within 10 years before the date of the current conviction or the date of the offense upon which
2101 the current conviction is based and at least one of those convictions is for a class A
2102 misdemeanor:

- 2103 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 2104 (B) any offense under Part 5, Fraud; or
- 2105 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
- 2106 (iii) (A) the value of the library materials is or exceeds [~~\$500~~] \$600 but is less than
- 2107 [~~\$1,500~~] \$2,000;
- 2108 (B) the theft occurs on a property where the offender has committed any theft within
- 2109 the past five years; and
- 2110 (C) the offender has received written notice from the library if the library has complied
- 2111 with the provisions of Subsection [78B-3-108\(4\)](#) governing notice by a merchant; or
- 2112 (iv) the actor has been previously convicted of a felony violation of any of the offenses
- 2113 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
- 2114 within 10 years before the date of the current conviction or the date of the offense upon which
- 2115 the current conviction is based;
- 2116 (c) a class A misdemeanor if:
- 2117 (i) the value of the library materials stolen is or exceeds [~~\$500~~] \$600 but is less than
- 2118 [~~\$1,500~~] \$2,000;
- 2119 (ii) (A) the value of the library materials is less than [~~\$500~~] \$600;
- 2120 (B) the theft occurs on a property where the offender has committed any theft within
- 2121 the past five years; and
- 2122 (C) the offender has received written notice from the library if the library has complied
- 2123 with the provisions of Subsection [78B-3-108\(4\)](#) governing notice by a merchant; or
- 2124 (iii) the actor has been twice before convicted of any of the offenses listed in
- 2125 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
- 2126 years before the date of the current conviction or the date of the offense upon which the current
- 2127 conviction is based; or
- 2128 (d) a class B misdemeanor if the value of the library materials stolen is less than [~~\$500~~]
- 2129 \$600 and the theft is not an offense under Subsection (3)(c).

2130 Section 44. Section **76-6-803.30** is amended to read:

2131 **76-6-803.30. Failure to return library material -- Written notice.**

2132 (1) (a) As used in this section:

- 2133 (i) "Library" means the same as that term is defined in Section [76-6-801](#).

2134 (ii) "Library materials" means the same as that term is defined in Section 76-6-801.
2135 (b) Terms defined in Section 76-1-101.5 apply to this section.
2136 (2) (a) An actor is guilty of failure to return library materials if the actor, having
2137 possession or having been in possession of library materials:
2138 (i) fails to return the materials within 30 days after receiving written notice demanding
2139 return of the materials; or
2140 (ii) if the materials are lost or destroyed, fails to pay the replacement value of the
2141 materials within 30 days after being notified.
2142 (b) Written notice is considered received upon the sworn affidavit of the person
2143 delivering the notice with a statement as to the date, place, and manner of delivery, or upon
2144 proof that the notice was mailed postage prepaid, via the United States Postal Service, to the
2145 current address listed for the person in the library records.
2146 (3) A violation of Subsection (2) is:
2147 (a) a second degree felony if the value of the library materials is or exceeds [~~\$5,000~~
2148 \$10,000];
2149 (b) a third degree felony if:
2150 (i) the value of the library materials is or exceeds [~~\$1,500~~] \$2,000 but is less than
2151 [~~\$5,000~~] \$10,000;
2152 (ii) the value of the library materials is or exceeds [~~\$500~~] \$600 and the actor has been
2153 twice before convicted of any of the following offenses, if each prior offense was committed
2154 within 10 years before the date of the current conviction or the date of the offense upon which
2155 the current conviction is based and at least one of those convictions is for a class A
2156 misdemeanor:
2157 (A) any theft, any robbery, or any burglary with intent to commit theft;
2158 (B) any offense under Part 5, Fraud; or
2159 (C) any attempt to commit any offense under Subsection (3)(b)(ii)(A) or (B);
2160 (iii) (A) the value of the library materials is or exceeds [~~\$500~~] \$600 but is less than
2161 [~~\$1,500~~] \$2,000;
2162 (B) the theft occurs on a property where the offender has committed any theft within
2163 the past five years; and
2164 (C) the offender has received written notice from the library if the library has complied

2165 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or
2166 (iv) the actor has been previously convicted of a felony violation of any of the offenses
2167 listed in Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if the prior offense was committed
2168 within 10 years before the date of the current conviction or the date of the offense upon which
2169 the current conviction is based;

2170 (c) a class A misdemeanor if:
2171 (i) the value of the library materials stolen is or exceeds [~~\$500~~] \$600 but is less than
2172 [~~\$1,500~~] \$2,000;
2173 (ii) (A) the value of the library materials is less than [~~\$500~~] \$600;
2174 (B) the theft occurs on a property where the offender has committed any theft within
2175 the past five years; and
2176 (C) the offender has received written notice from the library if the library has complied
2177 with the provisions of Subsection 78B-3-108(4) governing notice by a merchant; or
2178 (iii) the actor has been twice before convicted of any of the offenses listed in
2179 Subsections (3)(b)(ii)(A) through (3)(b)(ii)(C), if each prior offense was committed within 10
2180 years before the date of the current conviction or the date of the offense upon which the current
2181 conviction is based; or

2182 (d) a class B misdemeanor if the value of the library material stolen is less than [~~\$500~~]
2183 \$600 and the theft is not an offense under Subsection (3)(c).

2184 Section 45. Section 76-6-902 is amended to read:
2185 **76-6-902. Antiquities alteration, removal, injury, or destruction.**
2186 (1) Terms defined in Sections 76-1-101.5 and 76-6-901 apply to this section.
2187 (2) An actor commits antiquities alteration, removal, injury, or destruction if the actor:
2188 (a) intentionally alters, removes, injures, or destroys antiquities from state lands or
2189 private lands without the landowner's consent; or
2190 (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).
2191 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
2192 B misdemeanor.
2193 (b) A violation of Subsection (2) is a third degree felony if:
2194 (i) the violation is the actor's second or subsequent violation of this section, Section
2195 76-6-902.1, or Section 76-6-902.2; or

2196 (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds [~~\$500~~] \$1,000.

2197 (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

2198 (i) the commercial or archaeological value of the antiquities involved in the violation;

2199 and

2200 (ii) the cost of the restoration and repair of the antiquities involved in the violation.

2201 (d) An actor shall surrender to the landowner all articles and material discovered,
2202 collected, excavated, or offered for sale or exchange in violation of this section.

2203 Section 46. Section **76-6-902.1** is amended to read:

2204 **76-6-902.1. Unlawful creation, labeling, or sale of reproduction of antiquities.**

2205 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-901](#) apply to this section.

2206 (2) An actor commits unlawful reproduction, labeling, or sale of reproduction of
2207 antiquities if the actor:

2208 (a) with the intent to represent one or more objects as original and genuine antiquities,
2209 intentionally:

2210 (i) reproduces, reworks, or forges antiquities; or

2211 (ii) (A) makes an object, whether as a copy or not; or

2212 (B) falsely labels, describes, identifies, or offers for sale or exchange an object; or

2213 (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).

2214 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
2215 B misdemeanor.

2216 (b) A violation of Subsection (2) is a third degree felony if:

2217 (i) the violation is the actor's second or subsequent violation of this section, Section
2218 [76-6-902](#), or Section [76-6-902.2](#); or

2219 (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds [~~\$500~~] \$1,000.

2220 (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:

2221 (i) the commercial or archaeological value of the antiquities involved in the violation;

2222 and

2223 (ii) the cost of the restoration and repair of the antiquities involved in the violation.

2224 (d) An actor shall surrender to the landowner all articles and material discovered,
2225 collected, excavated, or offered for sale or exchange in violation of this section.

2226 Section 47. Section **76-6-902.2** is amended to read:

- 2227 **76-6-902.2. Unlawful sale or exchange of antiquities.**
- 2228 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-901](#) apply to this section.
- 2229 (2) An actor commits unlawful sale or exchange of antiquities if the actor:
- 2230 (a) offers for sale or exchange an object that was collected or excavated in violation of
- 2231 Section [76-6-902](#); or
- 2232 (b) counsels, procures, solicits, or employs another person to violate Subsection (2)(a).
- 2233 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class
- 2234 B misdemeanor.
- 2235 (b) A violation of Subsection (2) is a third degree felony if:
- 2236 (i) the violation is the actor's second or subsequent violation of this section, Section
- 2237 [76-6-902](#), or Section [76-6-902.1](#); or
- 2238 (ii) the amount at issue, as calculated under Subsection (3)(c), exceeds [~~\$500~~] \$1,000.
- 2239 (c) The amount described in Subsection (3)(b)(ii) is calculated by adding together:
- 2240 (i) the commercial or archaeological value of the antiquities involved in the violation;
- 2241 and
- 2242 (ii) the cost of the restoration and repair of the antiquities involved in the violation.
- 2243 (d) An actor shall surrender to the landowner all articles and material discovered,
- 2244 collected, excavated, or offered for sale or exchange in violation of this section.
- 2245 Section 48. Section **76-6-1002** is amended to read:
- 2246 **76-6-1002. Damage to mail receptacle.**
- 2247 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1001](#) apply to this section.
- 2248 (2) An actor commits damage to a mail receptacle if the actor knowingly damages the
- 2249 condition of a mail receptacle, including:
- 2250 (a) taking, concealing, damaging, or destroying a key; or
- 2251 (b) breaking open, tearing down, taking, damaging, or destroying a mail receptacle.
- 2252 (3) (a) A violation of Subsection (2) is a:
- 2253 (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary
- 2254 loss equal to or in excess of [~~\$5,000~~] \$10,000 in value;
- 2255 (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary
- 2256 loss equal to or in excess of [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000 in value;
- 2257 (iii) class A misdemeanor if the actor's conduct causes or is intended to cause

2258 pecuniary loss equal to or in excess of [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000 in value;
2259 and

2260 (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary
2261 loss less than [~~\$500~~] \$600 in value.

2262 (b) If the act committed amounts to an offense subject to a greater penalty, Subsection
2263 (3)(a) does not prohibit prosecution and sentencing for the more serious offense.

2264 (4) The following presumptions and defenses shall be applicable to this section:

2265 (a) possession of property recently stolen, when no satisfactory explanation of such
2266 possession is made, is prima facie evidence that the actor in possession stole the property;

2267 (b) it is no defense under this part that the actor has an interest in the property or
2268 service stolen if another person also has an interest that the actor is not entitled to infringe,
2269 provided an interest in property for purposes of this Subsection (4)(b) shall not include a
2270 security interest for the repayment of a debt or obligation; and

2271 (c) it is a defense under this section that the actor:

2272 (i) acted under an honest claim of right to the property or service involved;

2273 (ii) acted in the honest belief that the actor had the right to obtain or exercise control
2274 over the property or service as the actor did; or

2275 (iii) obtained or exercised control over the property or service honestly believing that
2276 the owner, if present, would have consented.

2277 Section 49. Section **76-6-1102** is amended to read:

2278 **76-6-1102. Identity fraud.**

2279 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1101](#) apply to this section.

2280 (2) An actor commits identity fraud if the actor knowingly or intentionally uses, or
2281 attempts to use, the personal identifying information of another person, whether that person is
2282 alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain, credit,
2283 goods, services, employment, any other thing of value, or medical information.

2284 (3) A violation of Subsection (2) is:

2285 (a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the
2286 credit, goods, services, employment, or any other thing of value is less than [~~\$5,000~~] \$10,000;
2287 or

2288 (b) a second degree felony if:

2289 (i) the value of the credit, goods, services, employment, or any other thing of value is
2290 or exceeds [~~\$5,000~~] \$10,000; or

2291 (ii) the use described in Subsection (2) of personal identifying information results,
2292 directly or indirectly, in bodily injury to another person.

2293 (4) (a) It is not a defense to a violation of Subsection (2) that the actor did not know
2294 that the personal information belonged to another person.

2295 (b) Multiple violations of Subsection (2) may be aggregated into a single offense, and
2296 the degree of the offense is determined by the total value of all credit, goods, services, or any
2297 other thing of value used, or attempted to be used, through the multiple violations.

2298 (5) (a) If a defendant is convicted of a violation of this section, the court shall order the
2299 defendant to pay restitution in accordance with Title 77, Chapter 38b, Crime Victims
2300 Restitution Act.

2301 (b) Restitution under Subsection (5)(a) may include:

2302 (i) payment for any costs incurred, including attorney fees, lost wages, and replacement
2303 of checks; and

2304 (ii) the value of the victim's time incurred due to the offense:

2305 (A) in clearing the victim's credit history or credit rating;

2306 (B) in any civil or administrative proceedings necessary to satisfy or resolve any debt,
2307 lien, or other obligation of the victim or imputed to the victim and arising from the offense; and

2308 (C) in attempting to remedy any other intended or actual harm to the victim incurred as
2309 a result of the offense.

2310 Section 50. Section **76-6-1203** is amended to read:

2311 **76-6-1203. Mortgage fraud.**

2312 (1) Terms defined in Sections [76-1-101.5](#) and [76-6-1202](#) apply to this section.

2313 (2) An actor commits mortgage fraud if the actor does any of the following with the
2314 intent to defraud:

2315 (a) knowingly makes any material misstatement, misrepresentation, or omission during
2316 the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower,
2317 or any other party to the mortgage lending process;

2318 (b) knowingly uses or facilitates the use of any material misstatement,
2319 misrepresentation, or omission, during the mortgage lending process, intending that it be relied

2320 upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

2321 (c) files or causes to be filed with any county recorder in Utah any document that the
2322 actor knows contains a material misstatement, misrepresentation, or omission; or

2323 (d) receives any proceeds or any compensation in connection with a mortgage loan that
2324 the actor knows resulted from a violation of this section.

2325 (3) (a) Notwithstanding any other administrative, civil, or criminal penalties, a
2326 violation of Subsection (2) is a:

2327 (i) class A misdemeanor if the value is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~]
2328 \$2,000;

2329 (ii) third degree felony if the value is or exceeds [~~\$1,500~~] \$2,000 but is less than
2330 [~~\$5,000~~] \$10,000;

2331 (iii) second degree felony if the value is or exceeds [~~\$5,000~~] \$10,000; and

2332 (iv) second degree felony if the object or purpose of the commission of an act of
2333 mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the
2334 value.

2335 (b) The determination of the degree of any offense under Subsection (3)(a) is measured
2336 by the total value of all property, money, or things obtained or sought to be obtained by a
2337 violation of Subsection (2), except as provided in Subsection (3)(a)(iv).

2338 (4) Each residential or commercial property transaction offense under this section
2339 constitutes a separate violation.

2340 *The following section is affected by a coordination clause at the end of this bill.*

2341 Section 51. Section **76-8-103** is amended to read:

2342 **76-8-103. Bribery or offering a bribe.**

2343 (1) A person is guilty of bribery or offering a bribe if that person promises, offers, or
2344 agrees to give or gives, directly or indirectly, any benefit to another with the purpose or intent
2345 to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or
2346 exercise of discretion of a public servant, party official, or voter.

2347 (2) It is not a defense to a prosecution under this statute that:

2348 (a) the person sought to be influenced was not qualified to act in the desired way,
2349 whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

2350 (b) the person sought to be influenced did not act in the desired way; or

- 2351 (c) the benefit is not conferred, solicited, or accepted until after:
2352 (i) the action, decision, opinion, recommendation, judgment, vote, nomination, or
2353 exercise of discretion, has occurred; or
2354 (ii) the public servant ceases to be a public servant.
2355 (3) Bribery or offering a bribe is:
2356 (a) a third degree felony when the value of the benefit asked for, solicited, accepted, or
2357 conferred is less than [~~\$1,000~~] \$2,000; and
2358 (b) a second degree felony when the value of the benefit asked for, solicited, accepted,
2359 or conferred is [~~\$1,000~~] \$2,000 or more.

2360 *The following section is affected by a coordination clause at the end of this bill.*

2361 Section 52. Section **76-8-105** is amended to read:

2362 **76-8-105. Receiving or soliciting bribe or bribery by public servant.**

2363 (1) A person is guilty of receiving or soliciting a bribe if that person asks for, solicits,
2364 accepts, or receives, directly or indirectly, any benefit with the understanding or agreement that
2365 the purpose or intent is to influence an action, decision, opinion, recommendation, judgment,
2366 vote, nomination, or exercise of discretion, of a public servant, party official, or voter.

2367 (2) It is not a defense to a prosecution under this statute that:

2368 (a) the person sought to be influenced was not qualified to act in the desired way,
2369 whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

2370 (b) the person sought to be influenced did not act in the desired way; or

2371 (c) the benefit is not asked for, conferred, solicited, or accepted until after:

2372 (i) the action, decision, opinion, recommendation, judgment, vote, nomination, or
2373 exercise of discretion, has occurred; or

2374 (ii) the public servant ceases to be a public servant.

2375 (3) Receiving or soliciting a bribe is:

2376 (a) a third degree felony when the value of the benefit asked for, solicited, accepted, or
2377 conferred is [~~\$1,000~~] \$2,000 or less; and

2378 (b) a second degree felony when the value of the benefit asked for, solicited, accepted,
2379 or conferred exceeds [~~\$1,000~~] \$2,000.

2380 Section 53. Section **76-8-402** is amended to read:

2381 **76-8-402. Misusing public money or public property.**

- 2382 (1) As used in this section, "authorized personal use" means:
- 2383 (a) the use of public property, for a personal matter, by a public servant if:
- 2384 (i) the public servant is authorized to use or possess the public property to fulfill the
- 2385 public servant's duties as a public servant;
- 2386 (ii) the primary purpose of the public servant using or possessing the public property is
- 2387 to fulfill the public servant's duties as a public servant;
- 2388 (iii) at the time the public servant uses the public property for a personal matter, a
- 2389 written policy of the public servant's public entity is in effect that authorizes the public servant
- 2390 to use or possess the public property for personal use in addition to the primary purpose of
- 2391 fulfilling the public servant's duties as a public servant; and
- 2392 (iv) the public servant uses and possesses the public property in a lawful manner and in
- 2393 accordance with the policy described in Subsection (1)(a)(iii); or
- 2394 (b) incidental or de minimus use of public property for a personal matter by a public
- 2395 servant, if:
- 2396 (i) the value provided to the public servant's public entity by the public servant's use or
- 2397 possession of the public property for a public purpose substantially outweighs the personal
- 2398 benefit received by the employee from the incidental use of the public property for a personal
- 2399 matter; and
- 2400 (ii) the incidental or de minimus use of the public property for a personal matter is not
- 2401 prohibited by law or by the public servant's public entity.
- 2402 (2) It is unlawful for a public servant to knowingly:
- 2403 (a) appropriate public money to the public servant's own use or benefit or to the use or
- 2404 benefit of another without authority of law;
- 2405 (b) loan or transfer public money without authority of law;
- 2406 (c) fail to keep public money in the public servant's possession until disbursed by
- 2407 authority of law;
- 2408 (d) deposit public money in a bank or with another person in violation of the written
- 2409 policy of the public servant's public entity or the requirements of law;
- 2410 (e) keep a false account or make a false entry or erasure in an account of, or relating to,
- 2411 public money;
- 2412 (f) fraudulently alter, falsify, conceal, or destroy an account described in Subsection

2413 (2)(e);

2414 (g) refuse or omit to pay over, on demand, any public money in the public servant's
2415 custody or control, upon the presentation of a draft, order, or warrant drawn upon the public
2416 money by competent authority;

2417 (h) omit to transfer public money when the transfer is required by law;

2418 (i) omit or refuse to pay over, to any officer or person authorized by law to receive
2419 public money, public money received by the public servant under any duty imposed on the
2420 public servant by law;

2421 (j) damage or dispose of public property in violation of the written policy of the public
2422 servant's public entity or the requirements of law;

2423 (k) obtain or exercise unauthorized control of public property with the intent to deprive
2424 the owner of possession of the public property;

2425 (l) obtain or exercise unauthorized control of public property with the intent to
2426 temporarily appropriate, possess, use, or deprive the owner of possession of the public
2427 property;

2428 (m) appropriate public property to the public servant's own use or benefit or to the use
2429 or benefit of another without authority of law;

2430 (n) loan or transfer public property without authority of law; or

2431 (o) fail to keep public property in the public servant's possession until returned to the
2432 property owner, or disposed of or relinquished, in accordance with the written policy of the
2433 public servant's public entity and the requirements of law.

2434 (3) Except as provided in Subsection (4), a violation of Subsections (2)(a) through (i)
2435 is a felony of the third degree.

2436 (4) A violation of Subsections (2)(a) through (i) is a felony of the second degree if:

2437 (a) the value of the public money exceeds [~~\$5,000~~] \$10,000;

2438 (b) the amount of the false account exceeds [~~\$5,000~~] \$10,000;

2439 (c) the amount falsely entered exceeds [~~\$5,000~~] \$10,000;

2440 (d) the amount that is the difference between the original amount and the fraudulently
2441 altered amount exceeds [~~\$5,000~~] \$10,000; or

2442 (e) the amount falsely erased, fraudulently concealed, destroyed, or falsified in the
2443 account exceeds [~~\$5,000~~] \$10,000.

- 2444 (5) A violation of Subsection (2)(j) is:
- 2445 (a) a class B misdemeanor, if the cost to repair or replace the public property is less
- 2446 than [~~\$500~~] \$600;
- 2447 (b) a class A misdemeanor, if the cost to repair or replace the public property is [~~\$500~~
- 2448 \$600 or more[;] but less than [~~\$1,500~~] \$2,000;
- 2449 (c) a felony of the third degree, if the cost to repair or replace the public property is
- 2450 [~~\$1,500~~] \$2,000 or more[;] but less than [~~\$5,000~~] \$10,000; or
- 2451 (d) a felony of the second degree, if the cost to repair or replace the public property is
- 2452 [~~\$5,000~~] \$10,000 or more.
- 2453 (6) A violation of Subsection (2)(k), (m), (n), or (o) is:
- 2454 (a) a class B misdemeanor, if the value of the public property is less than [~~\$500~~] \$600;
- 2455 (b) a class A misdemeanor, if the value of the public property is [~~\$500~~] \$600 or more[;]
- 2456 but less than [~~\$1,500~~] \$2,000;
- 2457 (c) a felony of the third degree, if the value of the public property is [~~\$1,500~~] \$2,000 or
- 2458 more[;] but less than [~~\$5,000~~] \$10,000; or
- 2459 (d) a felony of the second degree, if the value of the public property is [~~\$5,000~~
- 2460 \$10,000 or more.
- 2461 (7) A violation of Subsection (2)(l) is:
- 2462 (a) a class C misdemeanor, if the value of the public property is less than [~~\$500~~] \$600;
- 2463 (b) a class B misdemeanor, if the value of the public property is [~~\$500~~] \$600 or more[;]
- 2464 but less than [~~\$1,500~~] \$2,000;
- 2465 (c) a class A misdemeanor, if the value of the public property is [~~\$1,500~~] \$2,000 or
- 2466 more[;] but less than [~~\$5,000~~] \$10,000; or
- 2467 (d) a felony of the third degree, if the value of the public property is [~~\$5,000~~] \$10,000
- 2468 or more.
- 2469 (8) In addition to the penalty described in Subsections (3) through (7), a public officer
- 2470 who is convicted of a felony violation of Subsection (2):
- 2471 (a) is subject to the penalties described in Section [76-8-404](#); and
- 2472 (b) may not disburse public funds or access public accounts.
- 2473 (9) [~~(a)~~] A public servant is not guilty of a violation of Subsections (2)(j) through (o)
- 2474 for authorized personal use of public property.

2475 (10) It is not a defense to a violation of Subsection (2) that:

2476 (a) subsequent to the violation, a public entity modifies or adopts a policy or law, or
2477 takes other action, to retroactively authorize, approve, or ratify the conduct that constitutes a
2478 violation; or

2479 (b) a written policy of the public servant's public entity permits private use of the
2480 public property if it is proven, beyond a reasonable doubt, that the public servant did not
2481 comply with the written policy.

2482 Section 54. Section **76-8-1206** is amended to read:

2483 **76-8-1206. Penalties for public assistance fraud.**

2484 (1) The severity of the offense of public assistance fraud is classified in accordance
2485 with the value of payments, assistance, or other benefits received, misappropriated, claimed, or
2486 applied for as follows:

2487 (a) second degree felony if the value is or exceeds [~~\$5,000~~] \$10,000;

2488 (b) third degree felony if the value is or exceeds [~~\$1,500~~] \$2,000 but is less than
2489 [~~\$5,000~~] \$10,000;

2490 (c) class A misdemeanor if the value is or exceeds [~~\$500~~] \$600 but is less than
2491 [~~\$1,500~~] \$2,000; and

2492 (d) class B misdemeanor if the value is less than [~~\$500~~] \$600.

2493 (2) For purposes of Subsection (1), the value of an offense is calculated by aggregating
2494 the values of each instance of public assistance fraud committed by the defendant as part of the
2495 same facts and circumstances or a related series of facts and circumstances.

2496 (3) Incidents of trafficking in SNAP benefits as defined in Section [35A-1-102](#) that
2497 occur within a six-month period, committed by an individual or coconspirators, are deemed to
2498 be a related series of facts and circumstances regardless of whether the transactions are
2499 conducted with a variety of unrelated parties.

2500 Section 55. Section **76-8-1301** is amended to read:

2501 **76-8-1301. False statements regarding unemployment compensation -- Penalties.**

2502 (1) (a) A person who makes a false statement or representation knowing it to be false
2503 or knowingly fails to disclose a material fact, to obtain or increase a benefit or other payment
2504 under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment
2505 Compensation Law of any state or of the federal government for any person is guilty of

2506 unemployment insurance fraud.

2507 (b) A violation of Subsection (1)(a) is:

2508 (i) a class B misdemeanor when the value of the money obtained or sought to be
2509 obtained is less than [~~\$500~~] \$600;

2510 (ii) a class A misdemeanor when the value of the money obtained or sought to be
2511 obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

2512 (iii) a third degree felony when the value of the money obtained or sought to be
2513 obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; or

2514 (iv) a second degree felony when the value of the money obtained or sought to be
2515 obtained is or exceeds [~~\$5,000~~] \$10,000.

2516 (c) The determination of the degree of an offense under Subsection (1)(b) shall be
2517 measured by the total value of all money obtained or sought to be obtained by the unlawful
2518 conduct.

2519 (2) (a) An officer or agent of an employing unit as defined in Section [35A-4-202](#) or any
2520 other person who makes a false statement or representation knowing it to be false, or who
2521 knowingly fails to disclose a material fact, to prevent or reduce the payment of unemployment
2522 compensation benefits to an individual entitled to those benefits, or to avoid becoming or
2523 remaining a subject employer or to avoid or reduce any contribution or other payment required
2524 from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the
2525 Unemployment Compensation Law of any state or of the federal government, or who willfully
2526 fails or refuses to make a contribution or other payment or to furnish any report required in
2527 Title 35A, Chapter 4, Employment Security Act, or to produce or permit the inspection or
2528 copying of records as required under that chapter is guilty of unemployment insurance fraud.

2529 (b) A violation of Subsection (2)(a) is:

2530 (i) a class B misdemeanor when the value of the money obtained or sought to be
2531 obtained is less than [~~\$500~~] \$600;

2532 (ii) a class A misdemeanor when the value of the money obtained or sought to be
2533 obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

2534 (iii) a third degree felony when the value of the money obtained or sought to be
2535 obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000; or

2536 (iv) a second degree felony when the value of the money obtained or sought to be

2537 obtained is or exceeds [~~\$5,000~~] \$10,000.

2538 (3) (a) A person who willfully violates any provision of Title 35A, Chapter 4,
2539 Employment Security Act, or any order made under that chapter, the violation of which is made
2540 unlawful or the observance of which is required under the terms of that chapter, and for which
2541 a penalty is neither prescribed in that chapter nor provided by any other applicable statute is
2542 guilty of a class A misdemeanor.

2543 (b) Each day a violation of Subsection (3)(a) continues shall be a separate offense.

2544 (4) A person is guilty of a class C misdemeanor if:

2545 (a) as an employee of the Department of Workforce Services, in willful violation of
2546 Section 35A-4-312, the employee makes a disclosure of information obtained from an
2547 employing unit or individual in the administration of Title 35A, Chapter 4, Employment
2548 Security Act; or

2549 (b) the person has obtained a list of applicants for work or of claimants or recipients of
2550 benefits under Title 35A, Chapter 4, Employment Security Act, and uses or permits the use of
2551 the list for any political purpose.

2552 Section 56. Section **76-10-1801** is amended to read:

2553 **76-10-1801. Communications fraud -- Elements -- Penalties.**

2554 (1) Any person who has devised any scheme or artifice to defraud another or to obtain
2555 from another money, property, or anything of value by means of false or fraudulent pretenses,
2556 representations, promises, or material omissions, and who communicates directly or indirectly
2557 with any person by any means for the purpose of executing or concealing the scheme or artifice
2558 is guilty of:

2559 (a) a class B misdemeanor when the value of the property, money, or thing obtained or
2560 sought to be obtained is less than [~~\$500~~] \$600;

2561 (b) a class A misdemeanor when the value of the property, money, or thing obtained or
2562 sought to be obtained is or exceeds [~~\$500~~] \$600 but is less than [~~\$1,500~~] \$2,000;

2563 (c) a third degree felony when the value of the property, money, or thing obtained or
2564 sought to be obtained is or exceeds [~~\$1,500~~] \$2,000 but is less than [~~\$5,000~~] \$10,000;

2565 (d) a second degree felony when the value of the property, money, or thing obtained or
2566 sought to be obtained is or exceeds [~~\$5,000~~] \$10,000; and

2567 (e) a second degree felony when the object or purpose of the scheme or artifice to

2568 defraud is the obtaining of sensitive personal identifying information, regardless of the value.

2569 (2) The determination of the degree of any offense under Subsection (1) shall be
2570 measured by the total value of all property, money, or things obtained or sought to be obtained
2571 by the scheme or artifice described in Subsection (1) except as provided in Subsection (1)(e).

2572 (3) Reliance on the part of any person is not a necessary element of the offense
2573 described in Subsection (1).

2574 (4) An intent on the part of the perpetrator of any offense described in Subsection (1) to
2575 permanently deprive any person of property, money, or thing of value is not a necessary
2576 element of the offense.

2577 (5) Each separate communication made for the purpose of executing or concealing a
2578 scheme or artifice described in Subsection (1) is a separate act and offense of communication
2579 fraud.

2580 (6) (a) To communicate as described in Subsection (1) means to:

2581 (i) bestow, convey, make known, recount, or impart;

2582 (ii) give by way of information;

2583 (iii) talk over; or

2584 (iv) transmit information.

2585 (b) Means of communication include use of the mail, telephone, telegraph, radio,
2586 television, newspaper, computer, and spoken and written communication.

2587 (7) A person may not be convicted under this section unless the pretenses,
2588 representations, promises, or material omissions made or omitted were made or omitted
2589 intentionally, knowingly, or with a reckless disregard for the truth.

2590 (8) As used in this section, "sensitive personal identifying information" means
2591 information regarding an individual's:

2592 (a) Social Security number;

2593 (b) driver's license number or other government issued identification number;

2594 (c) financial account number or credit or debit card number;

2595 (d) password or personal identification number or other identification required to gain
2596 access to a financial account or a secure website;

2597 (e) automated or electronic signature;

2598 (f) unique biometric data; or

2599 (g) any other information that can be used to gain access to an individual's financial
2600 accounts or to obtain goods or services.

2601 Section 57. Section **77-18-105** is amended to read:

2602 **77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --**
2603 **Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench**
2604 **supervision for payments on criminal accounts receivable.**

2605 (1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in
2606 abeyance agreement, the court may hold the plea in abeyance:

2607 (a) in accordance with Chapter 2a, Pleas in Abeyance; and

2608 (b) under the terms of the plea in abeyance agreement.

2609 (2) If a defendant is convicted, the court:

2610 (a) shall impose a sentence in accordance with Section [76-3-201](#); and

2611 (b) subject to Subsection (5) and Section [76-6-401.5](#), may suspend the execution of the
2612 sentence and place the defendant:

2613 (i) on probation under the supervision of the department;

2614 (ii) on probation under the supervision of an agency of a local government or a private
2615 organization; or

2616 (iii) on court probation under the jurisdiction of the sentencing court.

2617 (3) (a) The legal custody of all probationers under the supervision of the department is
2618 with the department.

2619 (b) The legal custody of all probationers under the jurisdiction of the sentencing court
2620 is vested as ordered by the court.

2621 (c) The court has continuing jurisdiction over all probationers.

2622 (4) (a) Court probation may include an administrative level of services, including
2623 notification to the sentencing court of scheduled periodic reviews of the probationer's
2624 compliance with conditions.

2625 (b) Supervised probation services provided by the department, an agency of a local
2626 government, or a private organization shall specifically address the defendant's risk of
2627 reoffending as identified by a screening or an assessment.

2628 (c) If a court orders supervised probation and determines that a public probation
2629 provider is unavailable or inappropriate to supervise the defendant, the court shall make

2630 available to the defendant the list of private probation providers prepared by a criminal justice
2631 coordinating council under Section [17-55-201](#).

2632 (5) (a) Before ordering supervised probation, the court shall consider the supervision
2633 costs to the defendant for each entity that can supervise the defendant.

2634 (b) (i) A court may order an agency of a local government to supervise the probation
2635 for an individual convicted of any crime if:

2636 (A) the agency has the capacity to supervise the individual; and

2637 (B) the individual's supervision needs will be met by the agency.

2638 (ii) A court may only order:

2639 (A) the department to supervise the probation for an individual convicted of a class A
2640 misdemeanor or any felony; or

2641 (B) a private organization to supervise the probation for an individual convicted of a
2642 class A, B, or C misdemeanor or an infraction.

2643 (c) A court may not order a specific private organization to supervise an individual
2644 unless there is only one private organization that can provide the specific supervision services
2645 required to meet the individual's supervision needs.

2646 (6) (a) If a defendant is placed on probation, the court may order the defendant as a
2647 condition of the defendant's probation:

2648 (i) to provide for the support of persons for whose support the defendant is legally
2649 liable;

2650 (ii) to participate in available treatment programs, including any treatment program in
2651 which the defendant is currently participating if the program is acceptable to the court;

2652 (iii) be voluntarily admitted to the custody of the Division of Substance Abuse and
2653 Mental Health for treatment at the Utah State Hospital in accordance with Section [77-18-106](#);

2654 (iv) if the defendant is on probation for a felony offense, to serve a period of time as an
2655 initial condition of probation that does not exceed one year in a county jail designated by the
2656 department, after considering any recommendation by the court as to which jail the court finds
2657 most appropriate;

2658 (v) to serve a term of home confinement in accordance with Section [77-18-107](#);

2659 (vi) to participate in compensatory service programs, including the compensatory
2660 service program described in Section [76-3-410](#);

- 2661 (vii) to pay for the costs of investigation, probation, or treatment services;
- 2662 (viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime
2663 Victims Restitution Act; or
- 2664 (ix) to comply with other terms and conditions the court considers appropriate to
2665 ensure public safety or increase a defendant's likelihood of success on probation.
- 2666 (b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a
2667 defendant to include a period of time that is served in a county jail immediately before the
2668 termination of probation as long as that period of time does not exceed one year.
- 2669 (ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation
2670 violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply
2671 to the period of time that the court orders the defendant to serve in a county jail under this
2672 Subsection (6)(b)(ii).
- 2673 (7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on
2674 probation after December 31, 2018:
- 2675 (i) may not exceed the individual's maximum sentence;
- 2676 (ii) shall be for a period of time that is in accordance with the supervision length
2677 guidelines established by the Utah Sentencing Commission under Section [63M-7-404](#), to the
2678 extent the guidelines are consistent with the requirements of the law; and
- 2679 (iii) shall be terminated in accordance with the supervision length guidelines
2680 established by the Utah Sentencing Commission under Section [63M-7-404](#), to the extent the
2681 guidelines are consistent with the requirements of the law.
- 2682 (b) Probation of an individual placed on probation after December 31, 2018, whose
2683 maximum sentence is one year or less, may not exceed 36 months.
- 2684 (c) Probation of an individual placed on probation on or after October 1, 2015, but
2685 before January 1, 2019, may be terminated at any time at the discretion of the court or upon
2686 completion without violation of 36 months probation in felony or class A misdemeanor cases,
2687 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance
2688 with Section [64-13-21](#) regarding earned credits.
- 2689 (d) This Subsection (7) does not apply to the probation of an individual convicted of an
2690 offense for criminal nonsupport under Section [76-7-201](#).
- 2691 (8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal

2692 accounts receivable for the defendant upon termination of the probation period for the
2693 defendant under Subsection (7), the court may require the defendant to continue to make
2694 payments towards the criminal accounts receivable in accordance with the payment schedule
2695 established by the court under Section [77-32b-103](#).

2696 (b) A court may not require the defendant to make payments as described in Subsection
2697 (8)(a) beyond the expiration of the defendant's sentence.

2698 (c) If the court requires a defendant to continue to pay in accordance with the payment
2699 schedule for the criminal accounts receivable under this Subsection (8) and the defendant
2700 defaults on the criminal accounts receivable, the court shall proceed with an order for a civil
2701 judgment of restitution and a civil accounts receivable for the defendant as described in Section
2702 [77-18-114](#).

2703 (d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's
2704 own motion, the court may require a defendant to show cause as to why the defendant's failure
2705 to pay in accordance with the payment schedule should not be treated as contempt of court.

2706 (ii) A court may hold a defendant in contempt for failure to make payments for a
2707 criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

2708 (e) This Subsection (8) does not apply to the probation of an individual convicted of an
2709 offense for criminal nonsupport under Section [76-7-201](#).

2710 (9) When making any decision regarding probation, the court shall consider
2711 information provided by the Department of Corrections regarding a defendant's individual case
2712 action plan, including any progress the defendant has made in satisfying the case action plan's
2713 completion requirements.

2714 Section 58. **Effective date.**

2715 This bill takes effect on May 1, 2024.

2716 Section 59. **Coordinating S.B. 128 with H.B. 15.**

2717 If S.B. 128, Criminal Monetary Threshold Amendments, and H.B. 15, Criminal Code
2718 Recodification and Cross References, both pass and become law, the Legislature intends that,
2719 on May 1, 2024:

2720 (1) Subsection [76-8-103](#)(3) enacted in H.B. 15 be amended to read:

2721 "(3) A violation of Subsection (2) is:

2722 (a) a second degree felony if the value of the benefit is \$2,000 or more; or

- 2723 (b) a third degree felony if the value of the benefit is less than \$2,000.";
2724 (2) Subsection 76-8-105(3) enacted in H.B. 15 be amended to read:
2725 "(3) A violation of Subsection (2) is:
2726 (a) a second degree felony if the value of the benefit asked for, solicited, accepted, or
2727 conferred is more than \$2,000; or
2728 (b) a third degree felony if the value of the benefit asked for, solicited, accepted, or
2729 conferred is \$2,000 or less.";
2730 (3) Subsection 76-8-1203.1(3) enacted in H.B. 15 be amended to read:
2731 "(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of
2732 payments, assistance, or other benefits received, misappropriated, claimed, or applied:
2733 (a) a second degree felony if the value is or exceeds \$10,000;
2734 (b) a third degree felony if the value is or exceeds \$2,000 but is less than \$10,000;
2735 (c) a class A misdemeanor if the value is or exceeds \$600 but is less than \$2,000; or
2736 (d) a class B misdemeanor if the value is less than \$600.";
2737 (4) Subsection 76-8-1203.3(3) enacted in H.B. 15 be amended to read:
2738 "(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of
2739 payments, assistance, or other benefits received, misappropriated, claimed, or applied:
2740 (a) a second degree felony if the value is or exceeds \$10,000;
2741 (b) a third degree felony if the value is or exceeds \$2,000 but is less than \$10,000;
2742 (c) a class A misdemeanor if the value is or exceeds \$600 but is less than \$2,000; or
2743 (d) a class B misdemeanor if the value is less than \$600.";
2744 (5) Subsection 76-8-1203.5(3) enacted in H.B. 15 be amended to read:
2745 "(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of
2746 payments, assistance, or other benefits received, misappropriated, claimed, or applied:
2747 (a) a second degree felony if the value is or exceeds \$10,000;
2748 (b) a third degree felony if the value is or exceeds \$2,000 but is less than \$10,000;
2749 (c) a class A misdemeanor if the value is or exceeds \$600 but is less than \$2,000; or
2750 (d) a class B misdemeanor if the value is less than \$600.";
2751 (6) Subsection 76-8-1203.7(3) enacted in H.B. 15 be amended to read:
2752 "(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of
2753 payments, assistance, or other benefits received, misappropriated, claimed, or applied:

- 2754 (a) a second degree felony if the value is or exceeds \$10,000;
2755 (b) a third degree felony if the value is or exceeds \$2,000 but is less than \$10,000;
2756 (c) a class A misdemeanor if the value is or exceeds \$600 but is less than \$2,000; or
2757 (d) a class B misdemeanor if the value is less than \$600.";
2758 (7) Subsection 76-8-1302(3) enacted in H.B. 15 be amended to read:
2759 "(3) A violation of Subsection (2) is:
2760 (a) a class B misdemeanor if the value of the money obtained or sought to be obtained
2761 is less than \$600;
2762 (b) a class A misdemeanor if the value of the money obtained or sought to be obtained
2763 is or exceeds \$600 but is less than \$2,000;
2764 (c) a third degree felony if the value of the money obtained or sought to be obtained is
2765 or exceeds \$2,000 but is less than \$10,000; or
2766 (d) a second degree felony if the value of the money obtained or sought to be obtained
2767 is or exceeds \$10,000."; and
2768 (8) Subsection 76-8-1303(3) enacted in H.B. 15 be amended to read:
2769 "(3) (a) A violation of Subsection (2)(a) is:
2770 (i) a class B misdemeanor if the value of the money obtained or sought to be obtained
2771 is less than \$600;
2772 (ii) a class A misdemeanor if the value of the money obtained or sought to be obtained
2773 is or exceeds \$600 but is less than \$2,000;
2774 (iii) a third degree felony if the value of the money obtained or sought to be obtained is
2775 or exceeds \$2,000 but is less than \$10,000; or
2776 (iv) a second degree felony if the value of the money obtained or sought to be obtained
2777 is or exceeds \$10,000.
2778 (b) A violation of Subsection (2)(b) is a class A misdemeanor.".